

Policy brief – How to advance EITI in South Kivu, a civil society view

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Figure 1: Artisanal mining site near Luntukulu, South Kivu
Source: Philippe Van Gerwen (copyright applies)

Content of the EITI standard

The key part in the EITI standard are the 7 requirements to which the member states should adhere.

Every EITI member state has to create a multi-stakeholder group on the national level in which the government, companies and civil society participate.

Next to it, the majority of the requirements demand disclosure on the extractive industries on the following topics: the legal and institutional framework, exploration and production data, revenue collection and allocation, and social and economic impact.

Finally, the disclosure reports should lead to public debate and improvements to reach routine and publicly available reporting

Introduction

The goal of the Extractive Industries Transparency Initiative (EITI) as an international organisation is to promote good governance of the extractives industries in the member states. Therefore, the organisation

has created the EITI standard and member countries are assessed every two and a half years how well they implement this standard.

The Democratic Republic of Congo (DRC) has a long-standing involvement with the initiative. In 2005, the government gave its first commitment to become an EITI member state. In 2009, the national government created a national executive committee and technical secretariat under the name of CN-ITIE/RDC. Since 2014 it is a member state compliant with the EITI standard, confirmed by regular assessments of its implementation.

After these actions by the national government, the question can be raised how the EITI standard is implemented on a provincial level? In May and June 2022, we interviewed 12 representatives of civil society organizations (CSOs) in the province of South Kivu regarding their role in and attitude towards EITI. The specificity of South Kivu (SK), located in Eastern DRC far from Kinshasa, is that its mining sector is dominated by Artisanal and Small-scale Mining (ASM). As CN-ITIE/RDC is studying how to fully integrate this sector into its work, South Kivu makes for an interesting case study.

Who are the EITI actors?

Around 14 CSOs work on EITI in South Kivu. Often, they work on other topics like the broader governance of natural resources and human rights protection. Only one organisation was specifically founded to work on traceability in the mining sector.

Two organizations take up a leading role. Maison de Mines de Kivu (MMKI) and Justice pour Tous (JPT). They organise workshops for other CSOs on the topic of EITI. Moreover, MMKI is the focal point for CN-ITIE/RDC in SK.

There is no government agency or private actor that is extensively involved in EITI on the provincial level.

What do the CSOs do?

The CSOs perform a wide range of activities.

Informing. Government agencies, companies and the general public are informed of the EITI standard, process and reports.

Mobilising. Private actors are reminded to follow the legal transparency obligations.

Collecting data. The input data for the EITI reports are collected by the CSOs. Some governmental or private actors cooperate and share their information easily, but this is not the case for every actor.

Reviewing. When the technical secretariat of CN-ITIE/RDC has written a draft report or a policy document, the CSOs will analyse this and provide feedback.

Distributing. When final documents or new EITI reports are published, the CSOs will distribute them to the relevant actors.

Advocating. The CSOs will perform advocacy when they feel that there are problems with financial flows or the EITI implementation.

Research. Some CSOs perform research related to EITI.

Knowledge

During the interviews, it was found that there was a variety of factual understanding of the EITI standard and the EITI process in the DRC. This variety seemed to correlate with the involvement and depth of experience of the participants concerning EITI.

The 'core' requirements of financial disclosure of the EITI standard were well known. Almost every participant knew that armed conflicts and miners' health are not included in the EITI standard. At the same time, there was confusion as to which extent the protection of the environment and human rights are mentioned.

This observation can be explained by two reasons. On the one hand, the participants would draw from their experience with the EITI process and/or reports rather than the EITI standard. On the other hand, some participants would include domains that they are passionate about, but that are not (human rights) or limited (environmental protection) mentioned in the standard.

Why do the CSOs work on EITI? First, the initiative is seen as a way to obtain transparency in the mining sector. Before the initiative, information was not readily available and it was difficult for the CSOs to understand the financial flows in the extractive industry. This situation is improving thanks to the initiative. Second, the CSOs try to assess the mining governance based on the publications. They look for indications of fraud and whether the government uses natural resource revenue for the development of the mining communities. Finally, the CSOs will advocate when problems with governance are found.

Attitude

Overall, EITI is evaluated as useful and important by the CSOs. This is not surprising as the interviewed CSOs are those that work recurrently on EITI (possible selection bias). However, two participants were quite critical of EITI. One participant hoped that this

transparency becomes embedded in the Congolese institutions and that EITI does not become another international engagement as a foundation of the Congolese society. Another participant mentioned that the relevance of EITI in SK can be questioned since the large presence of the ASM sector and data issues. These challenges will be discussed in the following section.

While some CSOs want to enlarge the EITI standard or its application in the DRC, every CSO would like to see the ASM sector fully integrated into the work of EITI.

Challenges

The challenges for the advancement of EITI in SK as viewed by the local CSOs working on EITI will be discussed in this section.

ASM sector in SK. The dominant ASM sector is known for its opacity and its violation of legal obligations. Moreover, the government agency created to support the ASM sector (SAEMAPE) faces difficulties on the terrain in SK. In that way, the physical flow of minerals is not well understood. As a result, it is nearly impossible in this context to gather valid data on the financial flows related to the minerals. A better understanding of the ASM sector in SK is primordial for the successful integration of the province in the initiative.

ASM and CN-ITIE/RDC. CN-ITIE/RDC has written reports on the ASM sector in the DRC, however, this sector is not fully taken into account in every CN-ITIE/RDC report. Interestingly, CN-ITIE/RDC is working on the full integration of the ASM sector in its work. This inclusion would boost the relevance of EITI in SK.

Data exhaustivity and quality issues. Not all information on the mining sector in SK is disclosed. Moreover, disclosures by multiple actors on the same payments show discrepancies. Finally, reported payments do not always correspond with reality.

Limited effort by governmental and private actors. While some CSOs boost that they have good relations with governmental and private actors, the engagement in the EITI process of the latter remains limited. A real local debate on EITI with the three stakeholders (CSOs, governmental and private actors) does not exist. At the same time, some of the CSOs of SK believe that the discussions in Kinshasa are too high-level and do not touch enough on local concerns. Moreover, this centralisation was reinforced when SAEMAPE received orders from its national minister in June 2022 to only send information for EITI to Kinshasa and stop sharing it directly with local CSOs.

Difficult public debate. Limited knowledge of EITI is present in Bukavu and even less in the countryside of the province. This will be a challenge when the ASM sector will be fully integrated by CN-ITIE/RDC. Next to accessibility and comprehensibility issues, the question can be asked whether the broad population of SK is interested in the output provided by EITI.

EITI expertise within CSOs. Due to the technical nature of EITI, technical skills are required to analyse the data. However, 3 participants openly admitted that some CSOs lack this expertise leading to superficial analyses.

Friction between local CSOs. This friction is related to which organisations should have a major role in the process. Local centralisation proponents argue that the work given and asked for by CN-ITIE/RDC is channelled by one focal point per province. Local decentralisation proponents argue that multiple CSOs can provide direct input to CN-ITIE/RDC, especially when they have created relevant research reports.

Financial resources. There is no structural funding to continuously work on EITI. Moreover, a lack of funding for CN-ITIE/RDC may halt projects on the national level.

Impact realized? The CSOs argue that there is poor judicial follow-up when irregularities are

found. Moreover, the use of mining royalties by the local decentralized entities remains problematic according to the CSOs. The mining royalties in these entities are often used for the chef and its administration, instead of the development of the local mining community.

Policy ideas

Broader policy projects related to ASM.

Creating clear policies and making sure that regulation concerning the ASM sector is followed, would largely contribute to the EITI process. This would render at least the physical flows of the minerals known.. Also, the judicial system should address discrepancies found in EITI reports more thoroughly if there are signs of fraud or embezzlement. The latter are major issues impeding the ASM sector from contributing to the Congolese society according to the CSOs.

Proactive and full engagement by civil society.

First, they could fully engage with CN-ITIE/RDC concerning the integration of the ASM sector. The window of opportunity to co-design this step should be taken. Second, the CSOs could see if they can leverage more of the information obtained by EITI.

Rebuilding the trust in EITI data. First, data harmonisation between governmental agencies could take place. Second, more sources of data could be shared in the EITI process. Third, discrepancies found by data triangulation or follow-up on the terrain should be fully addressed by relevant stakeholders.

Structural funding. Structural funding should be sought for the activities of the CSOs and CN-ITIE/RDC. Stable funds would allow the CSOs to train and keep EITI experts and deploy sustained activities. Of course, these activities should be prioritized to maximize the impact of the limited funds.

Training of EITI experts. EITI experts should be trained in governmental agencies and private sector actors. Currently, these actors are lacking profound understanding of the standard or the process. Also, attention should

be given to the training of EITI analysts within the CSOs. The quality of the analysis would improve if some people would be specialized in analysing the reports and preparing findings that can be discussed in structured EITI workshops. Besides, experts could be trained in other parts of society. These initiatives were already undertaken in the past (like a student training by CEGEMI leading to a new CSO), but one should be careful that their knowledge and skills remain up-to-date with the EITI innovations.

A better understood and continued EITI process.

Easier-to-understand documents could be produced by the EITI process. Moreover, the EITI process is felt to be not very approachable. Multiple solutions can be proposed. First, a local contact point that works continuously on EITI could be established. Second, CN-ITIE/RDC could work more with local consultants instead of people sent from Kinshasa for certain activities. Third, trust-building should be performed between CN-ITIE/RDC and the CSOs of SK after the CN-ITIE/RDC consultant did not visit some relevant actors and drafted a report on incomplete data leading to mistrust among the local CSOs. Fourth, continued effort should be made to expand the EITI process in SK further than Bukavu into the countryside.

Conclusion and further research

Multiple challenges were observed that hinder the EITI implementation in SK. The major challenge is the dominant share of the opaque ASM sector in the province. Better governance of this sector would not only improve the development of the province but also the advancement of EITI.

This research has mainly focused on interviews with civil society organisations. As it was argued, this is believed to be a valid choice. However, the reader should keep in mind that the research focused on the viewpoint of the CSOs.

This explorative, qualitative research contributed to understanding the CSOs

working on EITI in the province of SK. In that way, a firm foundation is laid for further research. For example, the variables of knowledge and attitude and their relation can be studied in a more profound, quantitative manner. Moreover, the dynamics of the EITI

implementation in the DRC and the province can be studied in more detail.

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