



EITI

Extractive Industries Transparency Initiative:

**The Business Case for joining
by Zimbabwe**

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TABLE OF CONTENTS

ACKNOWLEDGEMENTS	3
LIST OF FIGURES	3
ACRONYMS	3
EXECUTIVE SUMMARY	4
1. INTRODUCTION	5
2. AFRICA MINING VISION AND SUSTAINABLE DEVELOPMENT IN AFRICAN COUNTRIES	6
3. BACKGROUND TO EXTRACTIVES INDUSTRIES TRANSPARENCY INITIATIVE (EITI)	7
4. CASE STUDIES OF EXTRACTIVES INDUSTRIES TRANSPARENCY INITIATIVE IN AFRICA	9
4.1. Disclosures by African Countries	10
4.2. Case Studies of Countries Implementing EITI in Africa	10
4.3. Case Studies of Experiencing and Overcoming Challenges in EITI implementation	12
5. CONTEXT OF THE EXTRACTIVE SECTOR IN ZIMBABWE	14
6. METHODOLOGY	15
7. BUSINESS CASE FOR EITI BY ZIMBABWE	15
8. PRIVATE SECTOR EXTRACTIVE SECTOR PERSPECTIVE AND ROLE	16
9. BENEFITS OF JOINING EITI BY ZIMBABWE	16
9.1. Government	17
9.2. Private Sector Extractive Companies	18
9.3. Communities	18
9.4. Civil Society Organisations (CSOs)	19
10. POTENTIAL CHALLENGES	19
11. RECOMMENDATIONS	20
12. CONCLUSION	21
13. REFERENCES	21

ACKNOWLEDGEMENTS

The writers of this report would like to extend sincere gratitude to the team at the Institute for Sustainability Africa (INSAF), Isabel Munilla- Oxfam America and Tsaurai Kambunda – Oxfam Zimbabwe who in their own way, contributed towards the development and completion of this paper. Thanks also go to Mr. Lyman Mlambo for the independent expert review of the paper. Last but not least, the writers would like to sincerely thank Oxfam for availing the necessary financial support to ensure the development and completion of this paper. Their support has made a great and marked contribution to the business case and adequate preparation by all stakeholders that will enable successful adoption and implementation of the Extractive Industries Transparency Initiative (EITI) by Zimbabwe.

LIST OF FIGURES

Figure 1: EITI Process

Figure 2: Countries implementing EITI in Africa

Figure 3: West Africa EITI Case studies

Figure 4: Southern Africa EITI Case studies

Figure 5: Case studies of experiencing challenges in EITI Implementation

ACRONYMS

CSO	Civil Society Organisations
DFID	Department For International Development
EITI	Extractive Industries Transparency Initiative
GNU	Government of National Unity
MSG	Multi-Stakeholder Group
NEITI	Nigeria Extractive Industries Transparency Initiative
SDGs	Sustainable Development Goals
TEITI	Tanzania Extractive Industries Transparency Initiative
UN	United Nations
ZMRTI	Zimbabwe Mining Revenue Transparency Initiative

EXECUTIVE SUMMARY

African countries are slowly appreciating the essence of the Extractive Industries Transparency Initiative (EITI) and its benefits along the extractive value chain to the general public. The EITI is becoming the most widely used instrument for transparency in managing natural resources. However, illicit financial flows in the natural resources sector in Africa remain the biggest threat to domestic resource mobilisation to finance sustainable economic development. The mining sector continues to be a critical pillar for fiscal revenue with greater potential to accelerate economic growth in Zimbabwe. The Ministry of Finance & Economic Development in Zimbabwe made an announcement to join EITI during the presentation of the 2019 National budget. While the intention to join EITI is a positive step, the business case for Zimbabwe needs to be appreciated. The Government of Zimbabwe over the years has been hesitant to adopt and implement EITI. However, the global call for transparency and accountability in the extractive sector has continued to increase.

This paper provides an independent perspective on the business case for Zimbabwe joining EITI with the goal to motivate adequate preparations for its successful adoption and implementation. The paper analyses provisions of EITI Standards 2019, experiences of other African countries, private sector perspective, prior initiatives and publications to develop a business case for joining EITI by Zimbabwe. Further, it identifies potential challenges and provides recommendations.

The analysis shows potential positive benefits which could be realised by government, private extractive companies, communities and civil society. However, there are potential challenges to be overcome which include legislative hurdles, technical capacity hurdles, political will by government to implement EITI provisions, financial resources and commitment to fulfil ongoing EITI standard requirements once adopted.

The paper recommends the following:

- There be adequate preparations ahead of the technical process of implementing EITI Standards.
- There be trust among CSOs, private sector and government on transparency and accountability in the extractive sector.
- Technical capacity development be conducted for all Multi-Stakeholder Group (MSG) members.
- Government demonstrates its commitment to EITI by availing resources and setting up EITI Zimbabwe Secretariat.
- Genuine commitment to EITI processes be demonstrated by all stakeholders.
- There be strong and coherent CSOs Group beyond one organisation in MSG.
- Government strengthens its extractive industries regulatory institutions.
- Government guarantees space for CSOs to actively and constructively participate in EITI processes of Zimbabwe.

1. INTRODUCTION

African countries are slowly appreciating the essence of the Extractive Industries Transparency Initiative (EITI) and its benefits along the extractive value chain. The EITI is becoming an instrument for transparency, leading to accountability and sustainable management of natural resources. However, it is important to point out that managing natural resources is challenging (The Africa Capacity Building Foundation, 2013). According to EITI Africa (2018), 24 countries in Africa had joined the EITI, resulting in more revenue being reported by respective governments and corruption is being lowered in some countries. According to Ernst (2013), 3.5 billion people in resource rich countries live below average growth, combined with high levels of poverty and corruption. More so, illicit financial flows in the natural resources sector in Africa has been the biggest threat to domestic resource mobilisation to finance service delivery and economic development.

Zimbabwe is endowed with vast mineral resources that include gold, silver, chrome, coal, platinum, nickel, and asbestos to mention a few. The mining sector continues to be a critical pillar for fiscal revenue with greater potential to accelerate economic growth (ZIMRA, 2018). Prior efforts have been made to implement a domestic version of EITI in Zimbabwe in the form of the Zimbabwe Mining Revenue Transparency Initiative (ZMRTI) during the Government of National Unity (GNU) era (2009-2013). The initiative started with a Cabinet decision to mobilise resources locally, leveraging on the country's rich and diverse mineral resource base. However, the initiative did not survive beyond the GNU because it was domiciled in the Office of one of the Vice-Presidents who was from an opposition party.

Recently Government through the Ministry of Finance & Economic Development, made an announcement to join EITI during the presentation of the 2019 National budget (Ministry of Finance, 2018). While the intention to join EITI is a positive step, the business case for Zimbabwe needs to be appreciated. Many Civil Society Organisations (CSOs) have been raising public awareness on transparency and accountability in the extractive sector in Zimbabwe including the need for disclosure of contracts. On the other hand, in the past Government has argued (and some sections of the same still do) that transparency would not be beneficial under sanctions because it would expose information that is strategic to the country. As such, this paper provides an independent perspective on the business case of contemporary Zimbabwe joining EITI, private sectors' perspective, and unforeseen challenges during the process.

The government of Zimbabwe over the years has been hesitant to adopt and implement EITI. However, the rising global call for transparency and accountability in the extractive sector has continued to increase the pressure, an example, is the Kimberly Process Certification Scheme on diamonds. Therefore, providing the evidence for joining EITI is a compelling case for building a shared vision among stakeholders in Zimbabwe. Building shared values among CSOs, communities, Government and private sector extractive companies are a key ingredient for the successful implementation of EITI in Zimbabwe. Therefore, this paper intends to provide an independent perspective for building a shared understanding of the benefits of EITI to Zimbabwe to enable adequate preparations by all stakeholders for the successful adoption and implementation.

2. AFRICA MINING VISION AND SUSTAINABLE DEVELOPMENT IN AFRICAN COUNTRIES

The African Mining Vision (AMV) encourages African countries to effectively utilise their natural resources to finance Sustainable Development Goals (SDGs) and ending poverty (African Union, 2009) which is a similar position advocated by EITI (2016)¹. One of the six key tenets of the AMV is sound mineral resources governance based on transparency and accountability (see Mlambo, 2018). The Africa Mining Vision urges African countries to adopt and implement the Extractive Industries Transparency Initiative (EITI) as an instrument for transparency and accountability on mining revenue and contracts. In this regard, Figure 1 shares extracts from the Africa Mining Vision recommending EITI:

Figure 1: Extract from the Africa Mining Vision on EITI.

- AMV recommends that EITI is included in the Term Specific Actions, and includes EITI as the first Country-Level Action to implement the 'Short Term Objective' of “Promote Natural Resources Governance (Manage stakeholders' engagement throughout the mine life cycle; Improve management of transfer payments)” and “Mainstream EITI principles and the Kimberly Process Certification Scheme in national policies, laws, and regulations;” P. 31
- On building governance capacity “This capacity could also be enhanced through accession to continental and international resources monitoring and oversight bodies such as the African Union's APRM8, the EITI9 and the Kimberley Process for diamonds certification.” P.18,19
- “There are clearly no short cuts out of this conundrum, but it can be argued that the international environment has improved for breaking the resource curse cycle. Some elements of this are: [.....] “There are new global resource and resource rent monitoring systems such as the EITI, Kimberley Process and the recently launched COST (construction Industries transparency initiative) for African states to accede to;”
- “The most important institution is the resource exploitation licensing/contracting body, which would benefit from national, regional (RECs), continental (AU- APRM) and international (EITI, KPC) oversight.” and Under 'Short Term Objective: Eliminate human rights abuses and the possibility of natural resources fueling conflicts' P.20
- “popularise and promote the domestication into national policies, laws, and regulations relevant provisions of the EITI, EITI ++, Kimberley Process;” P. 34:

¹ <https://eiti.org/document/how-eiti-contributes-towards-meeting-sustainable-development-goals>

3. BACKGROUND TO EXTRACTIVES INDUSTRIES TRANSPARENCY INITIATIVE (EITI)

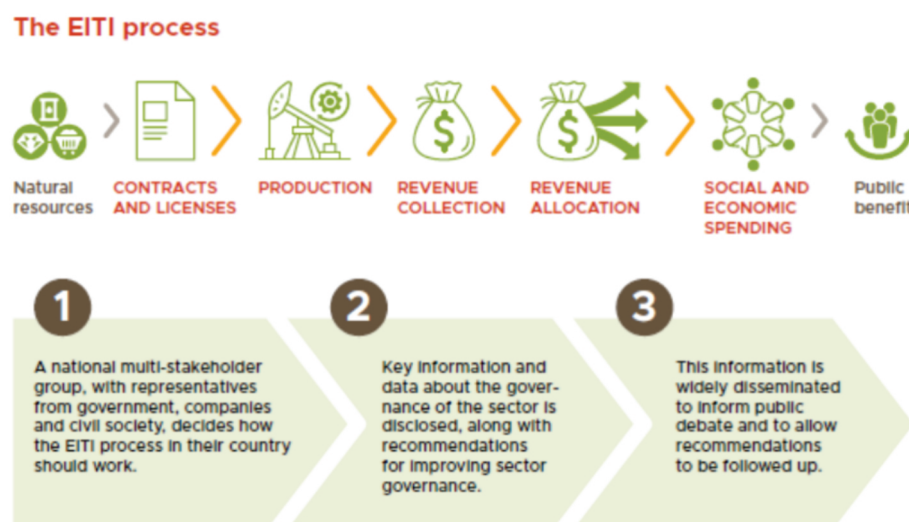
EITI was launched by the UK Government in September 2002 at the World Summit on Sustainable Development in Johannesburg, South Africa. This was followed by the launch of the Principles on 17 June 2003 at the Conference in London organised by the Department For International Development (DFID)². EITI was formed as a multi-stakeholder initiative which included governments, private companies (oil, gas and mining), industry bodies, international institutions, investors and NGOs. It is important to note that African countries participated right from the beginning. The countries included the Democratic Republic of Congo (DRC), Equatorial Guinea, Ghana, Mozambique, Nigeria and Sierra Leone³. However, only Equatorial Guinea is no longer a member however they have expressed their interest in re-joining. By 2014, of the 24 EITI Candidate countries, 14 were mining countries, and of the 40 companies which were supporting EITI, 23 were mining companies (Global Academy for Mining, Oil and Gas, 2015).

The initial objective of EITI was focused on increasing transparency of payments and revenues in the extractive sector in countries heavily dependent on these resources, with the outcome of curbing corruption (Papyrakis et al., 2017; DFID, 2003). EITI requires disclosure of information along the extractive value chain starting from awarding of extractive rights, to payments made to government, and finally of the benefits to the public (EITI, 2019).

The coverage of EITI has grown rapidly with 52 countries globally applying the standards of which 46% are African countries (EITI, 2019)⁴. The main aim of EITI is to 'strengthen government and company systems, inform public debate and promote understanding' (EITI, 2019). The EITI implementation process is undertaken at subnational level which it is in many countries, and many countries pilot it subnational first before implementing nationally with the support of the EITI Secretariat. The process involves monitoring and assessing the country's progress in fulfilling the EITI Standard requirements through the validation⁵ process (EITI Standards 2019).

Figure 2 shows the EITI process from the mineral to public benefits. EITI tries to promote transparency and accountability at every stage to ensure no corruption, illegal trading, or illicit flows.

Figure 2: EITI process



Source: EITI Africa (2018)

² <https://webarchive.nationalarchives.gov.uk/+http://www.dfid.gov.uk/pubs/files/eitidraftreportstatement.pdf>

³ file:///A:/eiti_draft_report_statement.htm (4 of 5) [29/07/04 10:18:46]

⁴ <https://eiti.org/who-we-are#aim-of-the-eiti>

⁵ Validation is an essential feature of the EITI process required by the EITI Standard. It serves to assess performance, promote dialogue and learning at the country level, and safeguards the integrity of the EITI by holding implementing countries to the same global standard.

The initiative promotes accountability in the extractive sector through establishing reporting standards which are adopted by domestic governments and corporations. EITI has been pushing the world to good governance in the extractive sector's value chain. Countries implementing EITI publish reports disclosing revenue received by government while companies disclose what they have paid in taxes and royalties to government. These two sets of figures are compiled and compared by an independent reconciler, chosen by a multi-stakeholder group (MSG) in each EITI implementing country (EITI Standards, 2019). With EITI reports, citizens can see how much their government is being paid from natural resources extraction in their country (EITI, 2019).

Since then the standard has been widely used and adapted to fit country needs, with the 2019 EITI Standard including several reporting indicators to increase transparency over payments and revenues from extractive sector (EITI, 2019). The EITI Standard now requires disclosure of information on exploration and production activities, licenses and contracts, beneficial owners, company payments and government revenues and revenue use. Further, the standard highlights that the disclosure of extractive Industries data is of little practical use without explaining what the figures mean to the public, and generating public debate about how resource revenues can be used effectively (EITI, 2019).

Countries seeking to implement EITI and become fully compliant are expected to follow the process laid out in the Standard. Government must appoint a senior official to lead the implementation and to establish both a national EITI secretariat and a multi-stakeholder group (MSG) to oversee the implementation. The MSG needs representatives from the government, civil society, and the private sector. The MSG is responsible for setting objectives for EITI implementation, establishing the work plan for implementation, producing the different EITI reports, and ensuring that the findings from the reports are disseminated to contribute to public debate. A fully-functioning MSG, in which civil society has a genuine voice and influence, is a requirement for a country to be accepted as an EITI candidate country. This therefore requires that barriers to CSOs full participation in the MSG and EITI process be removed.

After the country has fulfilled the initial requirements, the government can apply to the EITI Board to become a candidate country. The application must be endorsed by the country MSG. If the application is accepted, the candidate country is expected to begin the EITI process, including publishing annual EITI Reports⁶ and to fulfilling the other requirements set for an EITI compliant country. The validation process to become a fully compliant EITI country consists of the MSG and the national EITI Secretariat preparing the required documents and data for the validation and conducting a self-assessment of the EITI progress to date.

⁶ The annual EITI Report is the core EITI product. It contains the data on the country's extractives industries in accordance with the EITI Standard

4. CASE STUDIES OF EXTRACTIVES INDUSTRIES TRANSPARENCY INITIATIVE IN AFRICA

It is estimated that 30% of global natural resources reserves are in Africa, nevertheless, the continent remains underdeveloped⁷. The continent has proven oil, gas, and mineral reserves which are expected to contribute to public finance for economic development. This makes EITI an imperative for resource rich African countries, with many already making significant progress in implementing the Standard. Table 1 provides a snapshot of EITI progress by African countries:

Table 1: African Countries by EITI Progress

Progress Status	Countries
Yet to be assessed against the 2016 Standard	DRC
Satisfactory	Nigeria, Senegal
Meaningful	Burkina Faso, Cameroon, Ivory Coast, Ethiopia, Ghana, Guinea, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Republic of Congo, Seychelles, Sierra Leone, Sao Tome and Principe, Tanzania, Togo, Zambia
Suspended	Liberia* and Central Africa Republic**
	*Missing deadlines ** Political instability

Source: <https://eiti.org/countries>

Figure 3: Countries implementing EITI in Africa



Source: EITI Africa (2018)

⁷ <https://www.worldbank.org/en/topic/extractiveindustries/overview>

4.1. Disclosures by African Countries

A number of African countries have been making progress in disclosing beneficial ownership, a requirement of EITI reporting from 2020, and these include Cameroon, Chad, Ivory Coast, the DRC, Ghana, Guinea, Mali, Mauritania, Nigeria, Sao Tome and Principe and Togo (EITI Africa 2018). Further, countries like Republic of Congo, Chad, Ghana, Guinea, DRC, Liberia, Malawi, Senegal and Mali have been disclosing mining contracts (EITI Africa, 2018). This provide evidence that great progress is being made by African countries to enhance transparency in the extractive sector.

4.2. Case Studies of Countries Implementing EITI in Africa

In Africa, some countries have implemented EITI standards with significant progress, hence contributing to economic growth and improved accountability. While significant progress is being made in some countries, it is not without challenges, however countries have been innovative in addressing and overcoming these challenges. The case studies below provide empirical evidence to help Zimbabwe adequately prepare for the EITI process. Figure 4 and 5 present extracts from the EITI Africa report (2018):

Figure 4: West Africa EITI Case studies



Nigeria faced a number of challenges in managing its revenue from its oil and gas sector. To date, Nigeria EITI (NEITI) reports have been informing citizens on all the inflows and outflows in the sector and has been effective in improving transparency and accountability in this area. NEITI reports have managed to disclose total earnings of nearly USD600 billion from the oil and gas sector from 1999 to 2015 and USD17 billion in solid minerals (EITI Africa, 2018). The impact of EITI implementation in Nigeria improved expanded availability of credible and critical data and an increase in public demand for reforms. NEITI Reports have improved domestic resource mobilisation, strengthened public debate, and increased awareness of policy options in the extractive sector.



Senegal started implementing EITI in 2015 and became the first African country to make satisfactory progress in meeting the EITI Standards. At the time of EITI review, it had gone beyond the 2016 requirements by publishing contracts and social expenditure. Senegal also produced a beneficial ownership road map and hosting the Africa Beneficial Ownership Conference in 2018. Citizen engagement has also been a highlight of EITI Senegal's efforts, as reporting has clearly informed public debate and made regular disclosure of extractive sector information more accessible to its citizens, not least through the Senegal EITI website.

Liberia EITI

Liberia has been listing the largest mining companies and linking them to their licences and relevant payments through a centralised register. Liberia has been publishing mining contracts for some time.



Guinea has an online contract portal with 71 published contracts. Sogupami, the state-owned enterprise, is now publishing audited financial statements on their website.



In **Sierra Leone**, there was absence of inter- agency coordination identified by the EITI process which was a major challenge for revenue collection. The government resolved it by establishment of an Extractive Industries Revenue Taskforce to help follow up on the opportunities identified for making revenue collection more efficient. EITI reporting has also provided valuable recommendations for how to ensure that revenue collection from minerals is improved. These recommendations include ensuring that fiscal terms for all mining and petroleum contracts are consistent, and to adequately monitor license transfers for potential capital gains tax. Reliable data on how much oil, gas and mining companies produce is important to accurately calculate taxes and royalties that are based on production.

Source: EITI Africa Report, 2018)

Figure 5: Southern Africa Case Studies



The Democratic Republic of Congo (DRC) government committed to implement EITI to attract Foreign Direct Investment (FDI) and to ensure that revenues are well managed and that citizens benefit. The reports from 2007- 2015 have shown an increase in revenues. Revenues collected in the mining sector surpassed that of the oil and gas sector in 2010, when 63% of the USD 875 million came from mining companies. In 2015, the extractive sector generated USD 1.7 billion, 82% of which came from the mining sector. The DRC currently exports 67% of the world's supply of cobalt, a critical component in modern technology such as lithium-ion batteries that power smartphones and electric cars. Low

global supply and high demand caused the price of this rare earth mineral to more than double in 2017. With 70% of the world reserves, the DRC is expected to play a major role in the supply of cobalt and in the global energy transition to a low-carbon world economy. DRC has been pioneering beneficial ownership disclosure since 2014 and has at least 30 companies voluntarily disclosing. DRC in collaboration with EITI, UNEP, and World Bank are piloting a Mapping and Assessing Performance of Extractive Industries (MAP- X) which is an information management and stakeholder management platform for embedding transparency in government systems, improving access to financial information required for EITI reports (EITI Blog, 2016).



Mozambique has been disclosing contracts for some time. This has helped improve in tax collection and inter- agency collaboration due to EITI reporting. Its reports revealed inconsistencies in data, pushing the government to implement reforms to improve data sharing between relevant agencies. Usually the tax authorities rely on accurate license and coordinated data from the Ministry of Energy and Mineral Resources to calculate the surface rent tax.



In **Zambia**, EITI reporting identified major discrepancies in production figures held by different government agencies. This made it difficult to determine how much royalty the government should receive from minerals. In response to this, the government worked to improve collection and verification of minerals production data. The key government agencies now collect and monitor production figures from companies on a project-level basis. Zambia EITI is working with the Ministry of Mines and the revenue authority on how to disclose this information regularly and use it to analyse the collection of royalties from mining projects.

Source: EITI Africa Report, 2018)

4.3. Case Studies of Experiencing and Overcoming Challenges in EITI implementation

While many African countries have made remarkable progress in adopting and implementing EITI, it has not been without challenges. Many countries have faced legal barriers which take great effort of shared national vision to overcome. In other cases, governments have waived certain legal requirements to enable EITI implementation. Some legal loopholes have great potential to compromise EITI implementation while some legal gaps in national laws could require reforms to enable new EITI-related legislations to be explored. Figure 6 presents experiences of countries during EITI implementation:

Figure 6: Case studies on experiencing and addressing EITI Challenges



Ghana was faced with challenges on access to information due to legal restrictions. To address this, Ghana introduced laws guaranteeing access to information when companies restrict information so that companies could release information required for EITI reporting.



In the **Central Africa Republic (RCA)**, there was a legislative requirement for confidentiality. The government made a decree to grant the national EITI data disclosure. Confidentiality in all commercial contracts was waived to that effect.



Tanzania faced some challenges in the process of implementing EITI. The Ministry of Mines informed companies of its plans to publish the agreements on its website and requested comments. It faced some resistance. Two companies responded, noting the need to protect proprietary information. The government undertook a public awareness campaign prior to disclosing the agreements. Tanzania EITI (TEITI) is working with the government and companies to identify the best practice when publishing additional contracts in the future. During the EITI Conference 2019 in Paris, the Tanzanian Minister of Mines reiterated their commitment to mining contract disclosure.

Source: EITI Africa Report, 2018

5. CONTEXT OF THE EXTRACTIVE SECTOR IN ZIMBABWE

Zimbabwe has vast natural resources, which if utilised sustainably, could contribute to economic development and growth. However, the extractive sector in Zimbabwe has been characterised by scandals, corruption, human rights issues, and a lack of transparency and accountability. The mining sector in Zimbabwe is governed by a multiplicity of primary legislations (Acts) and subsidiary legislations (Statutory Instruments). However, the principal Act governing the sector, especially from the production side, is the Mines and Minerals Act (21:05) of 1961. The Act has been going through revisions under the Mines and Minerals Amendment Bill (2018) which has taken long to be passed and is still pending. On the revenue side the sector is also governed by various Acts such as the Income Tax Act, Capital Gains Tax Act, Mines and Minerals Act (for collection of royalty and licence fees), Minerals Marketing Corporation Act (for collection of marketing commission), Zimbabwe Mining Development Corporation (ZMDC) Act (for collection of dividends), the Zimbabwe Consolidated Diamond Company (ZCDC) Act (for collection of dividends), the Environmental Management Agency Act (for collection of environmental Charges), Radiation Protection Act (for collection of radiation protection fees) and the Public Finance Management Act (22:19).

The Mines and Minerals Act does not explicitly provide for public disclosure of mining contracts, resulting in paucity of information on existing mining contracts. This has created a frontier for confrontation between CSOs, mining companies (in their individual capacity or as represented by the Chamber of Mines of Zimbabwe) and government. The mining sector contributes an average of between 4-6% of total government revenue annually (ZIMRA, 2017). However, there is very little evidence to demonstrate how local communities and citizens have benefited through infrastructure development and service delivery from corporate social responsibility initiatives (Institute for Sustainability Africa, 2015). At the global level, corporate social responsibility disclosure practices are increasingly finding their way into mining contract arrangements (Australian Government, 2014).

Recently, the government has been involved in mega mining deals for platinum, diamonds, lithium, chrome and oil exploration. There has been little disclosure of details on the contracting processes and the contracts themselves. Consequently, the absence of a national legislative framework for contract transparency has created loopholes in the sector and public perception of resource plundering and corruption. Without information, perception becomes reality, and this has created poignant disaffection of the general citizenry with both the authorities and the foreign investing community in the sector. The country has been facing a ballooning debt of US\$16.9 billion (Ministry of Finance, 2018), which is a clear testimony to fiscal indiscipline. Sadly, only US\$300 million was realised out of US\$2.4 billion of official diamond exports from Marange mining area between 2009 and 2015. The former late President Mugabe estimated that US\$15 billion of alluvial diamond was lost through illicit trade⁸. Zimbabwe missed an opportunity for economic turnaround and growth from its rich alluvial diamond discovery.

The mining sector contributes approximately 13% to GDP in Zimbabwe and about 40% to total exports (RBZ, 2016). If managed strategically, this could accelerate economic growth, sustainable development and poverty alleviation in Zimbabwe. The sector has been a creator of employment among rural youths and has great potential to competitively attract Foreign Direct Investment (FDI)

⁸ <http://kubatana.net/2018/10/18/statement-developments-extractive-sector-zimbabwe/>

particularly in the gold sector. Properly managed, the sector has stupendous capacity to anchor upstream, downstream, side-stream, spatial and fiscal seminal economic linkages that would transform the comparative advantage in natural resources into a competitive advantage that spurs industrialization. The current economic model governing the extractive sector has not really promoted sustainable development, transparency and accountability. Although increased activity has been seen, there has been no tangible translation to human society. The issue of decent jobs in the sector has become topical as poor working conditions and lack of investment in proper skills management indicates exploitation not only of natural resources, but of human resources as well.

Without the disclosure of investment contracts between companies and government, it remains impossible for citizens to know how much the minerals are being sold for, or make judgements on whether or not the payments made match the terms of agreements. Such contracts provide the terms and formulas used to establish how costs will be determined, how profits will be divided between the company and the government, and in many cases, these contracts lay out government's rights to audit those costs and profits. In order to hold governments and companies accountable, the public needs to know the terms of the agreement between the company and the host government. Although governments and companies frequently contend that the disclosure of contract terms will erode commercial and competitive advantages, the IMF (2005)'s Guide on Resource Revenue Transparency notes that: "In practice, however, the contract terms are likely to be widely known within the industry soon after signing. Little by way of strategic advantage thus seems to be lost through publication of contracts." (IMF, 2005). The IMF launched its new 2019 Fiscal Transparency Code by which it will evaluate government practice, and it includes contract disclosure, project payment disclosure and beneficial ownership as expectations for governments to meet (IMF, 2019)⁹. In addition, commercial services often make contracts available for a fee.

6. METHODOLOGY

Based on the issues in the above sections, this paper adopted a desk review of publications and materials in addition to a contextual analysis of the extractive sector in Zimbabwe. The paper analysed provisions of EITI Standards 2019, experiences of EITI implementation by African countries, private sector perspective, prior initiatives and publications. These were then analysed against Zimbabwe to enable development of a business case for joining EITI. Further, it identifies potential challenges and suggests recommendations.

7. BUSINESS CASE FOR EITI BY ZIMBABWE

The extractive sector in Zimbabwe has been characterised by negative attributes and a bad reputation which has been scaring investors. The economy has not been performing strongly enough to impact employment and infrastructure development by mining companies. Further, government revenue from the sector has also been slowing down due to temporary or premature mine closures and lack of new investors. This has been creating pressure on the Government to ensure it creates a framework that will attract and sustain capital. However, the reputation of the sector require the Government of Zimbabwe to consider international best practices such as EITI. Addressing these issues provide a strong business case for Zimbabwe joining EITI.

⁹ <https://www.imf.org/external/np/fad/trans/Code2019.pdf>

Many international financial institutions that could bail out the current economic challenges believe that if natural resources in Zimbabwe are managed effectively in a transparent and accountable manner, there are greater chances of economic development. The domestic need for financial support from multilateral financial institutions that want to see Zimbabwe manage its natural resources more effectively for development creates a business case for Zimbabwe to implement EITI as a mechanism to improve natural resource governance in Zimbabwe.

Recently, the extractive sector in Zimbabwe has been marred with conflicts between communities and companies on the one hand, and artisanal miners and mining companies on the other. These have been creating negative characteristics for the sector which could be addressed through transparency and accountability. Government has been under pressure from communities to explain the mismatch between mineral output and local community development. The government has been accused of not being transparent. As such, joining EITI provides a strong opportunity for designing a systematic approach to transparency and accountability in the sector.

8. PRIVATE SECTOR EXTRACTIVE SECTOR PERSPECTIVE AND ROLE

Private sector extractive companies in Zimbabwe have a critical role in EITI implementation. EITI Standard provides specific requirements for companies which includes disclosure of contract details, beneficial ownership, and payments to government (EITI, 2019). The private sector in Zimbabwe is governed by the Companies Act (24:03) (passed in 1951) and the Private Business Corporations Act (24:11). These two Acts are currently being reformed and consolidated under the 'Companies and Other Businesses Entities Bill (2018)'. However, the disclosure requirements in the Bill are general and not sector specific guidance. There is great scope to ensure some of the legislation governing private mining companies include EITI related disclosures.

Private sector companies in Zimbabwe have been making progress in disclosing their impacts and payments to government using the Global Reporting Initiatives (GRI) Standards as instructed by Statutory Instrument 134 of 2019 of Zimbabwe Stock Exchange listing requirements (ZSE, 2019). However, the disclosures have not been including beneficial ownership and details of mining contracts. While the company reports are audited, there is a great scope for reform to ensure companies disclose information to meet EITI standards in the case of Zimbabwe joining. Analysis and interface with mining companies in Zimbabwe show that disclosure of revenues and payments to government will not be a big problem, but disclosure of beneficial ownership and mining contract details can only be achieved through law and Constitutional provisions, or when Zimbabwe officially joins the EITI.

9. BENEFITS OF JOINING EITI BY ZIMBABWE

Joining EITI by Zimbabwe has potential benefits, provided the standard is implemented and adhered to consistently. The following are benefits that could accrue to respective stakeholders:

9.1. Government

- **Improve domestic resource mobilisation-** by accessing published data, government and civil society can assess whether the amount of taxes paid by mining companies are accurate (ACBF, 2015; ACBF, 2014; Daniel et al, 2010). Making data publicly available and subject to reconciliation can curtail revenue losses from transfer pricing, mis-invoicing, unequal contracts (UNCTAD, 2016) and thin capitalisation. It also increases savings when companies understand their disclosures will be under scrutiny from both government and the public. Common knowledge resulting from reconciliation enhances creation of a shared vision and facilitates crafting of effective and relevant policies and legislations in the sector, as well as monitoring and evaluation of implementation of the same.
- **Improve intergovernmental coordination and collaboration-** The EITI process provides a systematic way to assess existing systems amongst various agencies, and better organize sharing between agencies, helping to streamline coordination and creating relationships of trust amongst government entities. This increase in coordination efficiency allows government to focus on priorities and complex problems or challenges that must be dealt with by a team of government entities. Further, it also allow EITI members to collaborate in cases where a mining company may be operating in multiple countries.
- **Building trust between government and the public-** While there has been mistrust between government and the public, access to information on natural resources revenues and reconciliation can help the public appreciate resource mobilisation and utilisation through having access to contract details and revenue. Thus transparency, by allowing citizens to understand why the government is failing or, in some areas, succeeding in addressing their needs, pays political dividends to Government by enhancing its goodwill and that fosters political stability. High quality information management and dissemination suggests high quality management. Trust is also built when the public is able to access information in an open, professional, user-friendly and intuitive way. Easily accessible, clear and usable information also sends the right message to investors about the quality of government management of the sector.
- **Fighting corruption and illicit trades-** Transparency and accountability through making data publicly available is a strong tool for fighting corruption (ACBF, 2007; Papyrakis et al, 2017). Adopting EITI can improve public finance management by ensuring all transactions and business activities relating to natural resource extraction are subject to public scrutiny.
- **Improve government systems-** going through the process of EITI implementation with the support of EITI Secretariat provides an opportunity for identifying gaps and loopholes that may exist in the extractives sector governance system. The support during the process can improve the skills and expertise by government members participating in the MSG. In addition, meeting the requirements for EITI may require government to digitalise the extractive sector management and records system. The EITI standard requires reports to be published openly¹⁰.
- **Improve access to international capital-** EITI processes if implemented by Government genuinely, could result in global acceptance of Zimbabwe as a transparent party in the case of

¹⁰ <https://eiti.org/document/eiti-open-data-policy>

wanting to access capital for economic development. It also has practical benefits. The mining sector is known to be leaky, conflict-prone, and dismissive of public or people's rights. Investors increasingly want to be able to examine contracts, government's communications with the public, and its handling of mining revenues that goes into state coffers. EITI has generally been endorsed by the investment community globally.

- **Improve international credibility and reputation-** the EITI process emphasizes that Government make a commitment to fight corruption, which also enhances national values in society (Bracking, 2009). In addition, EITI allows Zimbabwe to communicate and interact with a range of countries, international organizations, investors, and civil society from outside the country on a regular and systematic basis. This happens in relatively safe, structured forums with country peers attempting to achieve the same goals and organizations encouraging Zimbabwe's success. Zimbabwe's joining of the network – especially if it faces struggles and overcomes them – will improve its reputation and increase its ability to lean on allies for support. This reduces its country risk profile.

9.2. Private Sector Extractive Companies

- **Improve corporate disclosures-** extractive companies can improve their disclosures and accounting systems to address EITI information requirements, hence build trust with the public as well. This enhances the mining companies' social license to operate and preclude latent conflicts. EITI may improve their data collection and reporting practices in relation to beneficial ownership and payments. Currently, public listed extractive companies in Zimbabwe have been required to apply SI134 of 2019 which require disclosure of sustainability impacts and payments to government. Common knowledge of critical information and data implies common knowledge of domestic and international industry trends. That makes convergence between government and mining companies on necessary policy adjustments almost a fait accompli.
- **Create a credible business operating environment-** A strong business operating environment anchored by transparency has potential to lower costs associated with inefficiencies from corruption, which improves the ease of doing business. Transparency would also avail information on production and revenues of the resources sector, which will be important for planning on the part of suppliers and other linkage industries.
- **Improve sector credibility-** The prevailing extractive sector has been characterised by negative attributes which can be addressed by EITI adoption and through increasing transparency and accountability of extractive companies.
- **Improve corporate governance and transparency-** EITI will require companies to enhance their corporate governance practices which will be beneficial to the company. Companies could be required to disclose beneficial owners and shareholders as part of good corporate governance reporting. Good corporate governance provides reduced risk to investors.

9.3. Communities

- **Empowerment through access to data at the national, subnational and project level-** Communities need to benefit from the resources in their areas. Transparency will allow communities to have an opportunity to request fair distribution of wealth from natural resources and holding government to account for collecting and transferring revenues. Without

transparency, use of economic rents from the government's exploitation of natural resources, which is not directly obtained from taxing the general citizenry, reduces Government's perceived obligation to be accountable to its citizens.

- **Contribute to fighting corruption-** Community reports of corruption related to the management of Extractive Industries revenues, contracts, or other EITI data could be provided to MSG members to bring to the meeting, or to bring to the correct government institution. Information empowers the community.

9.4. Civil Society Organisations (CSOs)

- **Participating in Natural Resource governance-** The use of the MSG process during EITI implementation presents an opportunity for CSOs as representatives of communities to participate in and contribute to effective natural resources governance. Transparency will enhance the CSOs' advocacy work as they will speak from a more informed position. This enhances the appreciation by Government and mining industry of CSOs' objectivity, especially which they are not conflating advocacy with political agenda.
- **Improve dialogue and relationship with government-** While there is a history of confrontation between CSOs and Government, it is acknowledged that participation in the EITI MSG can build trust and improve relationships.
- **Opportunity to push for good governance-** provides MSG to monitor and push for fair distribution of revenue to community priority areas (Bracking, 2009). Participating in the MSG creates a platform for engaging the private sector on improving CSR initiatives.

10. POTENTIAL CHALLENGES

While EITI implementation in Zimbabwe could bring many benefits, there are some potential challenges that could be faced and that all stakeholders should be prepared to address:

- **Legislative hurdles-** The Constitution of Zimbabwe (Chapter 20) provides for the right to privacy. Laws are still in existence which actually prevent access to information, such as Access to Information and Protection of Privacy Act (AIPPA) and these, together with Chapter 20 of the Constitution, could be used as a basis for resistance by private companies to disclose mining contract details, data disaggregation and beneficial ownership information required by the EITI Standard. A number of legislations are still to be improved. For example, the Companies Act (24:03) and Mines and Minerals Act. The Mines and Minerals Act in its current form does not refer to artisanal and small-scale miners which results in the sub-sector remaining informal and non-transparent.
- **Capacity challenges-** While EITI standards require CSO participation through MSG, the implementation is highly technical which could provide challenges that will require heavy investment in training particularly on reading mining contracts and corporate reports as well as understanding technical processes of mining operations. These capacity challenges also apply to parliament and communities that, together with CSOs, are supposed to play the oversight role over industry.

- **Political will to implement**– while statements have been made through National Budgets announcements, government has never fulfilled the announcements. A review shows that the Ministry of Finance has been making these statements since 2011 even though nothing substantive was happening on the ground. However, the Ministry of Mines and Mining Development participated in the EITI conference in Paris 2019, which is an indication of potential interest to pursue EITI adoption in Zimbabwe.
- **Financial resources for the implementation process**– Joining EITI may require government to set up secretariat and provide facilities for effective delivery of this goal.
- **Weak Institutions**– The current bad ranking of Zimbabwe on issues of corruption has been associated with weak institutions. Historically there have also been some conflicts in the arms of state, especially between the Parliament and the Executive when the former tried to play its oversight role on the mining sector. There could be challenges when it comes to ensuring compliance with EITI standards on matters that may require regulatory bodies to exercise their full responsibility.
- **Lack of Trust** – Historically CSO advocacy, in many cases, created antagonism from capital, as it did from the extremely political officials in government. With EITI Standard requiring that barriers to CSOs be removed, this could be a great challenge to Zimbabwe.
- **Confidentiality Agreement signed in existing contracts**- Private Sector companies with existing contracts signed with confidentiality agreements could resist public disclosure of contract details unless compelled by a legal requirement as a result of Zimbabwe joining EITI.

11. RECOMMENDATIONS

While there is a strong business case for EITI implementation in Zimbabwe, this paper recommends the following:

- There is need for commitment at the highest leadership level, which should be demonstrated by action. As such, the decision to join EITI needs to be made by the President or designate as indicated in EITI Standards 2019.
- The local CSOs which will take lead in the MSG should demonstrate adequate technical competence on EITI Standards to enable effective progress during the process.
- There is need to build trust within the MSG particularly between government and CSOs.
- CSOs should have a strong and coherent team beyond just one organisation.
- A lot of preparatory work is required on EITI Standard to ensure all parties are prepared.
- MSG should receive adequate technical training particularly on reading mining contracts¹ and corporate reports contents before being involved in the EITI application process by Zimbabwe.
- Government need to strengthen its institutions (Zimbabwe Revenue Authority, Police, Mines Inspection and Minerals Geology Department etc.) which support the mining sector on regulatory compliance¹².

¹¹ Bell.J et al (2013) Mining Contracts: How to read and understand them

¹² Ndamba. R (2018) 'Zimbabwe must build strong institutions', The Independent Newspaper, Economic Society Column.

12. CONCLUSION

An independent perspective provided by this paper clearly demonstrates a strong business case for Zimbabwe joining EITI. The economy of Zimbabwe is anchored by the extractive sector which requires strong systems of transparency and accountability to minimise leakages. Joining a mechanism such as EITI has ripple effects to other sectors linked to the extractives. This has potential to benefit the nation by building a culture of transparency and accountability for economic development and sustainable utilisation of natural resources. EITI implementation in Zimbabwe would provide strong empirical benefits to Government and the society in Zimbabwe. As such, building a strong multi-stakeholder group anchored by trust and a shared vision for transparency and accountability in the extractive sector will be key for the successful implementation of EITI in Zimbabwe.

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