

VALIDATION REPORT ON THE
IMPLEMENTATION PROCESS OF THE
EXTRACTIVE INDUSTRIES
TRANSPARENCY INITIATIVE
IN GABON

July 2010

Report to the EITI Interest Group, Gabon

Compiled by HART NURSE Ltd

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Mr Mongin, Director at Ernst & Young (Paris, France) and first Independent Administrator for the reconciliation of company and government declarations, received us in Paris and we wish to thank him for this. Mr Anton Mélard de Feuardent of the consultancy Fair Links, Validation Advisor to the Interest Group, received us in Paris and provided us with the documentation pertaining to EITI implementation in Gabon which enabled us to prepare for our visits to Libreville.

Mr Hyacinthe MOUNGUENGUI MOUCKAGA, Vice-Chair of the Interest Group, and Mr Achille MOUBOUYI, Assistant to the Permanent Secretary of the Interest Group, arranged the interviews which we held in Libreville.

We also thank the representatives of companies and of civil society and the representatives of PriceWaterhouseCoopers, the current Independent Administrator, who willingly gave us their time during our visits to Libreville. Their names appear in Annex 1 of this Report.

ABBREVIATIONS AND ACRONYMS

Please find below an explanation of the abbreviations used in the text:

EITI	Extractive Industries Transparency Initiative
NGO	Non-Governmental Organisation

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1 INTRODUCTION

1.1 Forward

This report presents the conclusions of our Validation mission for the Extractive Industries Transparency Initiative (EITI) implementation process in Gabon, which took place from November 2009 to January 2010.

The structure of the report is as follows:

- the first chapter introduces the report and includes a summary of the EITI Validation process, the extractive industries sectors in Gabon and a brief description of EITI
- chapter 2 describes the Work Plan and the progress achieved in Gabon within the framework of EITI implementation
- chapter 3 sets out the Validator's assessment of each Indicator in the EITI Validation grid
- chapter 4 presents an overall assessment of Gabon's EITI status
- chapter 5 presents the Validator's recommendations.

The annexes to the report contain:

- list of stakeholders consulted
- company self-evaluation forms.

1.2 The EITI Validation Process

Validation is the procedure adopted by the EITI Board to determine whether a country has Candidate or Compliant status. The stages in the Validation process are:

- selecting a Validator
- organising a working mission within the country
- Validation mission, in the country, resulting in the compilation of a Report
- study of the Validation Report by the Interest Group with a view to endorsing it
- presentation of the Validator's report to the International Secretariat after which the EITI Board decides if the country is Compliant.

The principal objective of the mission to the country is to provide an independent assessment, based on the collected evidence of progress achieved by the country within the framework of EITI implementation, and to make recommendations capable of contributing to improving or assuring the sustainability of EITI implementation in the future.

The final decision on whether a country is Compliant lies entirely with the EITI Board.

Given that it has been accepted as a Candidate country, Gabon can be considered to have fulfilled the Sign up criteria. Nevertheless, this Validation also includes discussion of these indicators.

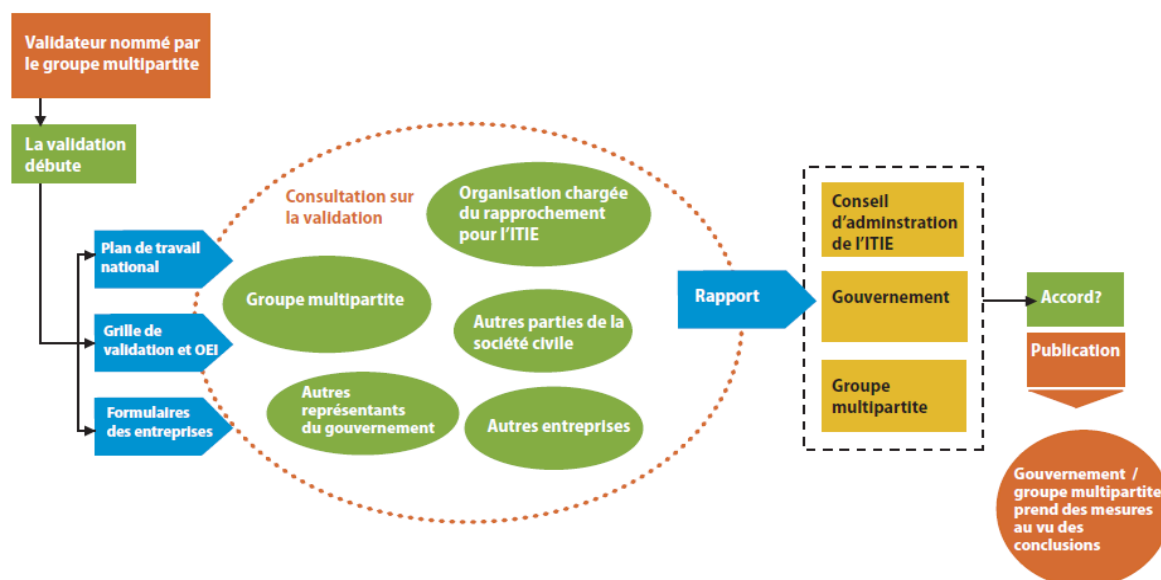
1.3 Validation approach and activities

The Validation team comprised Mr John Cole-Baker and Mr David Quinn.

The approach and methodology adopted were established by the EITI Validation Guide (September 2009). These are based on:

- a review of documentation (office-based)
- sending questionnaires to members of the Interest Group
- interviews with members of the Interest Group and other stakeholder representatives
- sending self-evaluation forms to extractive industry companies active in Gabon

This process is illustrated by the Validation flow chart below, taken from the Validation Guide.



The Independent Administrator responsible for compiling the first three EITI Gabon Reports (2004, 2005, 2006) and the consultancy firm Fair Links, Validation Advisor to the Interest Group, are based in Paris. The Validator team visited them in order to interview them.

During our trip to Paris, Mr Marc Ona Essangui, one of the civil society representatives on the Interest Group, was travelling to Brussels. The Validation team therefore took the opportunity to meet him.

Meetings were held with members of the Interest Group representing the government, companies and civil society and also the sole mining company in the exploitation phase. There were also meetings with other members of civil society, i.e. the national platform of the Publish What You Pay Coalition, and with the Justice and Peace Commission and representatives of other companies in the exploitation phase which are not directly represented on the Interest Group (Perenco and Marathon).

A list of the various persons contacted during this exercise appears in Annex 1 of this Report.

There were two visits to Libreville, 6-10 December 2009 and 27-29 January 2010.

1.4 The extractive industries in Gabon

The extractive industries in Gabon included in the scope of this Report are represented by the oil and mining sectors.

The two following sections are only brief summaries of these sectors which are described more fully in the EITI Reports of 2004, 2005 and 2006.

1.4.1 THE OIL SECTOR

According to the website www.gaboneco.com, in 2007, there were seven (7) companies in the production and exploration phase: Addax Petroleum, Marathon Oil Gabon Ltd, Maurel & Prom, Perenco S.A., Shell Gabon, Total Gabon, Vaalco Gabon Inv. According to the same source, there were eleven (11) in the exploration phase: Anadarko Gabon Cie, Canadian Natural Resources International, Gulf of Guinea Petroleum Corporation Inc, Forest Oil Gryphon BV Gabon, Mitsubishi Petroleum Development Company Gabon, Oil India International, Ophir Gabon Ltd, Sino Gabon Oil & Gas Ltd, Sinopec Overseas Oil & Gas Ltd, Sterling Oil & Gas NL and Tullow Oil Gabon SA.

There are also, according to the website, thirty nine (39) subcontractor companies in the oil sector.

The two largest producers, Total Gabon and Shell Gabon, account for more than 50% of Gabonese production. These are followed by Perenco, Marathon, Vaalco and Panafrican Energy which has now become Addax. Perenco is in the process of taking over activities from Marathon which should enable Perenco to become the country's third largest producer.

Crude oil is stored in terminals at Cap Lopez de Gamba. This crude oil is then processed by SOGARA (Gabonese Refining Company) and/or sold on international markets at a fixed price depending on the quality in respect of the benchmark which is North Sea Brent crude. The products refined by SOGARA are marketed by Shell and other transnational companies for the internal Gabonese market, after they have been stored by SGEPP, the Gabonese Oil Products Storage Company.

In 2006, the main export destinations were: United States (around 70%), China (7%), Singapore (6%) and France (4%).

The 2006 Gabon EITI Report claims that, in that year, the oil industry represented 52% of GDP, 84% of export revenues and 64% of current budgetary revenues.

The 2008 financial report of the Ministry of Economy, Finance, the Budget, Responsible for Managing Investments and Privatisation, indicated that, at the end of 2008, national oil crude production had recorded a fall of 2.6% to 11.81 million tonnes compared with 12.13 million tonnes for the same period in 2007. This poor performance had several causes, in particular, production problems and delays in putting certain discoveries into production. This resulted in a drop of 3.6% in the cumulative volume of oil exports which was set at 10.89 million tonnes in 2008 compared with 11.31 million tonnes in 2007. The crudes least in demand were Rabi Blend (-11.9%) and Mandai (-11.5%). The principal destination of this production is North America with 61.7%.

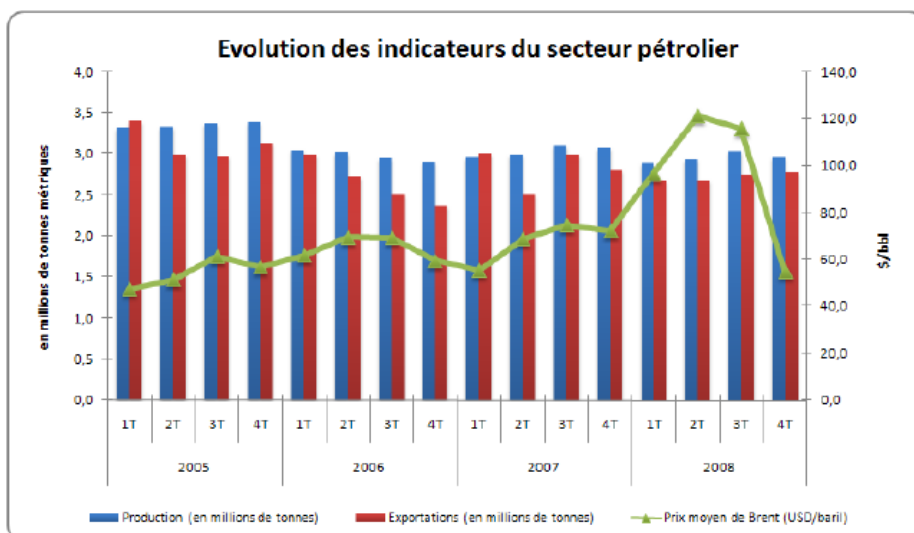
However, despite the sharp fall in the price of crude in the final quarter of 2008, oil prices remained high for the year overall in comparison with the previous year. As such, the average annual price per barrel of Brent increased by 33.7% and of Gabonese crude by 32.7%, reaching \$96.99 and \$92.33 respectively.

The development of oil industry activity in 2007 and 2008 is illustrated by the following table:

	End of December		
	2007	2008	Variation 08/07
Production (in million tonnes)	12.13	11.81	-2.64%
Exports (in million tonnes)	11.31	10.89	-3.64%
Average cost of Brent (USD/barrel)	72.52	96.99	33.74%
Average cost of Gabonese crude	69.59	92.32	32.66%
Average exchange rate (USD / FCFA)	479.419	448.413	-6.47%

The development of indicators in the oil sector is illustrated by the following graph:

Development of oil sector indicators



In millions of metric tonnes

Blue: Production (in million tonnes)

Red: Exports (in million tonnes)

Green: Average price of Brent (USD/barrel)

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1.4.2 THE MINING SECTOR

Gabonese mining sector production is mainly comprised of the manganese mining activities of the company COMILOG (Ogooue Mining Company), a member of the ERAMET Group.

The following information is taken from the 2008 financial report of the Ministry of the Economy, Finance, the Budget, Responsible for Managing Investments and Privatisation. At the end of December, the slowing down of the world economy had had a negative effect on the world steel market which led to a sharp fall in the demand for manganese ore. In the final quarter of 2008, COMILOG was obliged to reduce its production in order to adapt to changing demand. As such, its annual production was set at 3 247 797 tonnes in 2008 compared with 3 333 831 tonnes in 2007, that is a fall of 2.6%.

At the same time, exports decreased by 2.8% to settle at 3 199 095 million tonnes at the end of 2008.

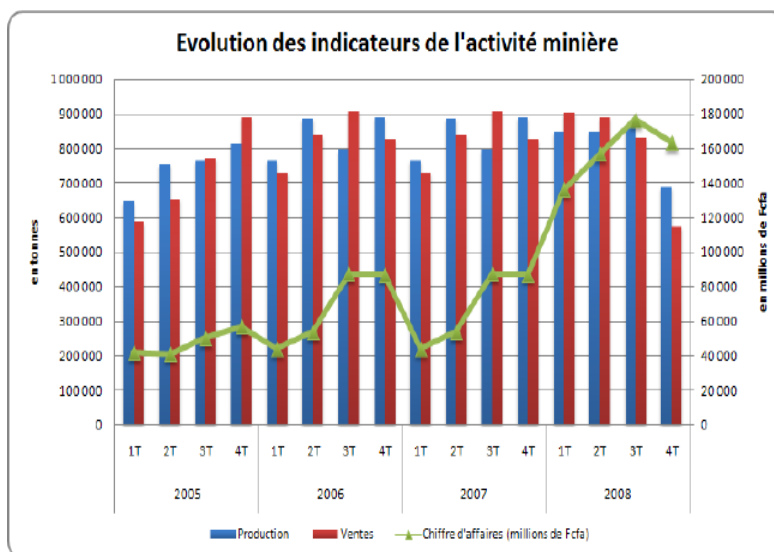
However, the soaring costs of manganese ore during the first eight months had a steadying effect on turnover which increased by 132.2%, rising from 272 483 billion FCFA (Central African francs) in 2007 to 632 751 billion FCFA in 2008.

This development is illustrated in the following table:

	End of December 2008		
	2007	2008	Variation 08/07
Production (in tonnes)	3 333 831	3 247 797	-2.6%
Exports (in tonnes)	3 292 793	3 199 095	-2.8%
Sales (in tonnes)	3 301 505	3 200 163	-3.1%
Turnover (in millions of FCFA)	272 483	632 751	132.2%

The development of indicators in mining activity over the last four years is illustrated in the following graph:

Development of indicators in mining activity



In tonnes

Blue: Production

Red: Sales

Green: Turnover (millions of FCFA)

In addition, development of a gold mine by the Moroccan company MANAGEM in Upper Ogoue should begin in 2010 with the first production expected in 2011.

There are also mining study activities for uranium (AREVA) and iron (China National Machinery and Equipment) and it would be important in the context of EITI to ensure that the companies involved in all these activities participate effectively in this Initiative.

Finally, there may be artisanal exploitations of diamonds and gold. Revenues from these activities are difficult to monitor but the government should try to quantify them as they could become important for local communities.

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1.5 EITI implementation in Gabon

EITI implementation in Gabon is managed by a tripartite structure called the “Interest Group”. It is chaired by Mr Patrice Otha, Special Advisor and Project Coordinator for the President of the Republic. Decree No. 535, relating to the creation, remit and structure of the Interest Group, was passed on 8 July 2005. Order No. 56, relating to the appointment of members to the Interest Group, was passed on 27 July 2005. Order No. 48, 13 January 2009, covered the appointment of a new Chair of the Interest Group, and Order No. 104, 7 May 2009, restructured the Interest Group.

A Working Group was also established. Order No. 229, 24 February 2005, established the creation, operation and structure of this group. Its role is to offer technical assistance to the Interest Group.

In a speech of 14 May 2004, the President of the Republic confirmed the intention of Gabon to sign up to EITI.

An Independent Administrator, Ernst & Young (Paris, France) was appointed in August 2005. The first contract, of one year, was extended for a further two years. This Independent Administrator published three Reports for the years 2004, 2005, and 2006 in December 2005, April 2007, and March 2008 respectively. Following an international call for tender, the firm PriceWaterhouseCoopers (Libreville, Gabon and Paris, France) was chosen at the beginning of 2009 as Independent Administrator responsible for compiling the 2007 and 2008 Reports.

In May 2009, the consultancy Fair Links, Paris, was confirmed as Validation Advisor to the Interest Group.

As a result of delays¹ to the original Validation timetable, Hart Group was not appointed as Validator until October 2009.

Gabon is under obligation to complete the Validation process before 9 September 2010.

¹ The reasons for these delays are explained below.

2 PROGRESS MEASURED AGAINST THE OBJECTIVES OF THE WORK PLANS

On 14 May 2004, through the intervention of the President of the Republic, Gabon publicly declared its intention to sign up to EITI. The bodies responsible for leading EITI implementation in Gabon were established during 2005.

In effect, Order No. 229, 24 February 2005, established a Working Group. Decree No. 000535/PR/MEFBP, 8 July 2005, of the President of the Republic, created an Interest Group: a tripartite group comprising representatives of civil society, extractive sector companies, and the government.

The first Interest Group comprised:

- government: 5 members
- civil society: 2 members
- oil sector: 2 members
- mining sector: 1 member

Gabon was among the first countries to sign up to EITI Principles. At that time, when Gabon signed up, developing a formal, fully costed Work Plan was not considered as important as it later came to be. The first EITI Work Plan in Gabon was based on the World Bank aide memoire, in particular Annex III, the schedule for EITI.

Funding for the Interest Group is drawn entirely from the general state budget in the form of a grant. Each year, the Interest Group adopts its utilisation plan which is subject to a monitoring procedure. The corresponding execution report is presented the following year.

Some of the minutes of Interest Group meetings record discussions on future action planning. While there does not appear to be a formal evaluation process for progress achieved on programmed actions, the minutes of recent meetings report on the progress of these actions.

Gabon has implemented numerous actions since its Sign up to EITI. Among the examples of material progress between 2005 and 2008, we can cite the following:

- selection of a new Independent Administrator
- endorsement of EITI Reports 2004, 2005 and 2006
- increase in the number of civil society representatives on the Interest Group
- capacity building for civil society
- creation of a website
- opening of an EITI Gabon office in operation in Libreville

The year 2009 saw changes in the structure of the Interest Group and also a resolve to publicise EITI in Gabon more widely. The new structure of the Interest Group is as follows:

- government: 6 members
- civil society: 6 members
- oil sector: 2 members
- mining sector: 1 member

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In 2009, the Interest Group decided that a Work Plan would be created for the year 2010 and that the actions taken throughout the 2005-2009 period would be reformulated as a Work Plan. In July 2009, a subcommittee was formed to implement this decision. A Work Plan project was adopted by the Interest Group in September 2009.

Since the month of December, a detailed plan for 2010, with a provisional budget and measurable stages, has been approved by the Interest Group and this Plan has been published on the EITI Gabon website. The plan is costed and includes a budget for each action and deadlines which can be effectively monitored. This Plan provides a good basis for EITI development during 2010, subject to robust procedures being put in place for monitoring progress and for implementing follow up actions. Furthermore, this national Work Plan should include an assessment of government, private sector, and civil society capacity constraints. The Interest Group would benefit from conducting a formal assessment of potential capacity constraints and developing a programme to address these if necessary.

The level of planned activities is ambitious and impressive, including wider communications and alterations to the scope of the tasks to be undertaken by the Independent Administrator. However, it would be useful to implement a formal monitoring and evaluation procedure in order to guarantee the sustainability of the new objectives.

If the progress achieved in 2009 can be consolidated, the willingness of all the stakeholders to implement the Initiative, especially with the enthusiasm on the part of civil society, should guarantee its sustainability.

3 PROGRESS IN RESPECT OF THE VALIDATION GRID INDICATORS

3.1 INDICATOR 1: HAS THE GOVERNMENT ISSUED AN UNEQUIVOCAL PUBLIC STATEMENT OF ITS INTENTION TO IMPLEMENT EITI?

Progress

On 14 May 2004, the President of the Republic of Gabon, His Excellency El Hadj Omar Bongo Ondimba, declared his intention to sign up Gabon to the Extractive Industries Transparency Initiative.

A Working Group was subsequently formed by Order No. 229, 24 February 2005, on the creation, operation and appointment of members of the Working Group.

Gabon reiterated its willingness to participate in EITI while attending the first Board meeting in New York, USA, on 7 December 2006.

The current president, His Excellency Ali Bongo Ondimba, confirmed this intention in his "Statement of the President of the Republic, Head of State" on the EITI Gabon website.

Stakeholder views

All the stakeholders believe that the government has publicly and unequivocally declared its intention to implement EITI.

Validator's judgement

Gabon has achieved compliance for this Indicator.

3.2 INDICATOR 2: HAS THE GOVERNMENT COMMITTED TO WORK WITH CIVIL SOCIETY AND COMPANIES ON EITI IMPLEMENTATION?

Progress

At the start, the government established an Interest Group which comprised representatives of oil and mining companies along with representatives of civil society.

At the time of the first EITI Report, 2004, the Interest Group (see Indicator 5) comprised two civil society representatives, both members of the Economic and Social Council. Subsequently, on 14 October 2005, the Minister of Finances requested that the NGOs name further representatives. For the second and third Reports, 2005 and 2006, there were four civil society representatives, of which two were members of the Economic and Social Council, one representative of faith groups and one NGO representative.

In 2009, the number of civil society representatives on the Interest Groups had reached six, following the appointment of a member from an NGO and a journalist.

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The development of relations with civil society was explained to us by the civil society representatives who are currently members of the Interest Group, and by other members of civil society, and the company and government representatives. These relations have clearly evolved since a period of tension towards the end of 2008 and beginning of 2009. At that time, following a disagreement involving civil society activists advocating greater transparency, some of them were imprisoned. Subsequently, Mr Marc Ona Essangui, a member of the Interest Group, was banned from travelling abroad at a time when he was supposed to go to Doha for a meeting of the EITI Board. Consequently, Gabon was expelled from the EITI Board. This appears to have caused the Gabonese government to think again.

We discussed these events with the stakeholders who expressed their collective opinion that there had been an increase in efforts to involve civil society. This was reflected in part by the fact that the number of civil society representatives on the Interest Group had increased to six. It is also the case that the difficulties which Mr Ona and his colleagues faced were discussed during meetings of the Interest Group, as several sets of minutes show, and that it was made clear that EITI activities were not at issue.

We were able to meet representatives of "Justice and Peace" which is an organisation of the Catholic Church. They support EITI and are able to disseminate documentation and news in the parishes. These persons said that they were certain that Gabon is now seriously committed to EITI.

Civil society representatives have spent a year actively preparing and implementing a communications programme which includes:

- an upgraded website dedicated to EITI
- televised interviews
- a newsletter.

The civil society representatives, in common with the other members, have participated regularly in the meetings of Interest Group which are held at frequent, often weekly, intervals.

The main oil and mining companies have supported the Initiative from the outset. These same companies have had their payment declarations certified.

In the case of other oil and mining companies, their response rate to the Independent Administrator has improved over the years.

Stakeholder views

The civil society representatives expressed their satisfaction with regard to improvements in their partnership with the government and to the increase in their numbers on the Interest Group.

The oil companies which responded to the forms, and/or which expressed an opinion during the interviews or conversations by telephone, support the Initiative and believe that their investments are safer with a government which advocates transparency. Relations between the government and the oil companies are good.

There is currently only one mining company in production, COMILOG, with which we have had discussions. The company supports the Initiative and has been actively involved since the start of implementation. An effort is underway to raise awareness among other mining companies in the exploration phase.

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Validator's judgement

The increasing involvement of civil society has been positive and the government should continue to encourage their active participation in the process.

The principal actors in the oil and mining sectors should continue to assist the Interest Group in raising awareness among the other actors.

Gabon has achieved compliance for this Indicator.

3.3 INDICATOR 3: HAS THE GOVERNMENT APPOINTED A SENIOR INDIVIDUAL TO LEAD EITI IMPLEMENTATION?

Progress

Mr Fidèle Ntsissi, Director of the Private Office of the President of the Republic, was the first Chair of the Interest Group. When Mr Ntsissi was appointed Paymaster General, he was replaced by Mr Patrice Otha who was first Deputy Director of the Office of the President of the Republic, then Special Advisor, Project Coordinator for the President of the Republic and, since the Council of Ministers of 28 January 2010, Director of the Office of the President of the Republic.

Both of these persons are senior officials in government office.

Stakeholder views

Members of the Interest Group unanimously expressed their satisfaction that the government had placed these senior officials at the head of this body.

Validator's judgement

Gabon has achieved compliance for this Indicator.

3.4 INDICATOR 4: HAS A FULLY COSTED COUNTRY WORK PLAN BEEN PUBLISHED AND MADE WIDELY AVAILABLE, CONTAINING MEASURABLE TARGETS, A TIMETABLE FOR IMPLEMENTATION AND AN ASSESSMENT OF CAPACITY CONSTRAINTS (GOVERNMENT, PRIVATE SECTOR AND CIVIL SOCIETY)?

Purpose: The Country Work Plan is the foundation of the country Validation process. The sixth EITI criterion requires that a Work Plan be produced that is agreed with key EITI stakeholders and is publicly available.

Evidence: To give this indicator a tick, the Validator is expected to see evidence that the Work Plan has been agreed with key stakeholders and that it contains:

- measurable targets
- a timetable for implementation
- an assessment of potential capacity constraints
- how the government will ensure the multi-stakeholder nature of EITI, particularly in terms of the involvement of civil society
- a timetable for Validation during the stage at which a country is a Candidate. This should reflect country needs, but should take place once every two years
- the Work Plan should also elaborate on how the government will pay for validation.

The Validator will need to assess progress on the implementation of the EITI against these targets and timetables, and assess whether a country has acted on the identified capacity constraints.

A key element in the country Validation process will be whether the timetable for implementation is being followed. If the timetable is not being met, the Validator – based on evidence from key stakeholders and others – will need to determine whether delays in meeting the timetable are reasonable. If unreasonable, the Validator will need to consider whether to recommend that the country be de-listed from the list of Candidate countries.

Progress

Gabon was one of the first countries to sign up to EITI. At the time of Gabon's Sign up, producing a formal, fully costed Work Plan was not considered as important as it is now. This requirement has been developed since then. Compliance with this Indicator can be assessed on the basis of actions achieved during the period before a Work Plan was formalised. A brief summary of the actions implemented by Gabon within the framework of EITI implementation appears in Section 2, above.

Nevertheless, it is useful to consider the plans already adopted by Gabon during EITI implementation since the country signed up in 2004. The World Bank aide memoire served as the first EITI Work Plan in Gabon. Subsequently a "Schedule of EITI phases and EITI timetable for Gabon" was published.

During the first quarter of 2009, the Interest Group was advised of the importance of preparing and implementing a costed Work Plan, as stipulated under Indicator 4, and that this plan could be considered part of the Validation process for Gabon. In April 2009, the Interest Group decided that a Work Plan should be prepared for 2010 and that the actions

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implemented during 2005 – 2009 should be collated in the form of a Work Plan. In July 2009, a subcommittee was established to implement these decisions.

A Work Plan project was adopted by the Interest Group in September 2009 but, at this stage, it was not costed. In November 2009, the Interest Group approved a Work Plan for 2009 – 2010. This plan was costed, with the estimated costs of each action included, although individual responsibilities were not specified. Since our first visit in December, a detailed plan for 2010, with a provisional budget and measurable stages, has been approved by the Interest Group. This Plan has been published on the EITI Gabon website.

A communications programme, which is included in the final Plan for 2010, has been initiated by the Interest Group. It includes the recently introduced newsletter, information added to the website, seminars, and other public presentations, all of which represent tangible progress in EITI implementation in Gabon.

As explained in section 2, above, a Work Plan of the type currently stipulated in the Validation Guide, has only existed for a short time. Consequently, there are no formal timeframes within which to measure progress. However, Gabon has fulfilled the key requirements of EITI Sign up, for example:

- selection of a new Independent Administrator
- endorsement of EITI Reports 2004, 2005 and 2006
- increase in the number of civil society representatives on the Interest Group
- capacity building for civil society
- creation of a website
- opening of EITI Gabon office in operation in Libreville

All of these activities have been financed from the state's own resources. To date, the funds made available have been sufficient.

Stakeholder views

All the stakeholders consulted during the Validation mission consider themselves fully engaged in EITI in Gabon and speak positively about the progress achieved. The stakeholders emphasise the progress achieved. In view of the requirements of the Validation Guide in respect of this Indicator, they have published a Plan for 2010 which includes actions implemented in 2009.

Validator's judgement

Preparation of an EITI Gabon Work Plan for 2010 is an important step which, in our opinion, will provide considerable support for all parties in promoting EITI in 2010.

In order to be fully compliant, the Interest Group should conduct a formal assessment of potential capacity constraints and develop a programme to address these if necessary. Matters for the attention of the Interest Group include:

- ensuring the future participation of all the organisations which the Interest Group has included within the scope of EITI
- ensuring that all the organisations appoint a representative responsible for EITI
- obtaining all the contact details of the organisations defined as belonging within the scope of EITI in order to be able to supply them to the EITI Administrator and other interested parties if required.

We have made recommendations on this question in section 5.2, below.

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Nevertheless, there has been progress and improvements and the actions for the coming year have been expressed as targets in a formal Work Plan and published. Now that the 2010 Work Plan has been published on the website, the Working Group should publish the actions achieved and ensure that the projected deadlines are met.

On this basis, Gabon has achieved compliance for this Indicator.

3.5 INDICATOR 5: HAS THE GOVERNMENT ESTABLISHED A MULTI-STAKEHOLDER GROUP TO OVERSEE EITI IMPLEMENTATION?

Purpose: Implementation of the EITI should be overseen by a group comprising all appropriate stakeholders, including – but not limited to – the private sector, civil society (including independent civil society groups and other civil society, such as the media and parliamentarians) and relevant government ministries (including government leads). The group should agree clear, public terms of reference (TORs). These TORs should at least include: endorsement of the Country Work Plan – following revisions where necessary; choosing an auditor to undertake audits where data submitted for reconciliation by companies or the government are not already based on data audited to international standards; choosing an organisation to undertake the reconciliation; and other areas as noted in the Validation Grid.

Evidence: To give this indicator a tick, the Validator is expected to see evidence that a multi-stakeholder group has been formed, that it comprises the appropriate stakeholders and that its terms of reference fit the purpose.

Evidence should include:

- stakeholder assessments where these have been carried out
- information on the membership of the multi-stakeholder group:
 - Was the invitation to participate in the group open and transparent?
 - Are stakeholders adequately represented? (This does not mean stakeholders have to be equally represented.)
 - Do stakeholders feel that they are adequately represented?
 - Do stakeholders feel they can operate as part of the committee – including by liaising with their constituency groups and other stakeholders – free of undue influence or coercion?
 - Are civil society members of the group operationally, and in policy terms, independent of government and/or the private sector?
 - Where group members have changed, has there been any suggestion of coercion or an attempt to include members that will not challenge the status quo?
 - Do group members have sufficient capacity to carry out duties?
- Do the TORs give the committee a say over the implementation of the EITI? These TORs should at least include: endorsement of the Country Work Plan – following revisions where necessary; choosing an auditor to undertake audits where data submitted for reconciliation by companies or the government are not already based on data audited to international standards; choosing an organisation to undertake the reconciliation; and, other areas as noted in the Validation Grid.
- Are senior government officials represented on the committee?

Progress

In Gabon, the Multi-Stakeholder Group is known at the “Interest Group”.

Decree No. 535, on the creation, remit and structure of the Interest Group, was passed on 8 July 2005. Order No. 56, on the appointment of members to the Interest Group, was passed on 27 July 2005. Order No. 48, 13 January 2009, covered

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the appointment of a new Chair of the Interest Group, and Order No. 104, 7 May 2009, altered the structure of the Interest Group.

The first Interest Group comprised five government members, three members representing extractive industry sector companies, specifically two oil companies and one mining company, and two civil society members who were both members of the Economic and Social Council. On 14 October 2005, the Minister of Finances requested that the NGOs designate additional civil society representatives. The Interest Group was subsequently enlarged to include four civil society representatives, of which two were members of the Economic and Social Council, one representative of faith groups and one NGO representative.

During 2009, civil society representation was strengthened by the inclusion of one parliamentarian, one further NGO representative and a journalist, a fact which also contributes to enhancing the activities which bring EITI to public attention.

There was no specific study to identify stakeholders. The structure of the first Interest Group included only two civil society representatives who were both members of the Economic and Social Council. In this respect, it is not obvious that these members could be considered entirely independent. Actions taken in 2005 and in 2009 to broaden the structure of the Interest Group served to make it more representative. Specifically, the organisation Publish What You Pay is represented as are the Catholic Church, the press and some NGOs. Employers are also represented.

We have found that civil society organisations based outside of Libreville are not represented on the Interest Group. It is the responsibility of the organisations cited above to ensure that the views of populations outside of Libreville, and in the regions in which the extractive industries operate, are represented. A representative from the city of Lambaréné was appointed to the Interest Group at the outset but it proved to be difficult for her to attend the meetings.

The terms of reference of the Interest Group are set out in Decree No. 535, which stipulates that the Interest Group must:

- collate data relating to payments made to the state, or any other public body, by extractive industries
- establish the means of disseminating information about the Initiative
- prepare a report on these data
- invite applications and, from these, select an expert of recognised international repute
- provide the recognised expert with the data for reconciliation purposes
- publish the data using all the channels of communication, once the recognised expert has completed reconciliation, along with all other information relating to the extractive industries in order to achieve data transparency.

The terms of reference do not include endorsement of a Work Plan together with future amendments and reporting templates. However, Order No. 229/MEFBP, 24 February 2005, created an EITI Working Group which is principally responsible for:

- designing templates for the forms to be completed and establishing reporting procedures while ensuring that existing legal and contractual clauses and relevant international standards are respected
- identifying specific needs relating to the technical assistance necessary for enhancing transparency in mining and oil revenues
- preparing government EITI document templates
- acting as the official government representative in all matters relating to transparency in the extractive industries.

The activities of this Group intersect with those of the Interest Group. Nevertheless, the draft reporting templates were discussed and approved by the Interest Group (see 3.9).

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The Interest Group has a working office at Libreville which is permanently staffed. We have been able to verify that this office is open to all.

Stakeholder views

All the stakeholders agree that the Interest Group effectively fulfils its functions and that all the stakeholders, government, companies and civil society, are properly and appropriately represented and have the capacity to fulfil their roles.

Validator's judgement

The Chair of the Interest Group has always been a senior official, with government representatives drawn from relevant ministerial departments. The principal oil and mining companies in the exploitation phase have sent representatives. Since civil society representation was expanded in 2009, meetings of the Interest Group have been held regularly, often on a weekly basis.

The terms of reference do not make specific reference to endorsing the Work Plan although, as stated in 3.4, towards the end of 2009, the Interest Group was taking action to establish a plan. This question apart, representation of stakeholders is currently sufficient although it would be desirable for the civil society representatives to involve their branches in the regions.

The members representing the government come from offices and departments which, in one way or another, play a role in the sector.

Representation of the oil sector is currently **sufficient as the principal operators are involved and one of the other operators told us that they were fully informed of EITI activities.** The Gabonese Oil Union (UPEGA) oversaw the appointment of the two oil company representatives.

Representation of the mining sector is sufficient in respect of companies in production as there is only one! In the future, other companies will develop mines and it will be necessary to consider improving their representation. It would be desirable to begin approaching companies in the exploration phase to assess the best means of including their interests.

Implementing a more detailed set of internal regulations regarding the activities of the Interest Group would be useful in establishing the reach of its responsibilities and clarifying interaction with the Working Group. This question was discussed on several occasions by the Interest Group, for example during the Interest Group meeting of 2 June 2009 during which the Working Group was asked to consider this question.

Gabon has achieved compliance for this Indicator.

3.6 INDICATOR 6. IS CIVIL SOCIETY ENGAGED IN THE PROCESS?

Aim: This indicator reinforces Indicator 5. The EITI Criteria require that civil society be actively engaged as a participant in the design, monitoring and evaluation of the process, and that it contributes to public debate. To achieve this, EITI implementation will need to engage widely with civil society. This can be through the multi-stakeholder group, or in addition to the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government, and the EITI multi-stakeholder group where appropriate, have sought to engage civil society stakeholders in the process of implementation of the EITI. This should include the following evidence:

- outreach by the multi-stakeholder group to wider civil society groups, including communications (media, website, letters) with civil society groups and/or coalitions (e.g. a local Publish What You Pay coalition), informing them of the government's commitment to implement EITI, and the central role of companies and civil society
- actions to address capacity constraints affecting civil society participation, whether undertaken by government, civil society or companies
- civil society groups involved in EITI should be operationally, and in policy terms, independent of government and/or the private sector
- civil society groups involved in EITI are free to express opinions on EITI without undue restraint or coercion.

Progress

As described above, under Indicator 5, civil society has been involved since the beginning of the Initiative implementation. The number of civil society representatives on the Interest Group has continually increased since Gabon signed up to EITI. There are currently six. Their participation in EITI implementation in Gabon was confirmed to us during the meetings in Libreville. We have witnessed their proactive attitude in developing a communications plan and in their regular participation in Interest Group meetings.

The representatives include persons independent of the government and the private sector along with a representative of employers and of the press.

Towards the end of 2008, certain civil society members were imprisoned and restrictions imposed on them. It was for this reason that Mr Marc Ona Essangui, a civil society representative on the Interest Group, found himself banned from leaving the country. This banning order prevented him from attending the EITI world conference held in Doha, February 2009. The banning order was subsequently lifted.

The Interest Group meeting of 23 January 2009 discussed the ongoing judicial cases of a group of persons, among them Mr Marc Ona, a member of the Interest Group. The minutes of the meeting show us that the members agreed that this matter was unrelated to Mr Marc Ona's activities on the Interest Group and that, furthermore, he had never had any trouble on account of his EITI-related activities. Additionally, the minutes of the Interest Group meeting of 25 February 2009 show that Mr Ona had requested the good offices of the Interest Group in respect of the judicial difficulties in which he, and other members of civil society not involved with the Interest Group, were embroiled. This shows that it was possible to discuss the matter and report on it within the EITI framework.

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We met Mr Ona, firstly in Brussels when he was en route to the International Climate Change Conference in Copenhagen, and later in Libreville. In our opinion, it is clear that he has never ceased from being active on the Interest Group. The other members of the Interest Group consider him to be fully engaged in the process.

Since these events, the government has taken the measures described in the previous chapter to strengthen the involvement of civil society. At the end of 2009, the level of civil society involvement was even greater.

Civil society has taken the lead in the significant efforts made to improve communications on the subject of the EITI Objectives and on progress towards their full implementation in Gabon. Means used include:

- acquisition of an EITI Gabon office in Libreville, open to the public, with a secretary, Internet access and access to EITI-related documentation
- improvement of website content
- organising press lunches
- publication of a newsletter since October 2009. The newsletter is distributed throughout Gabon by NGOs. It is considered an important factor in improving awareness of EITI.

Stakeholder views

All the members of the Interest Group believe that civil society plays a very productive role in the Group.

Other members of civil society nationally, whom we were able to consult, believe that Gabonese civil society is currently well represented and involved in EITI implementation.

For example, Mr Georges Mpaga of Publish What You Pay, Gabon, who is not a member of the Interest Group and who was also subject to judicial difficulties, expressed his support for EITI in Gabon. He told us that, in June 2009, a delegation from PWYP had visited Gabon and had been received by senior officials. In his opinion, EITI could also involve local communities. Mr Hervé Engue of the Government Hydrocarbons Department told us that, in his opinion, the role of civil society was to ensure that the Initiative contributed to development. He recognised that one of the priorities is communication. Mr Mbumba Bwasa assured us that the Interest Group debates are very open and that the representatives of ministries are very open. Mr Epigat, former member of the Interest Group and currently with the Ministry of Hydrocarbons, also assured us that civil society was sufficiently represented and that their opinions were taken into account.

The majority of those interviewed consider the Initiative a first step towards good governance, a matter which is of particular interest to civil society.

Validator's judgement

Since Gabon signed up to EITI, civil society has been increasingly involved. This involvement has been particularly pronounced since 2009 and the civil society representatives are leading on several of the initiatives envisaged for 2010.

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The civil society representatives gave us their points of view on matters relating to the approach to EITI which could be reconsidered, such as:

- level of disaggregation of data
- taking artisanal production into account
- decision regarding the adoption of an “EITI Law”.

These matters are considered elsewhere in this report. There is constructive debate within the Interest Group concerning these questions and the different opinions of members contribute to discussions.

The civil society representatives on the Interest Group are actively engaged in promoting EITI, both in discussions of this nature and through their active participation in the communications programme. Other stakeholders support these initiatives and recognise the role currently played by civil society within EITI.

On the basis of our interviews and the minutes of Interest Group meetings, we are of the opinion that the civil society representatives are currently able to express themselves freely on EITI.

On the basis of this evidence, Gabon has achieved compliance for this Indicator.

3.7 INDICATOR 7: ARE COMPANIES ENGAGED IN THE PROCESS?

Purpose: This indicator reinforces Indicator 5. EITI implementation requires that companies are actively engaged in implementation and that all companies report under the EITI. To achieve this, EITI implementation will need to engage widely with oil, gas and mining companies. This can be through the multi-stakeholder group, or in addition to the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government, and the EITI multi-stakeholder group where appropriate, have sought to engage companies (oil, gas and mining) in the implementation of the EITI. This should include the following evidence:

- outreach by the multi-stakeholder group to oil, gas and mining companies, including communications (media, website, letters) informing them of the government's commitment to implement EITI, and the central role of companies
- actions to address capacity constraints affecting companies, whether undertaken by government, civil society or companies.

Progress

The government of Gabon reminded us that participation on the part of companies must be of a voluntary nature.

In principle, all oil and mining companies are requested to disclose payments. There has been a clear increase in the participation of companies between the first Report, which covered only oil revenues, and subsequent Reports.

The 2006 Report, the last published, shows that, of a total of 26 oil companies, 20 (76.9%) responded within the time allowed. These included all the principal companies and all the companies in the exploitation phase. With regard to the declarations for the 2007 and 2008 Reports, in preparation, the Independent Administrator informed us that, as of 28 January 2010, 81% of companies had responded.

In the case of the mining sector, the 2006 Report referred to a total of 23 companies within the scope of EITI. Of these, ten (43.5%) responded before the deadline. It should be noted that the principal, active companies did respond. With regard to the declarations for the 2007 and 2008 Reports, in preparation, the Independent Administrator informed us that, as of 28 January 2010, 74% of companies had responded.

The Interest Group attempted to include all the companies in the oil, gas and mining sectors within the scope of EITI in Gabon while also consulting the representatives of civil society and the ministerial departments concerned. It proved to be difficult to involve all the companies in this process, especially the mining companies which are only undertaking mining studies. Contact with some of these companies proved to be difficult at times due to the cessation of their activities in Gabon following unsuccessful studies. The retrospective compilation of EITI Reports was another difficulty. We have included recommendations regarding a schedule for the compilation of Reports in section 5.2, below.

We sent self-evaluation forms to oil companies at the end of November 2009 and to mining companies on 22 December 2009 after receiving a list of companies with the names of spokespersons and their contact details. The delay noted in sending forms to mining companies was due to the lack of contact details for these bodies. In section 5.2, we have recommended that the Interest Group take measures to ensure that they have adequate contact details for the companies included within the scope of the EITI process. Copies of the forms returned to us are included in Annex 2 of this report.

Stakeholder views

In the case of oil companies, support for EITI seems to be very important. In particular, the principal companies in the production phase actively support it.

In the case of mining companies, support was less obvious in previous years, except in the case of the main producer, COMILOG. This is perhaps due to the fact that the majority of mining companies are still in the exploration phase.

The civil society representatives expressed the opinion that companies mostly respond willingly to requests for information. However there is support for eventually establishing regulations, or even legislation, relating to requests for information to be provided for EITI, on condition that such mechanisms are not retroactive.

Validator's judgement

Compliance for this Indicator may be considered in two ways. Firstly, it is clear that the majority of oil companies and half of mining companies participate in the process as they supply the requested data on payments. The Validator has seen evidence of government intervention when a producer company does not respect the voluntary approach. For example, Vaalco did not present figures for 2005 until after the government had intervened.

However, at the start of the preparation of the 2007 and 2008 Reports, the Interest Group did not seem to have email addresses for contact persons in some of the mining companies which were should have participated in the EITI Process. We were not able to talk to Mr Jean Félicien Makanga, the representative of the Ministry responsible for Mines and Oil, Mines Section, about the availability and quality of information on mining companies active in Gabon. Following our visit to Libreville, and the discussions which we had with the aforesaid representative, a more complete list was sent to us which enabled us to send self-evaluation forms to companies which had not yet made declarations.

The Reports published to date, 2004-2006, suggest a positive evolution which, from the responses to the current Administrator for 2007 and 2008, appears to be ongoing. The Administrator has indicated that they receive responses from all the producer companies together with responses from some of the companies in the exploration phase.

In this context, Gabon has achieved compliance for this Indicator.

3.8 INDICATOR 8: DID THE GOVERNMENT REMOVE ANY OBSTACLES TO EITI IMPLEMENTATION?

Purpose: Where legal, regulatory or other obstacles to EITI implementation exist, it will be necessary for the government to remove these. Common obstacles include confidentiality clauses in government and company contracts and conflicting government departmental remits .

Evidence: To give this indicator a tick, the Validator should see evidence that the government has removed any obstacles. This might involve following a proactive assessment of obstacles, or through reactive action to remove obstacles as they arise. There is no one way of dealing with this issue – countries will have various legal frameworks and other agreements that may affect implementation, and will have to respond to these in different ways.

The sort of evidence the Validator will want to see could include:

- a review of the legal framework
- a review of the regulatory framework
- an assessment of obstacles in the legal and regulatory framework that may affect implementation of the EITI
- proposed or enacted legal or regulatory changes designed to enable transparency
- waiver of confidentiality clauses in contracts between the government and companies to permit the disclosure of revenues
- direct communications with, e.g., companies, allowing greater transparency
- Memoranda of Understanding setting out agreed transparency standards and expectations between government and companies .

Progress

As has already been mentioned, the government opted for voluntary participation on the part of companies. To date, they have provided their data and given their support without any regulatory provision obliging them to do so.

This approach of voluntary participation can only be effective if the authorities can ensure that their requests are respected. The government communicated in writing with all the companies included in EITI, informing them of the requirements. In cases of non-compliance, the government intervened to resolve the issue. For example, there were obstacles to overcome in order to ensure compliance on the part of two oil companies. When there were problems obtaining information from one of these companies, Vaalco, in 2005, the government managed to get the company to respond. In another case, at the request of the company, the government lifted the confidentiality clause applied to Total so that the company was able to provide the information to the Independent Administrator.

The ongoing improvements in the rate of company responses since Sign up to EITI in 2004 is demonstrated by Indicator 11, below, and as such confirms the success of the voluntary approach adopted.

If a company were to refuse to make its declarations, it is possible that the absence of regulatory provision obliging companies to make EITI declarations would hinder the EITI Process in Gabon in the future. It is for this reason that, during the interviews which we held in Libreville, some people expressed a wish to establish regulatory provision which would apply to all companies in the extractive industries sector, obliging them to respond to requests for disclosure.

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There is a risk that the matter of legal or regulatory provision will not come about quickly owing to the existing legal framework and to contractual agreements in the oil sector. Nevertheless, in July 2009, the Ministry of Mines, Oil and Hydrocarbons announced that it was giving consideration to the inclusion of clauses in new oil and mining contracts which would oblige companies to respect EITI conditions.

While we agree that the current voluntary approach is working well in Gabon, our recommendation in section 5.2, below, is that the government should consider the possibility of imposing regulations.

Stakeholder views

Some civil society representatives would like publication of payments in disaggregated form, in other words, that the payments for each oil contract be published separately. However, in Gabon, as in many other countries, contracts include provisions which are confidential for reasons of commercial sensitivity. This would make publication of disaggregated figures inappropriate. The Interest Group continues to discuss the possibility of publishing disaggregated figures in the future. The data presented in the Reports to date are in aggregated form. This question is considered again under Indicator 9.

Validator's judgement

The introduction of elements of EITI compliance in codified regulations and/or legislation could be further proof of a country's determination to maintain EITI, to establish EITI in the culture and to ensure sustainability. A recommendation on this question is set out in section 5.2, below. However we note here that the voluntary approach to EITI application adopted by Gabon has, to date, succeeded in eliminating potential obstacles.

On this basis, Gabon has achieved compliance for this Indicator.

3.9 INDICATOR 9: HAVE REPORTING TEMPLATES BEEN AGREED?

Purpose: Reporting templates are central to the process of disclosure and reconciliation, and the production of the final EITI Report. The templates will define which revenue streams are included in company and government disclosures. The templates will need to be agreed by the multi-stakeholder group.

The EITI Criteria require that “all material oil, gas and mining payments to government” and “all material revenues received by governments from oil, gas and mining companies” are published. EITI templates will therefore need to define by agreement of the multi-stakeholder group what these material payments and revenues comprise, and what constitutes “material”. It will also be necessary for the multi-stakeholder group to define the time periods covered by reporting. A revenue stream is material if its omission or misstatement could materially affect the final EITI Report.

It is commonly recognised that the following revenue streams should be included:

- host government’s production entitlement
- national state owned company production entitlement
- profits taxes
- royalties
- dividends
- bonuses (such as signature, discovery, production)
- licence fees, rental fees, entry fees and other considerations for licences and/or concessions
- profit oil
- other significant benefits to government as agreed by the multi-stakeholder group.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the multi-stakeholder group was consulted in the development of the templates, that wider constituencies had the opportunity to comment, and that the multi-stakeholder group agreed the final templates. This could include the following evidence:

- draft templates provided to the multi-stakeholder group
- multi-stakeholder group minutes of template discussions
- communications to wider stakeholders (e.g. companies) regarding the design of the templates
- arrangement to enable stakeholders to understand the issues involved
- a statement by the multi-stakeholder group that they agreed the templates, including all revenue streams to be included.

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Progress

In order to reach an agreement on the reporting templates, the members of the Interest Group must together establish the types of revenue to be included. In each of the Reports published to date, the "Accounting and financial definitions of categories of revenue" in the oil and mining sectors have been provided by the Working Group and discussed by the Interest Group. For example, minutes of the Interest Group meetings report that the mining company forms for the 2005 exercise were discussed by the Interest Group on 16 November 2006 and sent to mining companies. They were subsequently approved by the Interest Group in December. The forms for all the companies were approved on 5 February 2007. The Independent Administrator had prepared templates on this basis.

The Independent Administrator informed us that these templates had been discussed with the government and with companies.

The Administrator's Reports for 2004 – 2005, endorsed by the Interest Group, confirm that the majority of oil sector revenues comprise pro rata mineral royalties, company tax and, in the case of production-sharing contracts, profit oil. These transactions were included in the reporting templates approved by the Interest Group for those years (in the case of profit oil, since 2005) in addition to investment dividends, signature and production bonuses, surface royalties, fixed mining rights and Provision for Diversified Investments.

Mining companies have been included since 2005. The transactions included in the Administrator's Reports for 2005 – 06, approved by the Interest Group, are:

- proportional mining royalties
- company tax
- investment dividends
- surface royalties
- fixed mining rights
- extraction royalties.

We were able to inspect the forms prepared by Ernst & Young and endorsed by the Interest Group. They appear to be simple and concise and it is clear from the forms which payments are to be disclosed.

With regard to the 2007 and 2008 Reports, the level of detail for disclosure was certainly discussed in the Interest Group and with the firm PriceWaterhouseCoopers. It was decided that, this year, the disclosure request should include payments in FCFA and US dollars as well as details in terms of barrels and/or cubic metres of gas produced. This will facilitate the reconciliation of declarations. Where appropriate, it is also requested that the supply of discount crude oil be included.

Stakeholder views

The Working Group established the types of revenues and the wording of the forms, the Interest Group then approved them as an exact reflection of their intentions.

Some civil society representatives would like the payment data to be disaggregated in order to make agreements and production-sharing contracts more comprehensible to a wider public. None of the government or company representatives with whom we were able to discuss the matter was in favour of disaggregated reports for reasons of commercial confidentiality. The Interest Group has noted the different points of view on this subject.

Validator's judgement

It is clear that EITI implementation has undergone a development in Gabon both in terms of sector involvement and in the transactions involved and the information requested by the Administrator according to the instructions of the Interest Group.

We have made reference elsewhere to the wish on the part of civil society to have the disclosures delivered in disaggregated form. The question continues to be the subject of debate. In the meantime, however, the Interest Group has decided that Reports 2004 to 2006, and the 2007 – 2008 Reports currently in preparation, will contain data presented in aggregated form.

Material payments by companies and material transactions by the government are included in the exercise.

Gabon has achieved compliance for this Indicator.

3.10 INDICATOR 10: IS THE MULTI-STAKEHOLDER GROUP CONTENT WITH THE ORGANISATION APPOINTED TO RECONCILE FIGURES?

Purpose: An organisation will need to be appointed to receive the disclosed company and government figures, to reconcile these figures, and to produce the final EITI Report. This organisation is variously known as an administrator, reconciler, or auditor. It is vital that this role is performed by an organisation that is perceived by stakeholders to be credible, trustworthy, and technically capable.

Éléments de preuve: To give this indicator a tick, the Validator will need to see evidence that the multi-stakeholder group were content with the organisation appointed to reconcile figures. This could include the following evidence:

- TORs agreed by the multi-stakeholder group
- transparent liaison with the EITI Secretariat and Board to identify potential Validators
- agreement by the multi-stakeholder group on the final choice of organisation .

Progress

The Independent Administrator responsible for reconciling figures for 2004, 2005 and 2006 was Ernst & Young (Paris, France). Reports were published in December 2005, April 2007, and March 2008 respectively. Following a new international call for tender, the firm PriceWaterhouseCoopers (Libreville, Gabon and Paris, France) was chosen in the first quarter of 2009 to undertake the same task for the 2007 and 2008 Reports. The minutes of the meeting of 9 May 2006 include endorsement of Ernst & Young as Administrator for the second Report (2005) by the Interest Group. The minutes of the Interest Group meeting of 23 January 2009 report that "following an international call for tender, the firm Price (Gabon and France) has been engaged to assist the Gabonese Republic in the reconciliation of its oil and mining revenues for the years 2007 to 2009".

Members of the Interest Group explained to us that the contract with PriceWaterhouseCoopers related to the 2007 and 2008 Reports and that it could be renewed for the 2009 Report.

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Stakeholder views

Most of the Interest Group members expressed their satisfaction with regard to these firms' services although, thus far, PriceWaterhouseCoopers has not compiled any reports. Some civil society representatives are concerned that the most recent EITI Report dates from 2006.

It seems that several factors led to this delay. Following the appointment of the new Administrator, the Interest Group took advantage of the occasion to revise the accounting definitions for payments and to consider the importance of publishing an analysis of discrepancies and recommendations for improving the process. The delays seem to be at least in part due to the Interest Group discussions of these questions. The delays are also due to length of time taken to award the contract: call for tender, bidding etc.. There were also political events beyond the control of the Interest Group such as the death of the president, period of mourning, elections etc..

Validator's judgement

The current Work Plan stipulates that the Reports for the years 2007 and 2008 should be published in June 2010. We understand that, in future, the reports will be published at more appropriate intervals. We have made a recommendation on this question in section 5.2, below.

We note a certain improvement in quality between the first Report and the most recently published Report to date. The response of the companies involved improves with each Report.

The Interest Group is content with the services provided by the two firms.

Gabon has achieved compliance for this Indicator.

3.11 INDICATOR 11: HAS THE GOVERNMENT ENSURED THAT ALL COMPANIES WILL REPORT?

Purpose: The EITI Criteria require that all companies – public (state owned), private, foreign and domestic – report payments to the government, according to agreed templates, to the organisation appointed to reconcile disclosed figures. The government will need to take all reasonable steps to ensure that all companies do report. This might include the use of voluntary agreements, regulation or legislation. It is recognised that there might be good (albeit exceptional) reasons why some companies cannot be made to report in the short term. In this situation, government must demonstrate that they have taken appropriate steps to bring these companies in to the reporting process in the medium term, and that these steps are acceptable to other companies

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has done one of the following:

- introduced/amended legislation making it mandatory that companies report as per the EITI Criteria and the agreed reporting templates
- introduced/amended relevant regulations making it mandatory that companies report as per the EITI Criteria and the agreed reporting templates
- negotiated agreements (such as Memoranda of Understanding and waiver of confidentiality clauses under production sharing agreements) with all companies to ensure reporting as per the EITI Criteria and the agreed reporting templates
- where companies are not participating, the government is taking generally recognised (by other stakeholders) steps to ensure that these companies report by an agreed (with stakeholders) date.

Progress

As mentioned above under Indicator 8, since its EITI Sign up declaration in 2004, Gabon has opted for the principle of voluntary participation by companies, that is to say, there is no legislation forcing companies to respond to requests for EITI-related information. Following this approach, there has been an improvement in company responses as shown in the table summarising Report publication by year:

<u>Report</u>	<u>Oil companies</u>		<u>Mining companies</u>		<u>Response rate (all companies)</u>	
	<u>Included</u>	<u>Responses</u>	<u>Included</u>	<u>Responses</u>		
2004	16	13	Not included in the scope		81.3%	
2005	21	13	19	4	42.5%	
2006	26	20	23	10	61.2%	
2007		Report not yet published			81.0%	See note 1
2008		Report not yet published			81.0%	See note 1

Note 1 Interim percentage for 28 January 2010

This table gives the number of companies included within the scope of EITI, as established by the Interest Group, and the number of responses received.

The Interest Group decided to request declarations from all oil and mining companies. But it was subsequently decided that payments of companies in the exploration phase were scarcely material, especially in the mining sector.

In the oil sector, the principle oil companies such as Total, Shell and Perenco support the Initiative at both international level and within Gabon. These companies have publicly declared their support at their Board level. A director of the company Perenco, which took over the activities of the company Marathon in Gabon and, on the basis of this, will become the second producer in Gabon, has unequivocally confirmed its support for the Initiative in Gabon. For the 2004 – 2006 Reports, the main producer companies and the majority of other actors in the sector responded willingly to requests that they submit their declarations. The current Administrator stated that, as of 28 January 2010, 81% of the requests for information for 2007 and 2008 had been received.

In the case of the mining sector, electronic contact details and names of contact persons were more difficult to obtain (see the text of our assessment in 3.7, above). However, the current Independent Administrator stated that, as of 28 January 2010, there had been a response rate of 74% to the requests for information for 2007 and 2008. The company COMILOG, the only one in the production phase, had already responded.

Stakeholder views

The Interest Group opted for the voluntary approach adopted by the government in relation to requests for information from companies. Some of the companies which support the Initiative, together with certain civil society members, expressed their desire for regulations or legislation which would require that companies provide this information. The reason given by these representatives is to ensure that all companies are treated in the same way. There is a fear that new entrants into the Gabonese oil and mining sectors might not support the Initiative.

Some members of the Interest Group wonder if the possibility might be considered of making EITI a legal obligation in future mining agreements and rights. This question has been debated by the Interest Group on several occasions. Specifically, during a meeting of the Interest Group in July 2009, Mr Jean Felicien Makanga, Representative of the Ministry responsible for Mines, confirmed that the government was studying this possibility.

When we put the question of a future EITI law, all the representatives agreed in principle while stipulating that “the law is not retrospective”.

The opinion of the Interest Group, as perceived by the Validator, is that its members feel that the data collected cover material payments. As such, the companies which did not respond, those in the exploration phase for example, represent only a very small contribution.

Some civil society representatives expressed their concern that revenues from gold and diamond production are not included. The reason for this is clearly that these enterprises are artisanal in nature and therefore it is not easy to collect data about them. The Interest Group has discussed this question. It was agreed that these activities would not be included within the scope of EITI for 2004 – 2008. It is likely that these revenues are not material.

Validator's judgement

We can say that there are three aspects to this Indicator:

(i) Removing potential obstacles to EITI implementation

This aspect is covered in more details under Indicator 8. There we concluded that the voluntary approach to implementation has not, thus far, hindered its success. We also concluded that the government had taken certain measures to ensure that companies declare their figures.

(ii) Actions taken by the government to ensure that companies declare their figures

It was explained to the Validator that the supervisory authorities and successive Independent Administrators have made great efforts to follow up with companies to ensure the success of the Initiative. These efforts undertaken to request that all actors submit their figures have, for the most part, met with success, especially in relation to the principal producers.

When the 2005 Report was being compiled, the company Vaalco, which had been accorded some funding by the SFI (Swiss Finance Institute), was the target of protest by civil society and the Interest Group for not disclosing its figures, a fact which demonstrates the intention of the government to ensure that all companies report.

In conclusion, efforts made by the government and by successive Independent Administrators have been upheld.

(iii) The scope of companies included in the EITI Reports

The scope of companies to be included was established following a long discussion by the Interest Group: after they had reflected on the matter and before they embarked on the tasks of each EITI Report. The Interest Group considers that the sums which would be declared by the companies which did not respond would not be material as these companies are in the exploration phase.

The government is actively engaged in the process and aims to encourage the companies to respond to EITI-related requests. The government has taken measures to ensure that all obstacles to this end can be eliminated.

Further to our remarks above, which are supported by the opinions expressed by representatives of civil society and those companies which comply with EITI, we recommend in chapter 5.2 that the government should consider future regulations or legislation to further strengthen EITI in Gabon. However, the number of companies included in the scope of EITI and the number of companies which have submitted their declarations has risen by the year. All the companies in the exploitation phase have submitted their declarations under EITI.

On this basis, Gabon has achieved compliance for this Indicator.

3.12 INDICATOR 12: HAS THE GOVERNMENT ENSURED THAT COMPANY REPORTS ARE BASED ON AUDITED ACCOUNTS TO INTERNATIONAL STANDARDS?

Purpose: The EITI Criteria require that all data disclosed by companies is based on data drawn from accounts which have been audited to international standards. This is a vital component of EITI implementation.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has taken steps to ensure that data submitted by companies is audited to international standards. This could include the following:

- government passes legislation requiring figures to be submitted to international standards
- government amends existing audit standards to ensure that they are to international standards, and requires companies to operate to these
- government agrees an MoU with all companies whereby companies agree to ensure that submitted figures are to international standards
- companies voluntarily commit to submit figures audited to international standards
- where companies are not submitting figures audited to international standards, the government has agreed a plan with the company (including SOE) to achieve international standards against a fixed time-line
- where figures submitted for reconciliation are not to audited standards, the group is content with the agreed way of addressing this.

Progress

The standards in question are those set by the committees or boards of IFAC (International Federation of Accountants) for audit missions.

The 2005 and 2006 Reports mention that the Working Group had requested that certain oil companies have their declarations certified. The certifications did not arrive before the deadline for the 2005 Report. However, according to what was published in the Reports, it appeared that Total, Shell and COMILOG provided certified declaration for the 2006 Report.

The companies which provided certification for the 2006 Report will do so again for the 2007 and 2008 Reports. At the request of the Interest Group, Perenco and Addax will supply certified declarations for 2009 if even they prove unable to do so for 2007 and 2008.

The Interest Group has taken the decision to implement the requirements of this Indicator gradually. The producer companies will be targeted first.

Stakeholder views

One of the representatives of private companies questioned the practicalities of requesting certification by auditors from companies in the study phase as these might be small companies or only involved in a very limited level of activity.

The Interest Group has discussed its approach regarding certification of EITI figures and has decided on the immediate objective of obtaining certification from companies in the exploitation phase.

Validator's judgement

There are no requirements on the Independent Administrator to obtain certification from non-producer companies for the 2007 – 2008 Report. However this approach has been approved by the Interest Group.

Following this approach, all the companies in the production phase should be included in the requirement to obtain certification and the government should take all necessary measures to ensure that they comply.

PWC, the Administrator for these reports, told us that the data collected from all the oil companies and from four of the mining companies are drawn from certified accounts.

Gabon has achieved compliance for this Indicator. It would be desirable in the future that the terms of reference for the Independent Administrator require them to ask for certified accounts from companies.

3.13 INDICATOR 13: HAS THE GOVERNMENT ENSURED THAT COMPANY REPORTS ARE BASED ON AUDITED ACCOUNTS TO INTERNATIONAL STANDARDS?

Purpose: EITI criteria require that all data disclosed by the government is audited to international standards.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has taken steps to ensure that data submitted is audited to international standards. This could include the following:

- government passes legislation requiring figures to be submitted to international standards
- government amends existing audit standards to ensure they are to international standards, and ensures compliance with these
- where figures submitted for reconciliation are not to audited standards, the multi-stakeholder group is content with the agreed way of addressing this.

Progress

Interest Group discussions on this subject were guided by the Independent Administrator's recommendation for the 2004, 2005 and 2006 Reports for which they had specifically consulted their International Technical Group. As a result, following these recommendations, the revenue declarations were supplied and signed by the Paymaster General, a senior sworn official.

The role of the Court of Accounts is to pass judgement, ex post, on the conformity of government accounts with those of the Public Accounting Officer. As such, the Court is oriented more towards financial management control than to the audit procedure itself. The Court of Accounts is not really equipped to "certify" declarations as its role is more general. Furthermore, its reports are often produced after a two year delay, a fact confirmed to us during our stay in Libreville.

Stakeholder views

The members of the Interest Group feel that it is difficult to envisage certification of government declarations to international auditing standards for the reasons given above which also arose during their correspondence with Ernst & Young. They have therefore decided to adopt the approach suggested by the Independent Administrator.

Validator's judgement

Given the difficulty of certifying government accounts to international standards, it would perhaps be useful to review this Indicator.

Again, given this difficulty, the fact that the government declarations are signed by the Paymaster General, a senior sworn official, is a positive sign.

On this basis, Gabon has achieved compliance for this Indicator.

3.14 INDICATOR 14: WERE ALL MATERIAL OIL, GAS AND MINING PAYMENTS BY COMPANIES TO GOVERNMENT ("PAYMENTS") DISCLOSED TO THE ORGANISATION CONTRACTED TO RECONCILE FIGURES AND PRODUCE THE EITI REPORT?

Progress

The Working Group established the accounting and financial definitions of the revenue categories for the oil and mining sectors for the EITI Reports of 2004, 2005 and 2006. These were endorsed by the Interest Group for each year. Details of the payments included are set out in section 3.9, above.

All the producer oil and mining companies responded for the 2005 and 2006 reports with the single exception of Vaalco for the 2005 Report. Following protests and a special notification issued by the government, Vaalco responded for the 2005 Report. The companies which responded to the requests for declarations disclosed all the payments listed. The list of companies which did not respond is included in the said Reports.

The Independent Administrator responsible for the reports published to date has stated that "reconciliation of the declarations of extractive industry companies from the oil and mining sectors, on the one hand, and declarations of the state, on the other, have not brought to light any significant anomalies".

The scope of companies and payments to be included in the EITI Reports in Gabon has progressively expanded since Sign up to EITI. For the 2007 and 2008 Reports, in preparation, the Interest Group has requested that the Independent Administrator broaden the definition of payments made to include "discount payments" for the local market.

Stakeholder views

The Interest Group is satisfied with the information provided for the 2004, 2005 and 2006 Reports and is pleased with the progress evident throughout the Reports.

The Interest Group has noted that the companies which have not responded are those which are in the study phase and that the sums paid by these companies are scarcely material.

Validator's judgement

Company payments included within the scope of EITI in Gabon are given in section 3.9. These cover the material payments made by extractive industry companies to the government. All the producer companies, the majority of the oil companies in the study phase, and several mining companies in the study phase returned their completed forms to the Independent Administrator. The Independent Administrator's Reports for the years 2004 to 2006 show discrepancies between the declarations of companies and the government which are not considered material but which were identified by the Independent Administrator.

The Interest Group has not set a figure for the materiality threshold. However the members are unanimous in the belief that the payments of companies in the study phase are not material in the context of EITI.

On the basis of the above, Gabon has achieved compliance for this Indicator.

3.15 INDICATOR 15: WERE ALL MATERIAL OIL, GAS AND MINING REVENUES RECEIVED BY THE GOVERNMENT (“REVENUES”) DISCLOSED TO THE ORGANISATION CONTRACTED TO RECONCILE FIGURES AND PRODUCE THE EITI REPORT?

Progress

The Independent Administrator received government declarations for the years 2004 – 2006. This enabled them to proceed with satisfactory reconciliations of figures within the scope of EITI as it had been presented to them. The revenues received are those described in 3.14, above.

The revenue declarations were provided and signed by the Paymaster General who is a senior sworn official.

Stakeholder views

The Interest Group is content that the figures presented by the government in the 2004, 2005 and 2006 Reports cover all material revenues.

Validator’s judgement

Our observations under Indicator 14 also apply here.

Gabon has achieved compliance for this Indicator.

Published 9 July 2010

3.16 INDICATOR 16: WAS THE MULTI-STAKEHOLDER GROUP CONTENT THAT THE ORGANISATION WHICH WAS CONTRACTED TO RECONCILE THE COMPANY AND GOVERNMENT FIGURES DID SO SATISFACTORILY?

Progress

The Independent Administrator was able to include the principal oil companies in the 2004 Report. The Interest Group decided that, for this first report, declarations would not be required from the mining sector.

The Independent Administrator's 2005 Report was able to include the principal contributors of the oil sector and the scope was broadened to include mining companies. The only one of these in production was COMILOG.

The 2006 Report was able to include the majority of companies in the oil sector and further mining sector companies, including the principal producer COMILOG.

The Interest Group expressed their satisfaction to us at the work conducted by the Independent Administrator. This is confirmed, for example, in the minutes of the Interest Group meeting of 4 March 2009.

Stakeholder views

Gabon was one of the first countries to adopt EITI and there is satisfaction at the quality of the Reports compiled by the Independent Administrator for the years 2004, 2005 and 2006. The Reports for the years 2007 and 2008 have not been published but they are in preparation. The stakeholders expressed their satisfaction with the work of the first Administrator and with the work to date of the new Independent Administrator.

The Interest Group did not express any reservations about the competence of the first Independent Administrator. The decision to recruit a new Independent Administrator was motivated by a concern to guarantee the competitiveness of the post and, eventually, to bring in some new ideas.

A member of the Interest Group observed that the new Independent Administrator had been behind schedule in some of their tasks. However others felt that the delays were largely due to political events of this last year: death of the President, elections etc. Additionally, the decision was taken to concentrate on appointing a Validator and on the objective of achieving Validation for Gabon as an EITI Compliant country, in accordance with the requirements issued by the EITI World Conference in Doha.

Validator's judgement

The Interest Group expressed satisfaction with the work carried out by the Independent Administrator responsible for compiling the first three EITI Reports.

Gabon has achieved compliance for this Indicator.

3.17 INDICATOR 17: DID THE EITI REPORT IDENTIFY DISCREPANCIES AND MAKE RECOMMENDATIONS FOR ACTIONS TO BE TAKEN?

Progress

The Independent Administrator's Report for 2005 brought to light discrepancies of the order of 3-5%. The Administrator concluded that "reconciliation of the consolidated declarations of extractive industry companies from the oil and mining sector, on the one hand, and declarations of the state, on the other, have not brought to light any significant anomalies". There were no further comments in the Report on the nature of the discrepancies nor were there recommended actions.

The Administrator's 2006 Report showed discrepancies of less than 4%. The Administrator concluded that "reconciliation of the consolidated declarations of extractive industry companies from the oil and mining sector, on the one hand, and declarations of the state, on the other, have not brought to light any significant anomalies". There were no further comments in the Report on the nature of the discrepancies nor were there recommended actions.

The Interest Group, however, did discuss these discrepancies. Subsequently, in a press article, the government explained that the discrepancies were due, among other factors, to the different exchange rates involved and to the "cut offs" of certain payment and recovery operations.

Stakeholder views

While the Interest Group expressed general agreement with the Independent Administrator's conclusions, it is clear that there had been some work on justifying the discrepancies. The Validator understands that the Independent Administrator did make some comments on this subject but that they were not published.

Discussions between the Interest Group and the new Independent Administrator led to the decision to request further information from companies which will make the tasks of reconciling declarations and explaining discrepancies easier.

Validator's judgement

The Interest Group discussed the discrepancies identified in the 2005 and 2006 Reports during their discussions on the Reports in the sessions of 4 June 2007 and 20 March 2008 respectively. The Independent Administrator declared that there were no material anomalies between the declarations of the state and those of companies according to the international auditing standards (below 5%) accepted in audit procedures.

The published Reports do not contain explanations for these discrepancies or recommendations of the Independent Administrator for the years 2004, 2005 and 2006.

A government statement published in the newspaper "*l'Union*" of 25/26 August 2007 explains that the anomalies are due to exchange rate differences, to discrepancies in the dates of declarations, and a failure to consolidate rows in the Table of State Financial Operations which includes all the sums received by the state and its divisions.

The reconciliation exercises undertaken by the Independent Administrator brought out discrepancies between the figures declared by the companies and by the government. The Interest Group followed up these discrepancies. We have issued recommendations (see 5.2) which should be adopted to improve reconciliation in future reports.

On the basis of the above, Gabon has achieved compliance for this Indicator.

3.18 INDICATOR 18: WAS THE EITI REPORT MADE PUBLICLY AVAILABLE IN A WAY THAT WAS PUBLICLY ACCESSIBLE, COMPREHENSIVE AND COMPREHENSIBLE?

Purpose: the EITI is ultimately fully implemented when the EITI Report is made public and is widely disseminated and openly discussed by a broad range of stakeholders. The EITI Criteria require that the Report is publicly available in a way that is publicly accessible, comprehensive and comprehensible.

Evidence: To give this indicator a tick, the Validator will need to see evidence that the government has ensured that the Report was made publicly available in ways that are consistent with the EITI Criteria, including by:

- producing paper copies of the Report, which are distributed to a wide range of key stakeholders, including civil society, companies, the media and others
- making the Report available on-line, and publicising its web location to key stakeholders
- ensuring that the Report is comprehensive and includes all information gathered as part of the Validation process and all recommendations for improvement
- ensuring that the Report is comprehensible, including by ensuring that it is written in a clear, accessible style and in appropriate languages
- ensuring that outreach events – whether organised by government, civil society or companies – are undertaken to spread awareness of the Report.

Progress

The 2004, 2005 and 2006 Reports are available on the EITI Gabon website: www.eitigabon.com. One thousand (1000) copies of each Report were printed. We understand that these were, and will be, distributed during public meetings organised as part of the communications plan. Copies are also available at the EITI office in Libreville.

There have been several press articles, notably in the *l'Union*, one of two daily newspapers, on EITI activities in Gabon. A journalist from the Gabonese "Radiodiffusion Télévision" (RTG, Channel 1) is a member of the Interest Group. This should help to enhance diffusion of information to the public.

Stakeholder views

The website has been redesigned and is regularly updated.

A first "EITI Newsletter" was published in October 2009 and a second was published in December 2009. This initiative met with the approval of the stakeholders and it appears to have been widely distributed. This communications initiative was complemented by a press lunch on 18 October and a meeting with civil society during which the delays in compiling the 2007 and 2008 Reports were explained.

Report on the Validation process of the Extractive Industries Transparency Initiative implementation in Gabon

Published 9 July 2010

Validator's judgement

During 2009, an appreciable effort was made to improve EITI visibility in Gabon. The EITI Reports are currently widely available and information about EITI is distributed widely. The communications plan for 2010 includes meetings in the country to explain and discuss EITI in Gabon.

In addition to the Reports, the ministerial orders and the decree relating to the creation of Working Groups are published on the website. The Work Plan is now available on the EITI Gabon website.

In its 2010 Work Plan, the Interest Group has expressed its willingness to increase the information workshops and to continue publicising EITI.

Gabon has achieved compliance for this Indicator.

3.19 HOW HAVE OIL, GAS AND MINING COMPANIES SUPPORTED EITI IMPLEMENTATION?

Purpose: In accordance with the EITI Principles and Criteria, all companies operating in the relevant sectors in countries implementing the EITI have to disclose material payments to the government in accordance with agreed reporting templates and to support EITI implementation. This includes: expressing public support for the Initiative; taking part in, or supporting, the multi-stakeholder process; disclosing agreed data, which is audited to international standards; and cooperating with the Validator where they have queries over Company Forms.

Evidence: This indicator does not require the Validator to provide an overall assessment. The Validator should provide a written assessment in the EITI Validation Report based on the self assessed Company Forms (below) which each company is required to complete. Where companies do not fill in forms, the Validator should note this in the final Report. In addition, the Validator should include in the final report any relevant information on the company concerned that is already in the public domain. The company should be given the opportunity to check this information. As well as using the forms to summarise company performance in the EITI Report, the forms should be publicly available and a table collating company responses should be included in the EITI Report.

The Validator should contact all the companies required to fill in forms at the start of the Validation, inform them of the requirement to complete the form and request that the forms be returned to the Validator. In addition, the Validator should ask companies to comment on lessons learnt and best practice. Companies will have two ways of providing such comments:

- companies can use the space provided on the self assessment forms, or
- companies can provide verbal evidence to the Validator where issues the company wishes to note are of a sensitive nature. The Validator will summarise anonymised lessons and experiences in the Validation Report.

The self-assessment form should be filled in, in the first instance by the company, as follows:

Country level:

- Each oil, gas or mining company active in the country being validated should complete a country-level Company Form as a self-assessment and should submit it to the Validator.
- The national Validator will collate responses and may contact companies if they have additional questions or require further supporting information. Companies should respond positively to such requests.
- Companies should make forms for each country of operation publicly available on their external websites

International level:

- Companies that have made international commitments to support the EITI should fill in an international-level self assessment form.
- The international Company Form should be completed by each company and this should be sent to the EITI Secretariat who will put it on the EITI website.
- Companies should also provide clear endorsement of the EITI on their website.

Published 9 July 2010

Progress

The principal oil and gas companies support EITI implementation. They have two representatives on the Interest Group. These representatives are senior executives who play an active role in the Interest Group activities.

In the case of mining companies, COMILOG (ERAMET Group) actively supports the Initiative. One of its senior executives is also a member of the Interest Group.

In general, companies do support EITI. Mr Jean Claude Alevina of Total Gabon, a member of the Interest Group, is also Chair of the Gabonese Oil Union (UPEGA) which organises workshops and distributes information about EITI to oil companies. For example, on 25 January 2010, UPEGA organised a seminar in Libreville entitled "Good Governance, Ethics and Compliance Practices". Among the contributions, we note "EITI, new transparency regulations" by Mr Jean-Francois Lassale of the Total Group and member of the EITI Board. In the case of mining companies, the only one in production is COMILOG. Its representative on the Interest Group informed us that EITI news was distributed among its executives.

Validator's judgement

We sent self-evaluation forms to oil companies at the end of November 2009 and to mining companies on 22 December 2009 after receiving a list of companies with the names of representatives and their contact details. The delay, which has been noted, in sending the forms to mining companies was due to a lack of contact details for these organisations. We recommended in section 5.2 that the Interest Group take measures to ensure that contact information is available for companies with the scope of EITI.

Copies of the forms which were returned to us are presented in Annex 2 of this report. According to the information in Annex 2, forms were sent to 17 oil companies and 10 mining companies. Six oil companies and two mining companies sent responses.

We were not able to discover why the other companies did not respond.

UPEGA and the mining company currently in production actively support EITI by appointing senior executives to the Interest Group and with information dissemination activities.

Taking into account the active support of producer companies and the responses to the Independent Administrator, we conclude that Gabon has achieved compliance.

3.20 WHAT STEPS HAVE BEEN TAKEN TO ACT ON LESSONS LEARNT, ADDRESS DISCREPANCIES AND ENSURE THAT EITI IMPLEMENTATION IS SUSTAINABLE?

Purpose: The production and dissemination of an EITI Report is not the end of implementation of the EITI. The value comes from the process as much as the product, and it is vital that lessons learnt in implementation are acted upon, that discrepancies identified in the EITI Report are addressed and that EITI implementation is on a stable, sustainable footing.

Evidence: The Validator should see evidence that a review mechanism has been established that takes account of the purpose outlined above. The Validator should comment on this in the Validation Report.

Progress

The ongoing process of EITI application which Gabon is implementing is described elsewhere in this Report. There is also a general evaluation in section 5, below, along with recommendations pertaining to the task of Validation and to discussions with stakeholders.

Continuity of the EITI Process is the responsibility of the Interest Group. Members of the Group are active with the government, private companies and civil society all well represented. In the last nine months, this Group, which meets regularly, has increased the frequency of its meetings which are now weekly. The Group is engaged in an ambitious communications plan which was established by the recently published Work Plan. Sufficient funding is granted annually by the government.

The Reports for 2007 and 2008 are in preparation and the aim is to publish the two Reports in June 2010. The reasons for the delay in producing these Reports are presented elsewhere in this Report. In future, the Interest Group intends to produce Reports within the 12 months following each calendar year. This goal is included in our recommendations.

The current Independent Administrator should include recommendations for improving the EITI reporting process in their Report. This will be an improvement and a positive step provided, firstly, that these recommendations are applied by the Interest Group in its role as the body responsible for the continuity of EITI in Gabon, through its Work Plan and, secondly, that there is follow up on the progress reported in these plans and in other activities.

The planned publication and distribution of information about EITI in the recently introduced newsletter, website, seminars and other public presentations, will serve to strengthen the Initiative and to promote greater understanding of progress and of the future direction.

To date, the voluntary approach adopted by Gabon has not proved an obstacle to material progress. Some members of the Interest Group want regulatory provision to be established which could guarantee the sustainability of the Initiative. We believe that the government remains very much committed to supporting EITI. However, the voluntary approach must be reviewed in order to give consideration to a more formal framework.

Stakeholder views

The stakeholders enthusiastically support EITI and, especially in the case of civil society, as long as they can see the public benefit of the Initiative, the sustainability of implementation is assured.

Published 9 July 2010

Validator's judgement

The current activities of the Interest Group and, in particular, the new communications programme underway, show the determination of Gabon to fulfil EITI principles.

Gabon can successfully continue implementing the Initiative.

4 THE VALIDATION GRID

A summary of our assessment of Gabon’s compliance with the Indicators appears in the table below

Indicator		Compliant?
	SIGN UP	
1.	HAS THE GOVERNMENT ISSUED AN UNEQUIVOCAL PUBLIC STATEMENT OF ITS INTENTION TO IMPLEMENT EITI?	✓
2.	HAS THE GOVERNMENT COMMITTED TO WORK WITH CIVIL SOCIETY AND COMPANIES ON EITI IMPLEMENTATION?	✓
3.	HAS THE GOVERNMENT APPOINTED A SENIOR INDIVIDUAL TO LEAD EITI IMPLEMENTATION?	✓
4.	HAS A FULLY COSTED COUNTRY WORK PLAN BEEN PUBLISHED AND MADE WIDELY AVAILABLE, CONTAINING MEASURABLE TARGETS, A TIMETABLE FOR IMPLEMENTATION AND AN ASSESSMENT OF CAPACITY CONSTRAINTS (GOVERNMENT, PRIVATE SECTOR AND CIVIL SOCIETY)?	✓
	PREPARATION	
5.	HAS THE GOVERNMENT ESTABLISHED A MULTI-STAKEHOLDER GROUP TO OVERSEE EITI IMPLEMENTATION?	✓
6.	IS CIVIL SOCIETY ENGAGED IN THE PROCESS?	✓
7.	ARE COMPANIES ENGAGED IN THE PROCESS?	✓
8.	DID THE GOVERNMENT REMOVE ANY OBSTACLES TO EITI IMPLEMENTATION?	✓
9.	HAVE REPORTING TEMPLATES BEEN AGREED?	✓
10.	IS THE MULTI-STAKEHOLDER GROUP CONTENT WITH THE ORGANISATION APPOINTED TO RECONCILE FIGURES?	✓
11.	HAS THE GOVERNMENT ENSURED THAT ALL COMPANIES WILL REPORT?	✓
12.	HAS THE GOVERNMENT ENSURED THAT COMPANY REPORTS ARE BASED ON AUDITED ACCOUNTS TO INTERNATIONAL STANDARDS	✓
13.	HAS THE GOVERNMENT ENSURED THAT GOVERNMENT REPORTS ARE BASED ON AUDITED ACCOUNTS TO INTERNATIONAL STANDARDS?	✓
	DISCLOSURE	
14.	Were ALL MATERIAL OIL, GAS AND MINING PAYMENTS BY COMPANIES TO GOVERNMENT (“PAYMENTS”) DISCLOSED TO THE ORGANISATION CONTRACTED TO RECONCILE FIGURES AND PRODUCE THE EITI REPORT?	✓
15.	WERE ALL MATERIAL OIL, GAS AND MINING REVENUES RECEIVED BY THE GOVERNMENT (“REVENUES”) DISCLOSED TO THE ORGANISATION CONTRACTED TO RECONCILE FIGURES AND PRODUCE THE EITI REPORT?	✓
16.	Was THE MULTI-STAKEHOLDER GROUP CONTENT THAT THE ORGANISATION WHICH WAS CONTRACTED TO RECONCILE THE COMPANY AND GOVERNMENT FIGURES DID SO SATISFACTORILY?	✓
17.	DID THE EITI REPORT IDENTIFY DISCREPANCIES AND MAKE RECOMMENDATIONS FOR ACTIONS TO BE TAKEN?	✓
	DISSEMINATION	
18.	WAS THE EITI REPORT MADE PUBLICLY AVAILABLE IN A WAY THAT WAS PUBLICLY ACCESSIBLE, COMPREHENSIVE AND COMPREHENSIBLE?	✓

5 CONCLUSION AND RECOMMENDATIONS

5.1 Validator's conclusions on EITI implementation in Gabon

Less than two years after the Extractive Industries Transparency Initiative (EITI) was launched by British Prime Minister Tony Blair, in September 2002, Gabon declared its intention to sign up to the programme and became one of the first countries in the world to adopt EITI. Since then, Gabon has published three Reports covering the period 2004 - 2006. The 2007 and 2008 Reports are in preparation. The scope of EITI in Gabon has grown progressively broader.

Salient points in the process include:

- figures for the oil sector in the first EITI Report, extended to the mining sector for 2005 and subsequent years
- increase in the number of companies in these sectors which are included in the scope of EITI
- definition of payments involved progressively expanded, together with the integration of Provision for Investment Diversification and provision of "discount" oil

Implementation is conducted on a voluntary basis, without obligatory regulatory provision for companies, and the Interest Group resources are drawn exclusively from the general state budget.

The principal companies in the production phase actively support EITI implementation. The mining and oil sectors have active representatives on the Interest Group.

Civil society is strongly committed to EITI and the number of representatives on the Interest Group has increased from two to six active members.

We met Mr Marc Ona EsSangui, firstly in Brussels when he was en route to the International Climate Change Conference in Copenhagen and later in Libreville. In our opinion, it is clear that he has never ceased from being active on the Interest Group. The other members of the Interest Group consider him to be fully committed to the process.

The enthusiasm of civil society and other stakeholders in promoting the EITI Process in Gabon is undeniable. There is an ambitious communications plan envisaged for 2010. A first "EITI Newsletter" was published in November 2009 and a second was published in December 2009. This initiative meets with the approval of the stakeholders and it appears that it is widely distributed.

EITI implementation in Gabon began before the introduction of directives and rules relating to producing a formal, published Work Plan with a provisional budget, timetable and assessment of capacity constraints in keeping with the current EITI Rules which are part of the Validation assessment criteria. On this point, we note that there is a Work Plan for 2010 which is published on the website.

We are satisfied that Gabon has demonstrated its commitment to implementing the requirements of EITI and that it should be declared a **Compliant country**.

5.2 Recommendations for future actions for EITI in Gabon

The significant progress which Gabon has achieved since its Sign up to EITI would justify its being declared a **Compliant country**. However, the Interest Group can continue to make useful improvements to its activities in certain areas.

In the context of the 2010 Work Plan, we produced the following recommendations for the attention of the Interest Group which received them positively.

1. The Interest Group should conduct a formal assessment of potential capacity constraints and develop a programme to address them if necessary.
2. In order to guarantee the sustainability of EITI in Gabon, starting from next year, the Interest Group should prepare, adopt and publish a costed Work Plan and should implement an action management procedure to ensure that actions are executed within a given schedule. The Working Group should publish its completed actions and state how they comply with the deadlines envisaged. The Work Plan should identify capacity constraints and include proposals and an action plan to address them. Actions undertaken, and how they comply with the envisaged deadlines, should be published. Matters for review should include:
 - ensuring the future participation of all the organisations included within the scope of EITI by the Interest Group
 - ensuring that all organisations name a representative responsible for EITI
 - obtaining all the contact details of organisations defined as belonging within the scope of EITI in order to be able to supply them to the EITI Administrator and other interested parties if required
3. The Interest Group should ensure that the contact details of companies included in the scope of EITI are correct in order to ensure that the database is complete and up to date. The Group should also ensure that companies have appointed appropriate representatives to serve as point persons for EITI. It would be desirable to have one person appointed as point person for each company. This would bring greater clarity and would emphasise the intention of each company to commit to EITI.
4. In the future, Independent Administrators' Reports should:
 - i. be published annually, at the latest 12 months after the end of each year
 - ii. include explanations of any discrepancies arising between the declarations of companies and those of the government
 - iii. include recommendations for improving EITI implementation.
5. The Working Group should establish an independent procedure for examining and explaining discrepancies.
6. The development of civil society involvement has been positive and the government should continue to encourage their active participation in the EITI Process.
7. It would be useful to consider publishing summaries of Interest Group discussions.
8. In future, recommendations of the Independent Administrator must be included in their Reports along with their comments on the reasons for discrepancies, and these should be published.
9. The terms of reference for EITI Administrators should require that they request certified accounts from all the companies in the production phase, at least, and from all other companies whose payments are material.

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10. Based on the opinions of the civil society and private sector representatives, we recommend that legislative or regulatory provision be introduced in order to guarantee the sustainability of EITI in Gabon.
 11. The request made to companies to have the data sent to the Independent Administrator certified is laudable and should be continued and, if necessary, expanded. The government should take all necessary measures to guarantee that the producer companies, at least, comply with this requirement for all reports published in future, including those of 2007 and 2008.
 12. Publication of a monthly newsletter is an effective means of communication which should be maintained.
 13. It may be necessary to improve the visibility of the EITI office and public access to the various documents.
 14. The website could include an "FAQ" (Frequently Asked Questions) page.

ANNEX 1 – PEOPLE CONTACTED

Representative

*	Patrice OTHA	Chair of the Interest Group	
	Anaclet NGOUA	PriceWaterhouseCoopers, Libreville	
	Baraka KABEMBA	PriceWaterhouseCoopers, Libreville	
	Isabelle DUFOSSE	PriceWaterhouseCoopers, Libreville	
*	Marc ONA ESSANGUI	Member of the Interest Group (civil society representative)	Brussels and Libreville
*	Yvette NGWEVILO REKANGALT	Member of the Interest Group (civil society representative)	
*	Hervé N'NANG ENGUE	Member of the Interest Group (government representative)	
	Georges MPAGA	Publish What You Pay, Gabon	
	Jérôme ANDRÉ	Total Gabon	
*	Alain KAPITHO-OZIMO	Member of the Interest Group (extractive industry companies representative)	
*	Jean Félicien MAKANGA	Member of the Interest Group (government representative)	
	Corine BOUSSAMBA BOUSSAMBA	Justice and Peace Commission	
	Michel BOUSSAMBA BOUSSAMBA	Justice and Peace Commission	
*	Florent MBUMBA BWASA	Member of the Interest Group (civil society representative)	
*	Jean Baptiste BIKALOU	Member of the Interest Group (civil society representative)	
	Fernand EPIGAT	Former member of the Interest Group	
	Jean-Maximin NKIZOGO	Perenco	By telephone
*	Mathieu KOUMBA	Member of the Interest Group (civil society representative)	
*	Hyacinthe MOUNGUENGUI MOUCKAGA	Vice Chair of the Interest Group	
	Philippe MONGIN	Ernst & Young, Paris	Paris
	Anton MELARD de FEUARDENT	Fair Links	Paris
	Achille MOUBOUYI	Assistant to the permanent secretary of the Interest Group	

* Member of the Interest Group

ANNEX 2 – SELF-EVALUATION FORMS

a. Oil companies	Report 2006		Company EITI self-evaluation forms		Companies which did not reply Website
	Included	Replied	Sent	Received	
GROUP 1: COMPANIES IN THE PRODUCTION AND EXPLORATION PHASE					
ADDAX PETROLEUM	•	•	•		www.addaxpetroleum.com
MARATHON OIL GABON	•	•	•		www.marathon.com
MAUREL et PROM	•	•	•		www.maureletprom.fr
PERENCO S.A.	•	•	•	•	
SHELL GABON	•	•	•	•	
TOTAL GABON	•	•	•	•	
VAALCO Gabon (Etame), Inc.	•	•	•	•	
GROUP 2: COMPANIES IN THE EXPLORATION PHASE					
ANADARKO GABON COMPANY	•	•	•	•	
CANADIAN NATURAL RESOURCES INTERNATIONAL (CNRI)	•	•	•	•	
GULF OF GUINEA PETROLEUM CORPORATION INC. (GGPC)			•		Note 1 below
mitsubishi petroleum development company GABON CO. Ltd (MPDC)	•	•	•		www.mitsubishicorp.com/jp/en/pr/archive/2009/html/0000002830.html
OIL INDIA INTERNATIONAL	•	•	•		www.oil-india.com/company.aspx
SINO GABON OIL & GAS LIMITED	•		•		www.infosplusgabon.com/article.php?id_article=1837
SINOPEC OVERSEAS OIL & GAS LIMITED	•	•	•		www.addaxpetroleum.com/press_room/159
STERLING OIL & GAS NL	•	•	•		www.sterlingenergyuk.com/africa.aspx
TULLOW OIL GABON SA	•	•	•		www.tullowoil.com/tlw/operations/
TULIPE OIL SA			•		www.tullowoil.com/tlw/ir/newsevents/rns/rnsitem?id=1188885756nRNSD2266D

Source : General Directorate of Hydrocarbons (Ministry of Mines, Oil and Hydrocarbons)

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b. Mining companies	2006 Report		Company EITI self-evaluation forms		Companies which did not reply Website
	Included	Replied	Sent	Received	
SOGADEMIN / LONMIN	•	•	•		Note 1 below
RESSOURCE GOLDEN GRAM	•		•		Note 1 below
MABOUMINE	•				Note 1 below
SAMANCORE GABON (Subsidiary of BHP BILLITON)	•	•	•		Note 1 below
COMPAGNIE INDUSTRIELLE COMMERCIALE DES MINES DE HUAZHOU (CICMHZ)	•	•		•	
SINOSTEEL GABON	•	•			http://gabon.sinosteel.com/index.jsp
COMILOG	•	•	•	•	
MANAGEM			•		www.managem-ona.com
MINEX GABON			•		Note 1 below
MINOR GABON			•		Note 1 below
PHELPS DODGE GABON SARL	•				Note 1 below
TAURIAN RESOURCES PVT LIMITED			•		http://taurianresources.co.in
COMPAGNIE D'INVESTISSEMENT DES MINES DE NINGBO	•				Note 1 below
COMIBEL					www.jeuneafrique.com/liste_mots_cles.php?idmotcle=3942
CORE MINING PTY LIMITED					Note 1 below
AREVA NC	•	•	•		www.areva.com/servlet/home-fr.html
DMC MINING GABON					Note 1 below
DOVE VENTURE CORPORATION	•	•	•		www.domeventures.com/s/Home.asp

Source : General Directorate of Mines and Geology (Ministry of Mines, Oil and Hydrocarbons)

Note 1

Company website not known

ANNEX 3 – COMPANIES INVOLVED IN THE 2007 – 2008 EXERCISE

List of extractive industry companies in Gabon

a. Oil companies

GROUP 1: COMPANIES IN THE PRODUCTION AND EXPLORATION PHASE

ADDAX PETROLEUM
MARATHON OIL GABON
MAUREL et PROM
PERENCO S.A.
SHELL GABON
TOTAL GABON
VAALCO Gabon (Etame), Inc.

GROUP 2: COMPANIES IN THE EXPLORATION PHASE

ANADARKO GABON COMPANY
CANADIAN NATURAL RESOURCES INTERNATIONAL (CNRI)
GULF OF GUINEA PETROLEUM CORPORATION INC. (GGPC)
MITSUBISHI PETROLEUM DEVELOPMENT COMPANY GABON CO. Ltd (MPDC)
OIL INDIA INTERNATIONAL
SINO GABON OIL & GAS LIMITED
SINOPEC OVERSEAS OIL & GAS LIMITED
STERLING OIL & GAS NL
TULLOW OIL GABON SA
TULIPE OIL SA

Source : General Directorate of Hydrocarbons (Ministry of Mines, Oil and Hydrocarbons)

b. Mining companies

SOGADEMIN / LONMIN
RESSOURCE GOLDEN GRAM
MABOUMINE
SAMANCORE GABON (Subsidiary of BHP BILLITON)
COMPAGNIE INDUSTRIELLE COMMERCIALE DES MINES DE HUAZHOU (CICMHZ)
SINOSTEEL GABON
COMILOG
MANAGEM
MINEX GABON
MINOR GABON
PHELPS DODGE GABON SARL
TAURIAN RESOURCES PVT LIMITED
COMPAGNIE D'INVESTISSEMENT DES MINES DE NINGBO
COMIBEL
CORE MINING PTY LIMITED
AREVA NC
DMC MINING GABON
DOME VENTURE CORPORATION

Source : General Directorate of Hydrocarbons (Ministry of Mines, Oil and Hydrocarbons)