

Hon. Keith Pitt
Minister for Resources and Water
PO Box 6022
House of Representatives, Parliament House
Canberra ACT 2601
Copy: Foreign Minister, Hon. Marise Payne, Treasurer Hon. Josh Frydenberg

30 July 2021

Dear Minister Pitt,

Re: Australia's failure to progress the Extractive Industry Transparency Initiative (EITI)

We write in response to your letter of 22 April 2021 in which you outline your decision to not reconvene the multi-stakeholder group (MSG) of the EITI. This decision appears that the Australian Government is walking away from the EITI in Australia after more than 15 years of work, investment and collaboration between industry, government, and civil society to address corruption and improve governance in Australia's extractive sector.

The EITI is the global standard for mineral, oil and gas resource governance in over 50 member countries. Central to the process is creating a group of industry, civil society, and government representatives to work together. The purpose of this MSG is to make plans to progress revenue transparency, improve access to information, and strengthen governance.

The Australian Government's failure to convene a meeting of the MSG for more than two years and set a timeline for EITI implementation shows the government lack of commitment to transparency, addressing corruption and tax compliance in the extractives sector.

Overwhelming support for greater transparency and accountability

Understanding who benefits from resources, revenue flows, contracts and resource approval processes is of great interest to the public, traditional owners, and local communities. Investors also want certainty that companies are operating at the highest levels of transparency and accountability.

Australian governments have supported the EITI since 2006. For the period 2019 – 2022, DFAT has invested \$25.7 million to support the EITI and extractive transparency measures around the world.¹ Australia's trading and development partners implementing the EITI include: the UK, Germany, Indonesia, PNG, and Timor-Leste.

In 2016 the Hon. Julie Bishop and Hon. Josh Frydenberg re-committed Australia to joining the EITI.

"By joining the EITI, we ensure that our domestic policy is consistent with international efforts to increase transparency, including in tax systems. This will provide significant benefits for Australian companies through improved global investment conditions resulting from consistent and open reporting standards for the world's resources sector.

It will also allow Australia to demonstrate leadership in transparency and anti-corruption matters and strengthen its credibility in advocating the adoption of the EITI by other countries."²

¹ DFAT, (2021), *Extractive Sector Development Assistance*, <https://www.dfat.gov.au/aid/topics/investment-priorities/infrastructure-trade-facilitation-international-competitiveness/extractives-sector-development-assistance>

² Australian Government, (2016), *Increasing transparency in global resources*, <https://www.pwyp.org/wp-content/uploads/2016/05/Ministers-Bishop-Frydenberg-Joint-Media-Release-Increasing-transparency-in-global-resources-6-May-2016.pdf>

The Minerals Council of Australia (MCA) and Australian Petroleum Production and Exploration Association (APPEA) and companies including Woodside, Chevron, Exxon, BHP, Rio Tinto, Oil Search, Iluka, NewCrest and South32 are all official EITI supporters.³ Resource companies clearly want to demonstrate their contribution to communities through revenue payments.

Importantly, Australians believe in transparency and want the government to address corruption. Communities want to know who benefits from resources and whether they are getting a fair deal.

Current revenue transparency measures are failing and don't address corruption risks

The Voluntary Tax Transparency Code (VTTC) and the Corporate Tax Transparency Reports (CTTR) are far behind international best practice for the extractive sector as set out in the EITI 2019 Standard.⁴ Unlike, the UK, Canada, 27 EU nations, Norway, Switzerland and soon the US, Australia does not have strong global anti-corruption and revenue transparency laws. These laws require listed and privately owned companies to annually report in a public format all payment to government data at the country and project level.⁵

You suggest the government might consider further reliance on the Voluntary Tax Transparency Code (VTTC). In our view, the VTTC and the Corporate Tax Transparency Reports (CTTR) are inadequate ways to improve revenue transparency and do little to benefit industry, civil society or the government. Specific failings include:

- top 10 ASX mining, gas and oil companies' rates of disclosures to the ATO under the VTTC decreased from 67% to 47% during 2016/17 to 2018/2019.
- the annual ATO release of CTTR data results in widespread public criticism of large mining, gas and oil companies as it shows relatively low corporate income tax rates by companies such as Woodside, Origin and Santos and does not include other payments.
- disclosures do not include project level data or sector specific payments such as royalties, profit bonuses, license fees that are required to inform communities, investors, and governments as economic benefits of specific projects.
- companies often file annual VTTC reports years after the reporting period and the ATO does not verify the data.
- Assistant Minister Hon. Michael Sukkar has failed to respond to a review of the VTCC conducted in February 2019 and will not meet with civil society on this issue.

We note, your speech at the recent APPEA conference where you requested companies to do better to communicate their economic contribution to the Australian public. The EITI is an opportunity to do just that, while also showing that the government is serious about tackling corruption, tax avoidance, and making sure our extractive revenues can fund Australia's current and future needs.

The need for transparency and improving governance is even more pressing in the developing nations in which over 700 Australian extractive companies operate.⁶ Transparency helps ensure that taxes and royalties from extractives support health services and COVID response and that corruption doesn't rob revenue from governments and communities.

Secrecy costs government revenues and increases corruption risks

Secret ownership structures enable some extractive companies to remain anonymous and avoid tax responsibilities, improper relationships and shift profits. These illicit financial flows cost government revenues, increase corruption risks and can damage the industry's social license.

³ EITI, (2021), *EITI Supporters*, www.eiti.org

⁴ EITI, (2021), *EITI Standard 4*, <https://www.eiti.org/document/eiti-standard-2019#r4>

⁵ For example, companies on the LSX, TSX.

⁶ There are over 700 ASX listed companies operating in more than 100 countries globally.

The government has raised issues with implementing a beneficial ownership register for mining, oil and gas companies.⁷ We note the UK, Canada, Ukraine, Nigeria and other EITI countries have introduced beneficial ownership registers recently. For Australia, access to beneficial ownership information would support governments, companies and communities to reduce the risk of corruption, tax avoidance and help government understand who the true beneficiaries of specific projects or companies are.

How the EITI can be tailored to meet Australia's needs

The government points to the fact that some smaller companies would not be able to meet the EITI standard. In fact, the EITI standard empowers the MSG to set the level of materiality, reporting entities and thresholds so small, and perhaps medium size companies, could not be included.⁸

We agree that the new EITI validation model is an improvement on the previous model which allows for a greater tailoring to the national context. This includes giving the MSG more time to make progress on certain requirements in the standard over time and moves away from the simple *pass* or *fail* model.⁹ It also has a greater focus on outcomes and impact.

The new model could also provide a reporting and multi-stakeholder dialogue platform for issues unique to the Australian context such as indigenous employment rates, the development of a critical minerals industry and how to ensure a just transition that does not leave workers and communities behind and future government budgets bereft of revenue.

The EITI provides Australia with an international standard and framework for public reporting and disclosures which would give companies and governments a clear picture of the economic and social contributions industry makes. The government's appearance of walking away from the EITI will damage Australia's reputation internationally and reflect poorly on industry, civil society and government stakeholders alike.

As civil society representatives of the MSG, we remain committed to the EITI in Australia and having the highest standards of transparency and accountability for our extractives sector. We urge you to reconsider your decision, arrange an MSG meeting and set a timeline for Australia to become an EITI implementing country. Please respond to this correspondence within seven working days either in writing or directly to Mr. Clancy Moore, on 0410 508 051.

Yours sincerely,

Dr. Nicole Bieske, Transparency International Australia
Mr. Peter Colley, CFMMEU – Mining and Energy Division
Mr. Clancy Moore, Publish What You Pay Australia
Dr. Stephen Mills, University of Sydney
Mr. Roderick Campbell, The Australia Institute
Ms. Mel Flanagan, Nook Studios

⁷ Requirement 2.5 of the EITI.

⁸ EITI (2016), *Guidance Note on Defining Materiality*, https://eiti.org/files/documents/guidance_note_13_on_defining_materiality_2016.pdf

⁹ EITI, (2021), *Changes to EITI validation explainer*, <https://eiti.org/document/2021-changes-to-eiti-validation-explainer>