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PURSUING DEVELOPMENT THROUGH INTERNATIONAL STANDARD BASED GLOBAL  
MULTI-STAKEHOLDER INITIATIVES: AN ACCOUNT OF THE EXTRACTIVE INDUSTRY  
TRANSPARENCY IN ZAMBIA  
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# Pursuing Development Through International Standard Based Global Multi-Stakeholder Initiatives: An Account of the Extractive Industry Transparency Initiative in Zambia

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## Abstract

In the contexts where democracy, governance and the civic space are constrained, global multi-stakeholder initiatives (MSIs) are expected to secure progress in development. MSIs combine citizens, NGOs, government, civil society, and the private sector, capacities, resources, and know-how to overcome their individual constraints to build the needed islands of effectiveness for development in such environments. However, among these stakeholders, are those that are developmentally oriented on one hand, and on the other hand, those that are predatory and often more powerful and organised. This creates a need for external stakeholders, who are powerful enough to leverage enough contravening power for the weaker stakeholders to bear and offset the predatory powers, through the creation of agreed upon standards. The Extractive Industry Transparency Initiative is a standard based Multi-Stakeholder Initiative (MSI) that pursues development through 1) building institutions for enhancing transparency and accountability, 2) setting of the rules for enhancing transparency and accountability, and 3) ensuring from a global vantage point, that these rules are supported, implemented and monitored in achieving tangible results. Zambia has implemented the Zambia Extractive Industry Transparency Initiative (ZEITI). The ZEITI has been rated successful in meeting the global standard, meaning that the EITI standard has been powerful enough to leverage enough contravening power for the weaker stakeholders to bear and offset the predatory powers in the extractive industry in Zambia. This paper examines the ZEITI experiences in Zambia to tell a narrative about the extent of this success.

**Key words:** Extractive industry transparency, global multi-stakeholder initiative, International standard based, Mining industry governance, Multi-stakeholder success, Zambia extractive industry,

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## Chapter 1: Introduction

### 1.1 Introduction

In recent years multi-stakeholder initiatives (MSIs) have emerged as a vehicle for driving development in complex environments. This move has been compelled by growing focus on governance narratives in development. The attention given to governance occurs in the context of an upsurge of rent-seeking behaviour, corruption and economic liberalisation policies, which have resulted in frustration due to high transaction costs, poor financial performance and persistent poverty. The perceived cause of some of these challenges was purported to be a lack of technical capabilities in some countries, thus, a transfer of knowledge, technical assistance and best practice approaches would be a sound remedy. This remedy also coincided with the advent of New Public Management order, which too has come short in sealing development gaps in a growing global world .(Gutierrez, 2011).

Rich and Moberg (2015:3) describe governance as “a process by which bargains between the state and society are made, including policies and institutions and how they are subsequently implemented and monitored by organizations” hence the need for “good governance’. Ewalt (2001) believes that good governance is “Participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making” (United Nations Economic and Social Commission for Asia and the Pacific- UNESCAP, 2009).

Vallejo and Hauselmann, (2004), assert that, it is in this governance space that MSIs have emerged as the vehicle for driving development in complex environments. However, Levy (2011), cautions that MSIs may have limitations in driving this much-needed development, as their success is influenced by the stakeholders involved, the quality of their engagement, the incentives involved and the MSI’s interaction with the ecosystem, which is to be derived from the comprehensiveness and credibility they bring to the table of development, that is, the dynamics of how their efforts are designed, enforced and monitored.

This paper aims to understand the logic and contribution of MSIs in development. It further explores an MSI in the context of Zambia, namely, the Extractive Industry Transparency Initiative (EITI). The EITI focuses on development through transparency and accountability in the oil, gas and minerals industries. This MSI claims to subscribe

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to non-binding multi-stakeholder participation for solving global challenges, a framework for the organisations to implement, and independent monitoring and evaluation by external stakeholders. Its logic is that, development challenges today are complex and require constructive, collaborative and inclusive dialogue through industry-specific global standards of transparency and accountability.

To examine the MSI initiative under investigation, this chapter first provides a brief overview of what MSIs are. Then proceeds to discuss the initiative under investigation, the EITI. Thereafter, it discusses the research question, study objectives and hypothesis. The chapter will end with an overview of the chapters to follow.

## **1.2 Multi-stakeholder Initiatives**

Brockmyer (2016) states that MSIs are defined by their characteristics such as non-binding forms of participation, having global reach, being governed formally and independently, focusing on transparency and accountability and agreeing on independent performance evaluation as well as external support. In addition to the key characteristics, MSIs can also be defined by their focus. Brockmyer (2016) identifies two approaches to this, the soft power approach from international relations perspectives on the one hand and social accountability approach from international development research and practice on the other. That is, focus on the rules of the game or standard setting as in the EITI and the Construction Sector Transparency (another MSI implemented in Zambia) standards. The former initiative aims to ensure transparency and accountability in the extractive industry, while the later hopes to help drive productivity through revenue saving and high-quality infrastructure (Van Huijstee 2012; MSI Integrity and the Duke Human Rights Center, 2007; Brockmyer, 2016).

Having defined what MSIs are in general, the discussion now turns to unpack the theory of change of the EITI, first through its features and then through an indication of how the soft power and social accountability approaches to MSI performance are articulated towards the success of the initiative.

### **1.2.1 The background of the Extractive Industry Transparency Initiative**

Schumacher (2004) asserts that extended to the entire extractive industry, is the economic paradox of plenty, of the oil-wealthy nations; that is, the damaging rent seeking and rent promoting behaviour, suffocated civil space and in some cases civil conflict, and

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failure to make developmental gains in the face of vast oil, gas and other minerals resources.

A historical example of this is pointed out by Rich and Moberg (2015) on how the East India Company conspired with the Moghul political elite in the 18th and 19th century in India, how the British South Africa Company exploited gold and diamond in South Africa and the 'Sordid Buccaneers' in the Congo. These show instances where locals could not benefit due to weak organisations among themselves. They distinguish these from the 1649 England and 1789 France where civil society was strong and opposed state powers for the benefit of the many. Rich and Moberg (2015), admit that this kind of alternative government is cardinal in addressing the complex issues in the extractive industry, proposing collective governance in addressing a wide range of interests, attracting global investments, managing transfer pricing challenges and discouraging revenue capture by governing elites.

Therefore, the global 'Publish what you Pay' Campaign in 2002 created as a response to clashes between the Angolan government and oil companies in that country was an attempt at establishing transparency. A 1999 report by a London based Non-governmental Organisation (NGO), Global Witness, alleged misuse of resources in the Angolan gas industry. In response to this BP-Amoco, one of the big petroleum companies in Angola began publishing its taxes and levies to the Angolan government. The publication enraged the Angolan government which threatened BP-Amoco and any other companies over these kinds of publications, blocking transparency in the Angolan gas industry. However, this fallout is what encouraged the establishment of the EITI in 2003.

Brockmyer, (2016) and EITI (2016), note that this evolved into a global standard for the good governance of oil, gas and mineral resources, focused on public disclosure of information about exploration activities, licenses and contracts, beneficial owners, and revenue use. Päivi Lujala (2018) adds that the standard requires the national EITIs to comply with the international standard and be ready to learn lessons; and for credibility, report these to the global level EITI.

### **1.2.2 The features of the EITI**

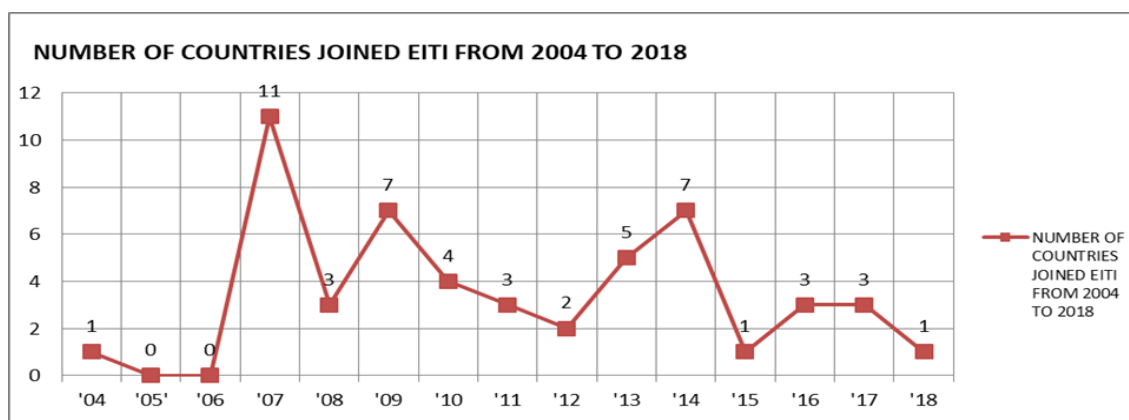
#### **a) Non-binding modes of participation**

Stakeholders (governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors and NGOs)

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should not be forced but should be attracted to the internationally agreed upon EITI principles based on prudence, collaboration, sustainability, transparency and accountability in the use and management of natural resources. According to Rich and Moberg (2015) and EITI (2017), stakeholders are expected to “pledge their full, independent, active and effective participation,” and function through a multi-stakeholder group made up of the government and companies in the oil, gas, and/or mineral industries. The EITI has gained traction over the years and has been joined by 51 member states as expressed in figure 1 below.

**Figure 1: Countries joining EITI**



Data from the EITI (<https://eiti.org/zambia#overview>)

So far three countries (Azerbaijan, Niger and the United States) have withdrawn from EITI implementation. The United States’ withdrawal from EITI in 2017 was condemned by politicians and nonprofit organisations and called, ‘the result of Big Oil and Gas’ money and influence...” a painful abdication of American leadership on transparency and good governance” (Simon, 2017).

Other EITI members and supporters, including extractive industry companies, supporting countries, partner organisations, civil society organisations and financial institutions are noted in table 1 below.

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**Table 1: EITI Stakeholders**

Companies	Supporting Countries	Partner Organisations	Civil Society	Financial Institutions	
African Rainbow Minerals	JX Nippon Mining & Metals	Australia	African Development Bank (Af	Catholic Agency for Overseas	Council on Ethics of the Swedish
Advanced Metallurgical	Kinross Gold Corporation	Belgium	African Union	Cordaid	AP-funds, 1,2,3 and 4
Anglo American	Kosmos Energy	Canada	American Petroleum Institute	Global Witness	Nordea Asset Management (Norw
AngloGold Ashanti	Lonmin	Denmark	Asian Development Bank (ADB)	Natural Resource Governance Institute	
Antofagasta Minerals	Lundin Petroleum AB	Finland	Australia-Africa Mining Indus	Open Society Institute	
ArcelorMittal	Mitsubishi Materials Corpora	France	European Commission	Oxfam	
Barrick Gold Corporation	MMG	Germany	Commonwealth Secretariat	Publish What You Pay Coalition	
Base Titanium	Newcrest Mining Limited	Italy	International Council on Min	Secours Catholique (Caritas)	
BHP Billiton	Newmont Mining Corporation	Japan	EI Source Book	Transparency International	
BP plc	Noble Energy	Norway	European Bank for Reconstruction and Development (EBRD)		
Cairn Energy PLC	Oil Search Limited	Spain	European Commission		
Centerra Gold	Orano Mining	Sweden	European Investment Bank (EIB)		
Chevron Corporation	Philia S.A.	Switzerland	G20		
ConocoPhillips	Polyus	The Netherlands	G8		
Corporación Nacional de Cobre de Chile -	Rio Tinto	The United Kingdom	Institutions de financement		
Dundee Precious Metals	Royal Dutch Shell plc	The United States	Inter-American Development Bank (IDB)		
Eni	RWE AG		International Council on Mining and Metals (ICMM)		
Equinor ASA	Sherritt International Corporation		International Monetary Fund (IMF)		
ERAMET	South32		International Organisation of La Francophonie (OIF)		
ExxonMobil	Southern Copper Corporation		International Organisation of Oil and Gas Producers (OGP)		
FAR Limited	Staatsolie Maatschappij Suriname N.V.		KfW Bankengruppe		
Freeport-McMoran Corp	Sumitomo Metal Mining Co., Ltd.		Open Government Partnership		
Glencore	Teck Resources Limited		Organisation for Economic Co-operation and Development (OECD)		
Goldcorp	Total		International Organisation of La Francophonie (OIF)		
Gold Fields	Trafigura Group Pte. Ltd.		International Organisation of Oil and Gas Producers (OGP)		
Gunvor Group	Tullow Oil Plc		African Union		
Hess Corporation	Vale SA		World Bank Group		
Hudbay	Hess Corporation				
Hydro ASA	Volkswagen Aktiengesellschaft				
Inpex Corporation	Woodside				

## b) Having a global reach

The term “innovative diplomacy” coined by one of the founders of the EITI is used by Rich and Moberg (2015) to explain that due to complexities of globalisation; for EITI to be effective, both state and non-state actors are required to fully participate, negotiate and motivate. Levy (2011) asserts that the EITI has been growing in membership and has potential to engage with new participants including governments and their agencies, companies, service companies, multilateral organisations, financial organisations, investors and NGOs. To achieve global reach, the international EITI upholds the EITI international standard, which all implementing countries are also expected to adhere to. Some other universal elements inherent in the standard include the International Monitoring Fund – the EITI global financial statistics used by implementing countries, the promotion of the beneficial ownership to avoid corruption by international companies, the use of open data governance and community contract disclosures, and the international support and monitoring of the national level EITIs.

“The EITI therefore also holds a Global Conference at least every three years, to provide an international forum for EITI stakeholders to further the objectives of the EITI.

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Alongside these Conferences, is a smaller Members' Meeting with the three constituency groups, that is, countries, companies and civil society organisations" (EITI, 2017).

### **c) Formal and independent multi-stakeholder governance**

The EITI draws its legitimacy through the national legal framework for licensing, registration, contract management, beneficial ownership and state participation in the extractive industry to govern corporate behavior, and its focus is legitimately sealing governance gaps as Baumann-Pauly, Van Heerden, and Samway (2016) affirm.

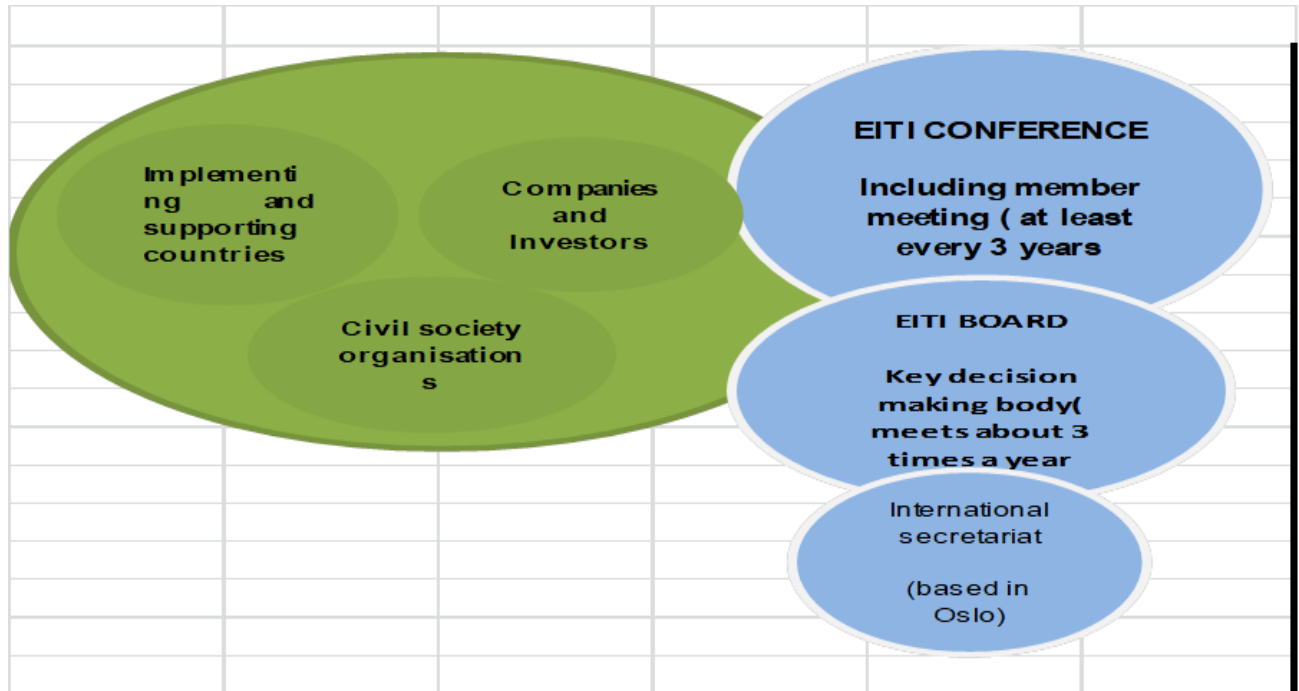
The EITI standard has rules and procedures governed by a nonprofit members association, providing a platform for broader debate and reform, a rule for disclosures of information, a procedure for the award of exploration and production rights, a regulatory framework for managing contracts and the institutional responsibilities of the state in managing the sector (EITI, 2017). "It requires adequate oversight and engagement from the government, companies, and civil society" (EITI, 2018,37). Levy (2011), delineates three rules under the EITI; that is i) for financial transfers between governments and the energy and mining companies, ii) for the establishment of country-level multi-stakeholder groups and ii) establishment of the external validator to assess the country level EITI implementation. The objective being fair exploitation of mineral and oil resources in a complex web among the resource rich countries and the international companies whose incentives may not always coincide.

The EITI has a three tier constituency system that nominates the 21 members of the EITI board representing constituencies. It oversees the activities of the EITI through regular board meetings, committee meetings, and frequent board circulars. According to EITI (2017), "the EITI International Secretariat is responsible for the day-to-day running of the EITI Association. A considerable amount of technical assistance is provided to countries implementing the EITI. Much of this is provided by the World Bank and other technical support, and through the Articles of Association and Openness Policy setting out how the EITI itself should be transparent and the EITI Constituency Guidelines and code of conduct."



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**Figure 2: organisational structure of the EITI**



**d) Strategic focus on transparency and accountability**

Apart from bringing expertise in the industry, transparency and accountability are crucial in the EITI, and EITI pursues these on the one hand through disclosure about production, payments and use of natural resources and on the other, through a platform for collaboration, dialogue and debate (EITI, 2017 and Van Huijstee 2012.). According to the 2018 EITI Progress Report, 21 countries have so far been validated, and the figures below show authenticated countries compliance with the standards (EITI, 2018).

**Figure3: EITI validated countries complying with the EITI Standard**

COUNTRIES COMPLYING TO THE EITI STANDARD ACCORDING TO THE PROGRESS REPORT	
63%	of validated countries have disclosed full or partial information related to the award or transfer of licenses. This has either been tackled in an eITI Report, or by a reference to an existi
80%	of validated countries disclosed a description of their legal framework and fiscal regime governing the extractive industries, as well as reforms underway.
95%	of all validated countries disclose production data, including total production volumes and the value of production by commodity, and, when relevant, by state/region.
80%	of validated countries maintain a full or partial publicly available register or cadastre system.
84%	of validated countries disclose some export data for the fiscal year covered by eITI reporting.
67%	of validated countries disclose social expenditures by extractive companies, but only 14% do so fully.
100%	of all validated countries disclose information about the contribution of the extractive sector to the economy, including employment figures and an estimate of informal sector activi

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As seen, not all member countries are up to standard, but Rich and Moberg (2015) assert that ensuring transparency through the EITI standard, and trust built among stakeholders is enough to “get on with it,” thus accountability can consequently come. They argue that this is about the laborious task of managing stakeholders’ representative interests without losing focus on achieving the EITI purpose. That is, building a reward mechanism inherent in international pressure to comply and making efforts to avoid the standard from becoming an end in itself, has helped to increase the quality of engagement by enhancing stakeholder ownership of the process. However, Levy (2014) fears that this goal is narrow and not robust enough to achieve more than modest results and may be unable to contribute to better governance and poverty reduction. He questions whether, in Zambia, where the EITI is celebrated as making meaningful progress, the EITI has added to accelerated investment from copper mining revenues.

### **e) Independent Evaluation of National Government Performance**

Since the pride of MSIs is in stakeholder participation, the voices of governments, companies, non-corporate participants and civil society must be checked by an external voice. The EITI achieves this by raising the bar beyond the minimum of what the local law requires and attains compliance with international standards for monitoring (Baumann, Nolan, Van Heerden and Samway, 2016). The Multi-stakeholder Group (MSG) at national level conducts a self-assessment before the EITI secretariat performs it, the EITI board makes an initial assessment which is validated by an independent validator and then a decision over the progress of the validated country (EITI, 2018). External validation exerts external pressure to enforce and monitor the standards beyond the MSG and achieving the necessary integrity the EITI needs (Levy, 2011).

#### **1.2.3 The emphasis and success indicators of the EITI**

As highlighted earlier, MSIs can emphasise different approaches to meeting their objectives. In Brockmyer’s (2016) view, some emphasise the acquisition of power through soft power (standard for disclosure), while others emphasise the voluntary corporate social responsibility, that is, the use of the disclosed information for further development efforts. Subsequently, Rich and Moberg (2015), believe that the EITI is a standard, not an end in itself. It has evolved through adaptation and stakeholder involvement and has progressed over the years. There is also an indication that what used to be an initiative has become an international standard expected to shift focus from disclosure to use of data, and it links efforts to policy reform and also improves the

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performance of the industry beyond just compliance and individual governments. Rustad, Le Billon, and Päivi. (2016). An outline of the linkages of EITI goals from institutional to operational and to developmental goals is demonstrated in figure 4.

**Figure 4: EITI goals**

Institutional goals	Operational goals	Development goals
<b>Goal I-1:</b> Brand EITI globally and nationally	<b>Goal O-1:</b> Establish clear and credible EITI standards	<b>Goal D-1:</b> Increasing revenues that are returned to the society through reduced corruption
<b>Goal I-2:</b> Establish (EITI) transparency as a norm globally and nationally	<b>Goal O-2:</b> Increase state capacity to implement the EITI standard and report in timely and comprehensible manner	<b>Goal D-2:</b> Improve investment climate, increase aid flows, and promote fairer government share of revenues
<b>Goal I-3:</b> Increase EITI participation, compliance, and support from governments	<b>Goal O-3:</b> Increase public understanding, debate, and influence of natural resource management	<b>Goal D-3:</b> Promote good governance, sustainable development, and improved living standards
<b>Goal I-4:</b> Establish multi-stakeholder groups as the organizational basis and promote multi-stakeholder model of governance.	<b>Goal O-4:</b> Ensure civil society's effective participation in multi-stakeholder groups	

The institutional level goals or operational level goals make it clear that EITI standards are not an end in themselves. EITI has development goals towards an increase in revenue returns for the industry, improving the investment climate and promoting sustainable development and improved living standards as seen in the figure above. However, Brockmyer, (2016) questions whether the EITI standard notion of attaining broader goals through disclosure of revenues and payments, civil society debate and dialogue can improve living standards. Levy, (2011) cautions about the risk of the false comfort of having acted through disclosure, but without adequately addressing the need to reach broader developmental goals.

The above discussion sheds light on the nature of MSIs and their envisioned role in development. The discussion also highlights the origins of the EITI, its defining features and the indicators of success of the initiative. As demonstrated above, the EITI seems to emphasise compliance to the standards more than accountability and transparency of the multi-stakeholders processes.

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The EITI seems to have global recognition but its adoption and implementation by individual countries is uneven and success is questionable. Regardless, investigating progress made through this initiative at country level can provide valuable insights. The Zambian case raises questions on the success and contribution of MSIs to sustainable development, especially taking into account that EITI is celebrated as a success in Zambia in the midst of some challenges in the industry as the country's returns on the mining sector and citizens' living standards are yet to show relative growth and/or improvement.

### **1.3 The research objectives, questions and hypotheses**

#### **1.3.1 The objectives of the study**

This study hopes:

- To use the lense of the Extractive Industry Transparency Initiative (EITI) firstly, at a global level and then at a country level in Zambia to explain the possibilities of pursuing development through international standard based global MSIs.
- To explore factors that have influenced the EITI implementation in Zambia.
- To delve into the journey of the EITI as an international standard based global MSI and its aspirations of optimising revenue from the extractive industry in Zambia.

#### **1.3.2 The research questions**

Can international standard based MSIs produce meaningful change in developmental outcomes; by optimising revenue from the extractive industry and make resources available for other national priorities through the EITI? The study seeks to investigate whether international standard based MSIs such as EITI really contribute developmental outcomes in a country. The study considers the intended outcomes of the EITI and trace its experiences in Zambia to understand its contribution to development.

#### **1.3.3 The Hypothesis**

- ❖ **H:** In an international standard based global MSI, success is celebrated with no regards to the anticipated developmental outcomes, when developmental

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stakeholders and predatory stakeholders agree to 'standards' that do not affect what matters to the predatory stakeholders.

### 1.4 Structure of the paper

Following from this chapter, chapter two highlights the methodology used in this study, the research design and data collection techniques. The chapter also explains how the data is analysed in order to answer the questions regarding the experiences of the international standard multi-stakeholder initiative in Zambia - the ZEIT. The chapter ends with the researcher highlighting on the challenges and limitations and ethical considerations regarding the study.

Chapter three reviews literature regarding multi-stakeholder initiatives in general, as well as those that are international standard based. This chapter takes cognizance multi-stakeholder initiative implementation issues such as multistakeholderism, politics of regulation and standard setting in MSIs, and multi-stakeholder success. It also reviews the Zambian extractive industry, the environment in which this study is focused.

In chapter four, the concepts and theories unearthed under the literature review section are used to analyse key experiences of the EITI in Zambia, thus examining the hypothesis, **H** of this study – *In an international standard based global MSI, success is celebrated with no regards to the anticipated developmental outcomes, when developmental stakeholders and predatory stakeholders agree to 'standards' that do not affect what matters to the predatory stakeholders.* The chapter basically endeavours to explain possible causal mechanisms in the EITI that influenced the MSI direction as well as determine the extent to which the EITI contributed to the developmental change brought to the extractive industry in Zambia. It explores three significant periods on the ZEITI timeline. These periods hint on challenges in the Zambian mining industry that the MSI was created to mitigate, including issues of the prevailing tax regimes, tax evasion, and the corruption in the reporting process which attracted an outcry that government needed to address in order to optimise revenues in the extractive sector in Zambia. Thus, what are the factors that led to the ZEITI Commitment, Design and Formation in its early year in Zambia; what issues did the MSI navigate in order to be relevant to industry during implementation of the EITI in Zambia including the legal framework, the stakeholder politics and other national processes, and to finish, how the ZEITI implementation was monitored for progress, how it's results were celebrated in the midst

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of criticism regarding the value added to extractive industry and the Zambia development as a whole.

Then finally in chapter five, the study concludes that although ZEITI has yet to address some of the deeper mining issues in Zambia, it has so far achieved multi-stakeholder collaboration through MSG organisation, among other things; and its option to respond to the EITI requirements was a better one, as opposed to not doing anything at all, while expecting development outcome in the extractive industry. The ZEITI ensured that, through the global EITI secretariat, stakeholders were systematically organised, issues in the extractive industry were unraveled, remedial measures were undertaken, the structures of participation evolved according to need, and monitoring of progress was conducted. As observed with the ZEITI, developmental outcomes have been the driving force for all stakeholder participation in the MSI. Further to this, the standards agreed on under ZEITI promotes optimal revenue collection by government to which all stakeholders have demonstrated appreciation This was therefore enough for an international standard based multi-stakeholder success status in a complex environment.

**Chapter 2: Methodology**

This study seeks to understand MSIs' success and contribution to sustainable development. What is the real success of standard based MSIs such as the EITI and how do they fare in pursuing development compared to conventional approaches to development? These questions will be explored by answering whether the explanation to MSIs success lies in the standard of the MSI, particularly explored through the experiences of the EITI in Zambia.

This chapter addresses the study design, method used to collect the data and how data will be analysed.

**2.1 Research design**

To explain the experiences and outcomes of international standard based MSIs, this study used the causal mechanism Process Tracing methodology to help understand and then explain what led to the outcome of the MSI in Zambia.

A causal mechanism is an observable entity which when activated generates an outcome of interest, whose change can be measured whilst the relevant principles that apply to that phenomenon have been adhered to (Alexander and Bennett, 2005). It is also defined by Johnson and Ahn (2017), as "a system of physical parts or abstract variables that causally interact, in systematically predictable ways so that their operation can be generalised to new situations" (p.128). In this case, the paper seeks to trace the observable variables that led to the outcome of the EITI in Zambia.

Process Tracing according to Beach (2012), is a single research methodology that can be used to make "within the case inference about presence, absence and casual mechanism" (p.3).

The study used the case of the EITI experiences in Zambia because despite focusing on the general principles of the international standard based MSI initiatives, i.e. based on multi-stakeholder organisation, independent and democratic multi-stakeholder governance and dependence on external parties for validation (Levy, 2014), Zambia still faces challenges around optimisation of revenues from the extractive industry (IMF, 2015).

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The implementation of the international standard based MSI in Zambia occurs in a complex environment marked by multiple economic policies, actors, ideologies and individual transactions. It is difficult to explain the outcome of the MSI in the presence of the many available variables that interact with it. 'Process tracing' is, therefore, chosen to test whether it was the nature of the standard of the EITI that caused the EITI to be deemed a success in Zambia (Beach, 2012).

The study looks at the causal-effect link on what happened regarding the EITI in Zambia; when and why it happened, and the way forward on the timeline of the EITI. By dividing the timelines into significant events that happened in the initiative, the study was able to isolate the causal mechanisms that explain the major events and what these major events in the initiative led to. The evidence collected about these defining moments of the MSI were assessed for each part of the explanation to detect whether it could be used to conclude that a causal mechanism existed in the standard (Beach, 2012).

In this case, Process Tracing causal mechanism methodology was most appropriate because it allowed the study to uncover the intervening causal process, causal chain and causal variables between the EITI implementation and the outcomes in Zambia thereof.

The process considered several possible causal chains, processes and mechanism in the EITI processes (George and Bennett, n.d). It enabled this study to ask critical questions in identifying the key moments in the implementation of the EITI (from 2008 to 2018) showing evidence of possible process therein.

Therefore, the key questions in the process tracing included the following: - Did those key moments suggest process? What were the stakeholder experiences about those key moments? Was there anything else happening in the extractive industry in Zambia that could be used to explain the key moments in the EITI? Who were the significant players influencing the EITI Key Moments? What was the EITI direction after the key moments? Were there any internal or external factors in the EITI implementation processes, which concealed the causal elements of their outcomes?



### **2.3 Data collection techniques**

This study extensively used both secondary and primary data. Secondary data was collected, through a review of publications including journal articles, reports, books and online sources. Primary data was collected through five interviews from the key stakeholders involved in the implementation of the EITI in Zambia. These included a representative from each of the following: Zambia Chamber of Mines; the Centre for Trade and Policy Development; Zambia Revenue Authority; the Bank of Zambia; and the Zambia Extractive Industry Transparency Initiative (ZEITI) Council.

### **2.4 Sample selection**

Purposive sampling, a non-probability sampling method was used in selecting the respondents for the interviews. After collecting extensive secondary data on the EITI, key respondents involved in the EITI were identified. Therefore, the sample was derived through the ZEITI secretariat who had access and were able to mobilise respondents for the study. All the stakeholders on the MSGs were eligible for interviews. The guiding parameter was that there was supposed to be at least a representative from the Secretariat, private companies, government, and the civil society for each of the MSGs

Some of the factors that determined this method include the vast wealth of information about the MSI implementation readily available on the MSI websites; the need to confirm some of the information from the website and other reports; the advantage of conducting face to face interviews with stakeholders after extensive desk research.

There was a limitation arising from some MSG members who had prior commitments and were not available to be interviewed, and as such the study relied on a representative sample from cardinal stakeholder organisation members who have served on the MSG and whose organisations are vital to the implementation of the MSI in Zambia.

By using purposive sampling (collect relevant data for the study in the most cost and time effective manner) the study was able to answer most of the questions devised for the process tracing methodology, thus exploring some of the possible causal mechanism first-hand experiences through the MSGs representatives.

## **2.5 Data collection process and analysis**

Primary data was collected through in-depth interviews, using an interview guide. There were two interview guides that covered three groups, which included the stakeholders (private mining/construction companies; government; and civil society) and the MSI Secretariat. The study asked questions about the possible causal mechanisms in the EITI processes. That is, what, why and when was it experienced; in what direction did it move; and were there any other obscured causal mechanisms (Alexander & Bennett, n.d).

The EITI implementation period was delineated into three categories. The periods included:

- i. its early years of design and commitment (2008 to 2011);
- ii. the period in which the initiative was making efforts in testing the EITI standard as well as undertaking some reforms in the mining sector to meet the EITI standard (2012 to 2015); and
- iii. the last is the period 2016 to date (2018) in which external stakeholders have monitored the EITI through assessments and validation - a process of gauging progress made by the EITI in Zambia.

The information collected through a desk review and the interview responses were analysed thematically according to the central questions for this study. To discuss and answer a range of questions including the significant issues of multi-stakeholder success as experienced by the EITI in Zambia, this study drew from research and work by Rich and Moberg (2015), Levy (2011), and Brockmyer (2016), on issues of multi-stakeholder success (credibility and legitimacy), politics of regulation and standardisation.

## **2.5 Limitations of the study**

The main limitation of this study was the limited number of available respondents from MSGs related to the study. This limitation had the potential to narrow the perspectives on some of the issues contributing to the success or failure of an international standard based multi-stakeholder initiative in Zambia and as such could have affected the quality and range of recommendations from the study. The study therefore endeavored to substantiate the primary data with robust secondary data from several recent studies and media reports in the areas of focus.

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**2.6 Ethical considerations**

The study was conducted according to the ethical requirements of the University of Cape Town.

**Chapter 3: Literature Review**

**3.1 Introduction**

The literature review in this study considers several issues and concepts related to multi-stakeholder initiatives, especially international standard based global MSIs. These include elements of multistakeholderism, politics of regulation and standard setting in MSIs, as well as multi-stakeholder success in terms of comprehensiveness, legitimacy and credibility. The chapter also provides an overview of the Zambian extractive industry, the area of concern to the study.

**3.2 Theories of Multistakeholderism**

The new multi-stakeholder decision theory stems from the agent and steward theories of decision making and purports that, decision-makers at different levels tradeoff in their choices dependent on whether they are acting as agents or as stewards. Multi-stakeholders bring into explicit consideration and focus the shared value of the outcomes to multiple parties (when their goals are misaligned). Many decisions, in MSIs, involve not just a single outcome, but rather a stream of outcomes across time. In global standard based MSI, proponents assume that stakeholders have negotiated, incorporated and considered all the practical implications in the standards, because it clearly cannot assume that individual stakeholders are choosing options that are always in the best interests of the industry. (Samson et al., 2017).

Further, international standard based global MSI rely on the notion that in pressing for a 'win- win' situation, stakeholders will come to terms with the limitation inherent in their interest groups, and appreciate the potential benefits arising from competing stakeholder interests (Van Huijstee, 2012). The developmentally oriented and predatory stakeholders' interests are therefore moderated by an external force, which is powerful enough to leverage sufficient contravening power for the weaker stakeholders, through the creation of global standards that should be agreed upon by all stakeholders. This creates the needed islands of effectiveness in MSI for development in complex environments (Levy, 2014).

### **3.3 Multi-stakeholder inputs and outputs**

#### **3.3.1 The comprehensiveness in MSIs**

MSIs achieve comprehensiveness through the structure of the organisation. The Sustainable Coffee Initiative (SCI) for instance, is a mechanism that promotes sustainability within the coffee sector', and it has discussed multi-stakeholder governance, including representation, inclusiveness in decision making, legitimacy and power-sharing and the institutional governance mechanism (Brockmyer, 2016).

Several questions were raised concerning which stakeholders were key and under what institutional arrangements the SCI should operate in determining appropriate structures. It was revealed that sophisticated structures were associated with standards-based MSI processes that were long term and tedious to establish, while the simple MSI structures were just partnerships between institutions pursuing the same course. In simple partnerships, there is no need for benchmarking. The input buy-in and recommendations from a range of stakeholders are enough for simple MSI to achieve comprehensiveness (Brockmyer, 2016).

Simple structure partnerships as in the SCI, are mostly meant to supplement weak government capacity in enforcing basic social and environmental standards through partnerships between businesses and civil society; while global MSIs seek to encourage socially and environmentally responsible behaviour by private firms (Brockmyer, 2016).

However, if the MSIs objective is standardisation and harmonisation, a more sophisticated structure should be developed, hence the need to involve an international standard, and the inclusion of non-members in shaping and gauging the roles of stakeholders, and the involvement of the international bodies in the industry (Vallejo & Hauselmann, 2004).

Merely providing arenas for communication in international standard based global MSIs is not sufficient to inspire receptive processes of deliberation; incentives usually must be provided if actors are to re-evaluate their interests (Moog, Spicer & Böhm, 2015). The need to win peoples interest, as Rich and Moberg (2015) put it, is cardinal in achieving MSI effectiveness.

### **3.3.2 The credibility of MSIs**

According to Brockmyer (2016), apart from democratisation and accountability, MSIs need strong credibility to deliver on their mandate. For credibility, MSIs are required to follow formal and independent rules towards achieving the goals of the initiative. External transparency and accountability is aimed at accomplishing this. The theories of change for most multi-stakeholder initiatives suggest social accountability as the goal.

The EITI, under investigation, sees transparency as a vehicle to optimise revenues in the extractive industry, as a means to national development. Consequently, over the years, the EITI has moved from being just an initiative. It has evolved into an international standard, ensuring that there is transparency, accountability and disclosure among stakeholders to produce the necessary outcomes and impacts (Rich and Moberg, 2015).

It is, however, indicated that the challenge for the initiatives such as the EITI has been to link 'transparency' and 'procedural fairness', and the achievement of developmental goals, which the MSI was created (Brockmyer, 2016). Furthermore, since stakeholders risk working on too many MSIs, their ability to participate may be strained due to the energy and resources required. In addition, there is a risk that governments may not sustain MSIs without resources from parent global organisations, which creates a major challenge for sustainability.

### **3.3.3 Multi-stakeholder legitimacy**

It is important that international based MSI avoid conflict and power struggles from within. For an MSI to be accepted, the stakeholders should be broad-based and not coerced to participate (Levy, 2011). Therefore, in filling governance gaps, MSIs require a focus which covers general provision of information and moral legitimacy of stakeholders, having global reach and being non-binding. The Forest Stewardship Council (FSC) and the European Union are MSIs which have been used to demonstrate the struggle in exhibiting evidence of building legitimacy. The interests and capacities of their actors are diverse and sometimes skewed, alleviating the extent to which disclosure and participation are achievable (Brockmyer, 2016).

### **3.4 The politics of regulation and MSIs**

The extractive industry is subject to high regulation in many countries. The actors regulating the industry have varying interests and different mandates and may span across several geographical areas and ideologies. This complex situation implies that in the efforts of achieving good governance and avoiding the actors prioritising their own interests amid the diverse private sector and civil society in the industries (Jordana & Levi-Faur, 2004). The international standard based global MSIs should seek to influence behaviour at both the local and global levels, through their need to 'democratise the corporation' and to fill regulatory gaps in the global economy (Brockmyer, 2016).

Although the potential of these new governance forums as spaces for deliberative negotiation, and as instruments for effective regulation, may sometimes be limited by the broader political and economic context in which they operate, their characteristics (MSI moral legitimacy, provision of information and democratisation of authority over resources) tend to achieve the higher goals in the long run. The FSC's (an international non-profit, multi-stakeholder organisation established to promote responsible management of the world's forests) responsiveness to the regulation of states and corporations is an example (Brockmyer, 2016; Baumann-Pauly et al., 2016; Moog, Spicer & Böhm, 2015).

A further challenge to MSIs stability is that politics are never far away. MSIs are vulnerable to national election cycles. Sudden shifts in momentum due either to new reformers coming to office or old champions losing power is a challenge, which must be met with creativity on how to re-activate the initiative. Such is the case for the defunct CoST initiative in Zambia, which lacked a dedicated champion within government as ministers in charge kept being changed. (Brockmyer & Fox, 2015; CoST, 2015).

### **3.5 The standard in international standard based MSIs**

MSI global standards are susceptible to skewed participation by stakeholders. A study of the FSC indicated that over-representation by some stakeholders, in the FSC, created challenges in achieving inclusiveness, transparency, and accountability. This in turn influenced reforms, and reproduced existing power imbalances, and led to new opportunities for regulatory capture by corporate interests and undermined the ability of

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concerned citizens and organised stakeholders to politicise underlying conflicts (Brockmyer, 2016; Baumann-Pauly et al., 2016).

According to Righettini (2014), standard setting governance must be open to full external scrutiny and negotiation and have strong accountability; so that validation exercises in MSI such as the EITI are not used or viewed as a witch hunt or a form of a blame shifting exercise. An MSI should use the implementation, compliance and enforcement standard in order to examine evolution towards accountability and transparency - the ingredients for the intended outcomes of the standard.

Brockmyer (2016) differentiates between certification (standard setting role), reporting (consensus and dialogue role) and monitoring (accountability roles) of global MSI standards such as the Forest Stewardship Council (FSC), the EITI and Kimberley Process respectively. These efforts together allow civil society to improve natural resource governance by providing information, moral legitimacy, democratising authority over resources, and holding the government to account for resource use.

However, the very nature of MSIs poses some risks in making an impact, since by nature MSIs are voluntary and indiscriminate, and sometimes this may be used to ensure that prospects of future external assistance by financial donors are maintained, a situation that has been termed “Open Washing”. These weak spots of MSIs are a possibility of covering up what governments are not achieving in the area the MSIs are operating, if the legitimacy is enhanced by participation in the MSIs. It helps powerful actors; participation in MSIs provide a low-cost way to acknowledge public criticism without making other, potentially costlier, reforms. (Brockmyer, 2016). In defense, Rich and Moberg (2015) assert that the EITI emphasises on minimum standards because, it is the better option ‘for getting on’ as opposed to not doing anything at all.

### **3.6 Challenges in pursuing success in MSI**

Some global governance literature provides guidance on assessing intermediate and long-term outcomes, but researchers tend to focus on the breadth of an MSI’s achievements across countries, rather than their depth in individual countries. For example, scholars have suggested looking at coverage (i.e., the number of firms or countries per industry or the extent to which new funding is generated for additional activities), and institutionalisation (Brockmyer & Fox, 2015:18).



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According to Brockmyer and Fox (2015), success in MSIs can be approached either from the international relations (IR) literature on global standard-setting bodies, or international development research and practice on social accountability interventions. They argue that MSIs tend to rely on compliance with the rules rather than how this can be used to achieve the ultimate purpose of the initiative. Input legitimacy, according to Brockmyer (2016), ends at checking the MSI for inclusiveness, participation and disclosures. Therefore, generating collective action by actors with diverse interests can be extremely difficult when public sector accountability is already lacking; and a citizen's voice is not an active channel for changing the incentives or for gaining more significant influence over public resource allocation, - unless it links to existing government accountability institutions, he argues, (Brockmyer, 2016).

With these risks and limitations surrounding MSIs, Levy (2011) suggests that the long-term benefits in MSIs could be achieved through the way an MSI is organised, and how its' structures of participation are allowed to evolve, bearing in mind, the MSIs' credibility, comprehensiveness, legitimacy enforcement and monitoring. Hence, Levy (2011) states that to be effective in global standard based MSI, "different approaches may need to be combined so that the whole can be more, rather than less than the sum of its parts" (Levy, 2011:25; Brockmyer, 2016).

### **3.7 Overview of the issues surrounding the extractive industry in Zambia**

Zambia is one of the world's major copper exporters. As ownership of the mines exchanged hands from private ownership under the colonial government to state ownership through nationalisation and then back to private ownership through privatisation, the revenue flow into the state's budget has not changed much - either under state or private ownership. In Zambia, the weak revenue generation under state ownership is often attributed to the poor performance of the sector. On the other hand, in the case of private ownership, low revenue flows are explained by the nature of the contracts, which provide exceptionally favourable incentives in the form of low taxes, low royalty rates and more extended stability periods. Illicit financial flows and transfer pricing schemes have also been cited as having deprived Zambia of the much needed resources (Zambia Chamber of Mines, 2016).

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Some estimates indicated that Zambia lost US\$17.3 billion (in real 2010 prices) in illicit capital flight in the period between 1970 and 2010. This situation was driven by an unaccounted for balance of payment movement as well as transfer pricing, mainly through manipulation of prices in trade between multinational companies in different tax jurisdictions (United Nations, 2018). Private mining companies in Zambia, through profit repatriation, have in the past, questionably appropriated windfalls and made dividend pay outs to foreign shareholders. The EITI crawled into this governance space, in consideration of the potential of mining in Zambia, its contribution to raising revenues for the country and the governance challenges therein.

Mining requires a lot of capital and its gains are only realised over a long period, so mining investors know that ignoring small changes in tax rates can have a disproportionate impact on cash flows and profitability, and push payback out by several years. Investors are therefore unlikely to commit their capital unless they feel the mining tax is sound. “The critical factor determining investment decisions is the geological potential of a site, but it is strongly offset by fiscal and sociopolitical considerations, including tax rates and the stability of the tax system” (Zambia Chamber of Mines, 2016:12).

An illustration of this is given of a case in Zambia, where a multinational oil company partnered with government to operate a known refinery; which ended up conducting itself in a non-transparent manner to evade taxes by reporting losses of up to US\$113.5 million. This multinational company ensured that it benefitted through service and consultancy fees, and through the supply of crude oil at exorbitant prices, as a sole supplier and was not affected by the loss (Sikazwe, 2010).

This is attributed to weak laws on related taxation and limited or lack of details on transfer pricing in Zambia. Another example is where mining “companies registered in Switzerland had copper producing subsidiaries in Zambia. One such Zambian based subsidiary reportedly sold copper to its Swiss-based counterpart at below-market price. Then, the Swiss-based company sold the copper at world prices as if it originated from Switzerland (netting the price difference as profit while consistently reporting losses in Zambia) in effect making Switzerland a “major copper exporter” (Sikazwe, 2010: 9).

The Panama files confirm that the persons behind oil, gas and mineral extraction may well use shell companies to hide behind. Recent focus and talk about beneficial

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ownership reporting are welcome in Zambia. Through the EITI, 51 countries are in an unprecedented way also collectively acting on beneficial ownership information. Beneficial Ownership information has enabled Nigerians to expose corruption and nepotism in the acquisition process of oil companies, besides asking companies to voluntarily disclose information on their ownership structure, as well as any politically exposed persons (EITI, 2016).

The mining sector in Zambia has vital national importance and makes an essential contribution to the national economy and development of resources. The EITI in Zambia operates in the environment of the issues highlighted in the Mining Investment and Governance Review Final Report of April 2016 as outlined below (World Bank, 2016):

- i. Insufficient resources allocated to attracting new investments.
- ii. The mineral policy is not well integrated into the national development framework.
- iii. Mineral revenues not shared with the local governments or communities.
- iv. There is an absence of a formal benefit-sharing framework.
- v. The mining industry lacks policy and realistic expectations for local content.
- vi. National development plans not integrating the mining sector.
- vii. Parliament's limited capacity for oversight of the mining sector.
- viii. The absence of a "whole of government" approach to mineral development, including environmental governance.
- ix. Weak and inconsistently applied public and inter-ministerial consultation mechanisms.
- x. A tendency for the government to rely on administrative orders rather than on legislative development and parliamentary review processes.
- xi. The need for the development of the capacity of the mining cadastre.

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## Chapter 4: Process tracing and the key moments in the Extractive Industry Transparency Initiative in Zambia

Zambia is one of the 51 countries implementing the Extractive Industries Transparency Initiative (EITI). The global initiative was inspired by both academic and journalistic literature due to natural resources mismanagement, abuse and corruption in resource rich nations. It was a response to the 'Publish What You Pay' (PWYP) campaign established following the 'Global Awakening Report' that highlighted an oil scandal involving government and oil companies in Angola (Rich & Moberg, 2015).

As a global standard, the EITI is supported at country level by a coalition of actors including, government, private companies, and civil society. The EITI promotes transparency and accountability in the management of oil, gas and mineral resources which are believed to belong to the citizens in any nation. The logic of the EITI is that good governance of revenues from the natural resources can have a significant impact on reducing poverty and boosting shared prosperity and thus escape the natural resource curse that has been challenging most resource rich nations. (Rich & Moberg, 2015; EITI, 2018).

Rich and Moberg (2015) further assert that in little over a decade (from 2002 to 2015) the EITI developed from a vague initiative, into a multi-country multi-stakeholder forum and then into a global rules-based transparency standard, leading to an accountability process with minimum requirements. The standard emphasises member countries timeliness and accuracy in reporting on their local mineral value chain activities (EITI, 2018). The most recent revision to the standard resulted into the 2016 EITI Standard, which replaced the 2013 standard. (EITI, 2016).

The Zambian government initiated the EITI in 2008. This was followed by a period of setting up and Zambia was formally designated as a candidate country in the global EITI in 2012. The Zambia Extractive Transparency Initiative (ZEITI) then continued with country-specific EITI efforts that led to Zambia being reviewed and validated by the international EITI in 2016. This led to the current status of Zambia as having made meaningful progress in the EITI implementation process.

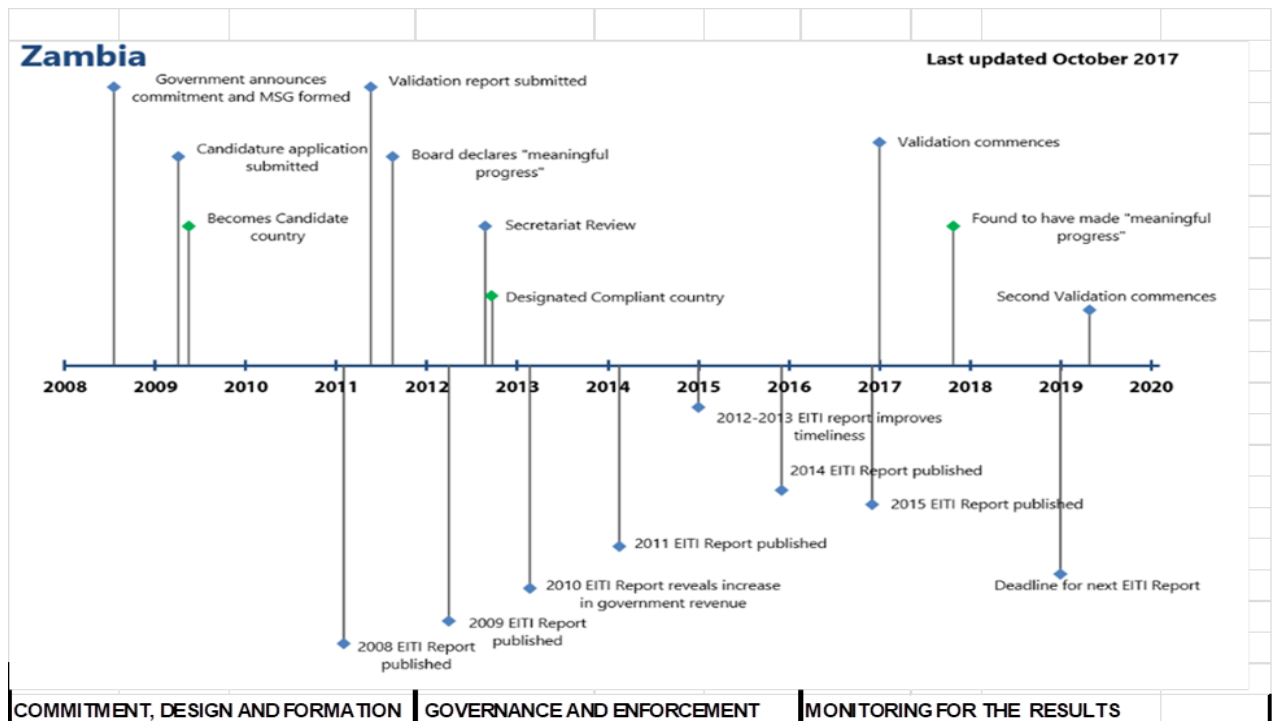
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The three periods that this study identifies include:

- a) the country commitment and ZEITI formation phase;
- b) the enforcement phase that tested the ZEITI governance at country level; and
- c) the ZEITI monitoring phase that saw the latest 2017 EITI validation, the scrutiny of its accomplishments and label of a progressive status. (ZEITI, 2018)

In this chapter the hypothesis, **H**: *In an international standard based global MSI, success is celebrated with no regards to the anticipated developmental outcomes, when developmental stakeholders and predatory stakeholders agree to 'standards' that do not affect what matters to the predatory stakeholders*, is examined. The chapter, therefore, considers the international standard based multi-stakeholder initiative concepts and theories discussed under the literature review section; in analysing the ZEITI key moments in Zambia, in examining the notion in hypothesis **H**. The considered ZEITI key moments are highlighted in the figure below.

**Figure 4: ZEITI Key moments**



ZEITI Key moments adopted from (ZEITI, 2018)

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### **4.1 Commitment, design and formation: the early years of EITI organisation in Zambia (2008 to 2011)**

#### **4.1.1 The EITI Standard: multi-stakeholder governance answering the mining industry transparency gap in Zambia.**

##### **i. ZEITI is formed amidst global EITI evolution**

The period between 2008 and 2011 of the EITI in Zambia exhibits the governance gaps that the ZEITI in Zambia was meant to close. Owing to the limits of the institutional framework in enhancing development in Zambia, the mining sector was in a state of crisis, requiring a lasting solution prior to the EITI (Andrews, 2013). Thus the EITI solution was adopted as a response to the governance gaps at the time. The Zambian government was struggling with overcoming the lack of transparency associated with specific privatisation deals, especially in mining (Rich and Moberg, 2015). This crisis was illustrated as early as 2002 in the form of negative public reaction when unions and NGOs staged a protest march against the sale of State-Owned Enterprises (SOEs). There was also government level disagreement about the way forward with the privatisation process as in the case of Mopani Copper Mines, which continued to be run by a board whose membership reflected the shifting balance between share owners, including the Zambian state which still held a minority interest via ZCCM-Investment Holdings (ZCCM-IH). (Lungu, 2002).

By 2007 the global EITI had about 12 member countries including the United Kingdom, Nigeria, Niger, Cameroon, Azerbaijan and Ghana. Before 2007, the EITI was run by a small team of DFID staff and member countries who developed a resource book, which guided EITI reporting and validation. In 2007, the Global EITI formed an organisation structure of its own with a secretariat and was starting to draw members from across the globe (EITI, 2018).

Zambia joined the EITI in 2008, following a scoping study in 2007 and an application to the EITI. The country made its EITI commitment in 2008 and became a candidate country in 2009, (PricewaterhouseCoopers, 2011); in the meantime by 2009 the EITI had evolved into a standard that had an established set of principles, criteria for minimum requirement, indicators and a framework of expectations for members. (Rich and Moberg, 2015).

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This came about when Zambian mining stakeholders held two meetings to create the MSG in 2007 and 2008, after which a memorandum of understanding (MOU) was signed by the stakeholders including government, civil society organisations and mining companies.

The Government of the Republic of Zambia (GRZ) established the Zambia EITI Council (ZEC) to spearhead the implementation of the EITI. ZEC constitutes a multi-stakeholder group comprised of civil society actors, extractive companies and GRZ. Thereafter, the ZEITI secretariat was established to support the operations of the multi-stakeholder group. ZEITI began submitting EITI reports and was first validated and declared to have made meaningful progress in 2011. (Price Water House Coopers, 2010:15)

The events that happened between 2008 and 2011 at global EITI level include:

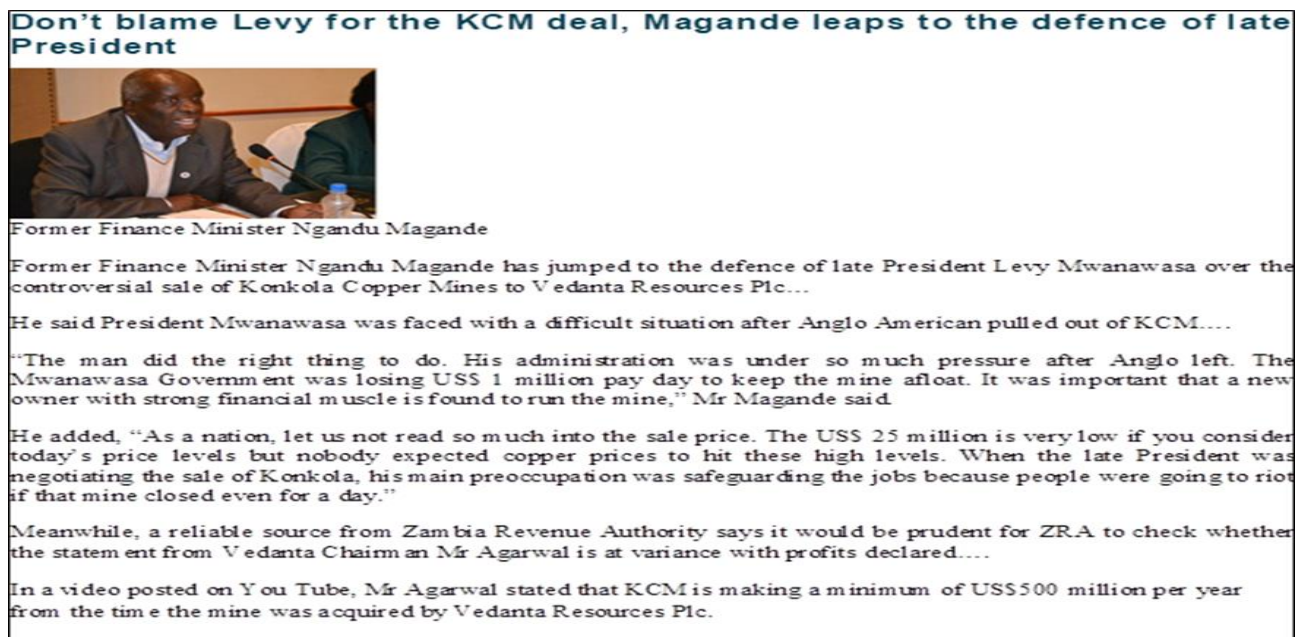
- a.** The EITI issued another version of the EITI standard in 2011.
- b.** the EITI validation guidelines evolved into a 'requirement' to be implemented by member countries and to be assessed by external evaluators;
- c.** the push for a requirement for EITI data to be both timely and regular and;
- d.** the move for the EITI to encourage countries to use the EITI platform for broader improvement of natural resource management. (Rich and Moberg, 2015).

### **ii. The ZEITI formation amidst local mining complexities**

The ZEITI started at a time when Zambia was recovering from the tax era of the late President Levy Mwanawasa's government, between 2001 and 2009. According to Sardanis (2014), Zambia had signed up to some mining deal which was opaque, giving the Zambian citizens a reason to be skeptical about the gains in the extractive industry, as the case of the deal between the Zambian government and Vedanta regarding the sale of Konkola Copper Mines, formerly owned by Anglo American, which pulled out of the Mine. The complexities of this issue are conveyed by the Zambian former minister of finance in his effort to clarify on the matter. See figure 5 below.

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**Figure 5: Sentiments of Former Finance Minister over the sale of Konkola Copper Mine to Vedanta**



Extract from Lusakatimes.com May 19, 2014

The matter of Vedanta Resources was further recently exacerbated by an alleged online video showing Mr. Argawal, the Vedanta main shareholder indicating that his company was making up to US\$500 Million per year from its Zambia operations whilst the company was posting losses and not paying taxes in Zambia, as stated in part in figure 5.

Furthermore, the Zambian government also experienced a challenge on relying on the Chinese for their foreign direct investment in the mining sector. There were trust challenges in the industry that were coupled with a general lack of capacity, constraining effective regulation. The operationalisation of the ZEITI was therefore a necessary move needed to overcome domestic limitation in holding mining companies liable to mining standards that promote optimisation of revenue for Zambia's development. (Sutton, 2010).

In this regard, the first ZEITI Independent Reconciliation Report published in February 2011, covering the period from January to December 2008 indicated that the difference between the amount declared by the extractive companies and the Governmental Bodies was up to ZMK 421bn (approx. USD 112 million). Moreover, the following year in 2009, when the scope of mining companies involved had increased, the discrepancies



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increased by ZMK 311,258 million or by 16% of the total amount declared by the governmental bodies (ZEITI, 2011).

This first period of the early ZEITI years in Zambia then experienced the passing of a new legislation by President Rupiah Banda, regarding the capture of a more significant share of revenue through a windfall tax system. The previous government left the country with limited revenue generation, attributed to poor management of the mines, exacerbated by the decline in copper prices, little revenue streams, and tax policies that provided overly generous terms to companies, as well as the practices of transfer pricing (IMF, 2015). The Banda government, however facilitated the change in that tax regime and abolished the 25% tax on windfall profits in the mining sector.

The controversial experience of the 2008 law in abolishing windfall tax and other controversial investment deals, motivated stakeholders in the industry to support the establishment of the EITI, which led to the Zambian government responding to the call to join the EITI in 2009. Zambia submitted the candidature application in 2009 and the country become a candidate country (Mining for Zambia, 2017; Rich & Moberg, 2015).

In the run up to the 2010 presidential elections, President Banda campaigned on a platform of economic growth and infrastructure development, after presiding over an economy that expanded by 7.6% before the election year and by 6.4% the year before. This growth happened notwithstanding the hundreds of millions of dollars sacrificed in state revenue from the abolition of windfall taxes. The President took advantage of the general peace and stability in Zambia and the positive country rating by international rating agencies to open Lumwana mine, Zambia's largest-ever greenfield investment, at a cost of \$762 million through engagement with Equinox which was financed by a consortium of 14 international banks debt financing package. The Lumwana Mine opening in 2009 was a moment of immense pride and achievement for the government, the local community and international investors.

However, leading up to the 2010 election that ousted President Banda and brought the opposition leader Michael Sata to power, the general public accused President Rupiah Banda's government of maliciously benefiting from the status quo as they were getting underhand payments from the foreign mining firms at the expense of the country (Kaunda and Sinyangwe, 2010). The government under Banda refused to reintroduce the windfall tax. There was also suspicion of revenue leakages during Banda's tenure

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and the EITI assisted with the discovery of unresolved discrepancies, which when investigated were found to have been arising from payment streams within the mining value chain, also explaining that Zambia was not spared by the African countries' problem of low tax rates at the time. In 2011 Zambia exported \$10 billion worth of copper and collected \$240 million in tax revenue, which amounted to only 2.4% of the export value (Adeleke, 2017).

On the other hand, the ZEITI was gaining traction in reporting on the production of revenue in the mining industry. The EITI validation process in 2010, after which Zambia was formally declared EITI compliant, made a series of recommendations to be undertaken by ZEC. While some of these recommendations were straightforward, others required a long-term approach (capacity development, deployment of resource-intensive methods, etc.) (ZEITI 2013:7). These issues were some of the factors the ZEITI noted and used to make recommendations to stakeholders in the industry to operationalise the EITI standard in Zambia (ZEITI, 2012).

By 2011, the ZEITI was aiming for validation at the international level so that they could be considered compliant to the EITI standard. First, the process involved the submission of independent validator findings of the EITI efforts in Zambia, showed the progress made since the previous validation and finally, the international EITI secretariat undertaking to ensure that Zambia had satisfied the conditions (EITI, 2012).

For Zambia, the EITI accepted a request for a waiver to undergo second validation upon showing evidence that efforts were being made towards the recommendation that had been earlier made from the first assessment (cognizant to the mining industry issues experienced in both the Mwanawasa and Banda Eras). These recommendations included the creation of a legal mechanism for sharing of mineral royalties as prescribed by Article 136 of Mines and Minerals Act of 2008, the creation of a comprehensive database to capture detailed information on mining companies, orientation of ZEITI participating entities on the international EITI standard requirements including such issues as international standard audit certification, reporting and adherence to reporting timelines. The board hence declared Zambia as having made meaningful progress regarding EITI implementation in 2011 (EITI, 2018).

#### **4.1.2 Achieving multi-stakeholder comprehensiveness**

##### **i. ZEITI efforts in including all stakeholders in the MSI**

Ongoing issues in the industry influenced Zambia's commitment to the EITI and application for candidacy. The EITI design at the local level, for instance, shows that efforts were made to increase the scope of the private companies involved in the 2009 ZEITI Reconciliation (ZEITI, 2011). ZEITI stakeholders who participated in this study indicated that the national situation regarding issues with the Konkola Copper Mine deals in the Mwanawasa Era, the threats of the Chinese mining companies and the mistrust by the citizens was reasonable ground for the country to join the EITI. Therefore, for legitimacy, the EITI encouraged all stakeholders to join the EITI voluntarily. The EITI became a platform where these key stakeholders met to deliberate on the various matters that pertained to the mining industry.

The Center for Trade Policy and Development (CTPD) Executive Director, who was a civil society representative on the EITI MSG as well as Chairperson of the ZEITI MSG for two years indicated that his role as Chairperson had been galvanising multi-stakeholder opinions and consolidating civil society position on matters about the extractive sector.

##### **ii. Navigating the ZEITI comprehensiveness challenges in its formation**

In line with Rich and Moberg (2015), the respondents in this study revealed that challenges on the comprehensiveness of the ZEITI included the extent to which stakeholder capacity (including financial muscle) could influence participation. The MSI task of collaboration, debate and capacity to engage, required stakeholders to travel between provinces and in some instances, there was a need for refunds or logistics and accommodation cover to achieve this. Some of the stakeholders revealed that there was pressure from other commitments. Furthermore, although not so apparent, stakeholders came on board the ZEITI because they expected certain perceived incentives unrelated to the EITI objectives - like donor support. These stakeholders became frustrated with dwindling donor funding to the ZEITI every subsequent year.

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A further challenge to comprehensiveness revealed by the stakeholders who participated in this study relates to some Zambian mining industry players, like the Chinese private mining companies, who did not see the declaration of revenues and beneficial ownership as necessary. This scenario produced a distorted picture since not all companies in the industry were fully participating in the declaration. For inclusiveness of the MSI, participation and disclosures are essential in order to be useful to potential users and generate collective action in the Zambian mining space where there is lack of public sector accountability; and where citizen voices lack influence over public resource allocation, which is not linked to existing traditional national accountability processes (Brockmyer & Fox, 2015).

A respondent representing the Bank of Zambia (BOZ) on the ZEITI MSG revealed that the EITI had over the years cultivated diverse membership and participation at different levels in the industry. This membership brought rich information and experiences from the mines, government, and civil society (including the miner's unions) to the table, which, he said assisted the stakeholders to know what others in the industry were doing. For instance, if a mining company had some issues, the EITI would provide a platform for engaging these stakeholders with the Ministry of Mines to deal with those specific issues.

The ZEITI stakeholders who participated in this study recognised that stakeholder group interest could influence participation in MSGs sometimes, but they also maintained that the EITI thrives on these diverse interests to ensure that all issues in the mining industry are addressed and galvanised by the international standard that applies to all stakeholders. Thereby, "building the movement" by getting the right messages across in the industry (Rich and Moberg, 2015).

### **4.1.3 Embracing the EITI principles as a foundation for the ZEITI formation in Zambia**

Stakeholders interviewed in this study dispelled the critical view that the EITI risked being an isomorphic mimicry kind of solution, merely implemented to gain donor legitimacy for the country and used for 'whitewashing'. The ZEITI stakeholders maintained that their experience was that the initiative relied on international principles of the EITI with an appreciation of the local challenges. For example, in the case of deriving transparency in the allocation of mining rights, the EITI principles on transparency allow countries to have a different way of providing the information without the need to copy and paste

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solutions from other countries. In the Zambian Mineral Value Chain Mechanism, country-specific software was designed to monitor the production and other statistics in the value chain and with regards to the crucial gaps highlighted in the first EITI validation process in Zambia (ZEITI, 2016). “Zambia uses the simple example of publishing Excel-files containing the information of the country EITI data” (Claussen, 2017).

The stakeholder’s interviewed in this study also emphasised that benchmarking of EITI principles as opposed to copying advanced western world systems was the basis on which ZEITI operated. ZEITI always considered its ‘theory of change’ and then mainstreamed relevant practices into the Zambia mining sector. An example of this is the case of the EITI declaration of Beneficial Ownership (BO), - the need to know who the beneficial owners of mining companies in Zambia are (ZEITI, 2011). This was piloted in Zambia from 2013-2015 (ZEITI, 2016)

Initially, the Zambian mining law did not expressly provide for BO disclosures, but stakeholders realised it’s importance in preventing corruption and other vices such as tax evasion through transfer pricing in the sector, and they pressed hard in getting the Patents and Company Registration Authority (PACRA) to assist in capturing BO information on mining companies in the industry (ZEITI, 2010). When the ZEITI reports relating to 2008 and 2009 were produced in retrospect in 2010 and 2011, efforts to produce a reconciliation report based on BO were realised, adhering to the commitment to the international standard, as drawn from the EITI principles. This has been a practical MSI solution ensuring that the stakeholders were acting in the best interest of the industry (Samson et al., 2017; ZEITI, 2010; ZEITI, 2011; and Brockmyer, 2016).

### **4.2 Enforcement and testing: implementing multi-stakeholder governance through the EITI standard in Zambian extractive industry (2012 to 2015)**

The period between 2012 and 2015 saw the EITI implemented in Zambia and the 2013 standard enforced at a global level. Apart from calculating benefit from the EITI, this period faced complexities and challenges including the ZEITI navigating the mining industry in Zambia. Legal issues for the EITI implementation and the competing interest and political influences of stakeholders in the industry were some of these complexities. The workability of the EITI standard at a local level was thus tested through the ZEITI production of EITI reports, adhering to the recommendations from the strategic review,

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and ZEITI providing a platform for responding to the highly unstable Zambian mining tax system (ZEITI, 2016).

To become EITI compliant Zambia was required to produce reconciliation reports on mining, showing what companies payed to the government and what government received as revenue from mining companies, and to produce a validation report as a quality assessment mechanism to ensure that EITI principles and standards were adhered to (EITI, 2018).

By 2012 Zambia had produced the 2009 EITI report with consideration of the remedial measures from the 2008 report. In 2012 the EITI secretariat reported progress on the 2011 validation of findings as well as progress on the global EITI Board recommendations. This assessment resulted in Zambia being designated an EITI Compliant country in 2012 (EITI, 2018).

Some of the ZEITI activities towards the ZEITI objectives highlighted by the stakeholders in this study included publication of reports showing revenues collected and payments received, to ensure transparency and accountability in the industry; dissemination of the reports to ensure that the public understand activities in the industry, to steer debate, learning and research as well as engaging with various stakeholders on policy reform options (as exhibited by the inclusion of the EITI bill and the BO declaration by mining companies in Zambia).

Some of the execution challenges the EITI process responded to in this period are as follows:

### **4.2.1 Navigating the Zambian legal framework to ensure “a fit” in filling the necessary governance gaps in the mining industry.**

One of the first tests for the ZEITI was the experience with the challenge of operationalisation in line with various modern statutes and laws. According to Kapdi and Parring (2018) this kind of situation poses a challenge to the mining sector as the legislation universe is dynamic. In this period, the extractive industry interacted with Zambia's amended Constitution, the new Companies Act, the new Insolvency Act, the Banking and Financial Services Act, the Securities Act, the Mines and Minerals Development Act, the Water Resources Management Act, the Patent and Company

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Registration Act and the Environmental Management Act. All these laws generally reflected international best practice for regulation, but some of the office holders, regulators, boards or dispute resolution tribunals were not in place at the time and all of these laws needed to be engaged in their own right as authorities. (Kapdi and Parring 2018; ZEITI, 2013).

The stakeholders interviewed in this study, also highlighted that by 2013 there were already concerns about the challenges regarding EITI reporting. They indicated that the process of the enactment of the ZEITI Bill was underway in 2013. This Bill aimed at supporting EITI implementation, and mainstreaming EITI activities in Zambia. This was seen as a process that would sanction declaration of beneficial ownership by all mining companies to avoid colluding among predatory stakeholders in the industry in Zambia. For instance, up to the present, the mining companies are not mandated by the Mines and Mineral Act to declare BO; instead, this information on BO is scantily collected from the Patents and Company Registration Authority-PACRA in Zambia through an administrative arrangement established from EITI efforts. Apart from the production of a more analytical report, the Bill would enhance EITI reporting by stakeholders and was expected to address the need for the ZEITI to concentrate on monitoring results to save time and resources (ZEITI, 2013).

### **4.2.2 Navigating stakeholder politics, to ensure “a fit” in filling the necessary governance gaps in the mining industry.**

#### **i. Stakeholder consensus building in the implementation of the ZEITI**

Although the stakeholders interviewed claimed their focus as a MSG was in settling on the ZEITI agenda based on all parties in the industry, the temptation by one party to influence others cannot be ignored, considering the nature of complexity in licensing, tax, and social responsibility of the extractive industry. Mining investment is expensive, and investors want to maximise profits, while citizens want to see the benefits of the natural resources. The ZEITI process must therefore take these factors into account when moderating the multi-stakeholder interest group's pursuit of individual interests through the EITI (Baumann-Pauly et al., 2016).

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To achieve a balance in both politics and economics, the ZEITI based its organisation on six representatives from each of the three MSGs whose decisions are typically based on consensus. The Secretary to Treasury, who is a senior government official, is the chairperson of the ZEITI MSG, and the co-chairperson is a civil society representative on the MSG (ZEITI, 2018). As of 2017 the MSG was composed of the organisations in figure 6.

**Figure 6: ZEITI Multi-stakeholder Group Composition**

<b>ZEITI Multistakeholder Group Composition</b>	
<b>Government Representatives</b>	<b>Civil Society representatives</b>
ZEC Chairperson (Secretary to Treasury)	Southern Africa Resource Watch (SARW),
Ministry of Finance	National Environmental Forum (NEF),
Ministry of Justice	Extractive Industry Transparent Alliance (EITA),
Ministry of Local Government	Action aid.
Permanent Secretary – Ministry of Mines	The Publish What You Pay Zambia
Zambia Revenue Authority	Council of Churches in Zambia
Bank of Zambia	
<b>Mining Companies Representatives</b>	
President – Chamber of Mines	
Country Manager – Metorex	
Proxy – Chamber of Mines	
Konkola Copper Mines	
AZMEC (Anglo-America)	
President - Small Scale Miners	

Therefore the ZEITI has been, fostering stakeholder collaboration by focusing on the ‘right people’ in the industry (Rich and Moberg, 2015).

**ii. The ZEITI implementation versus the mining policy and tax debates in Zambia.**

The ZEITI cannot ignore the political and economic debate on mining policy and taxes, a dark environment that is to be navigated in achieving its objectives (ZEITI, 2016). For instance, there were concerns about the need to increase investment from the extractive industry, primarily through Zambia’s Consolidated Copper Mines Investment Holdings, ZCCM-IH, a state-owned enterprise. This was coupled with a growing urge for government to formulate guidelines to ensure that the mining contracts it signs with the investors also served the interests of the local communities and the mine workers (Topf,



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2012). These concerns also involved the issue of SOEs especially with respect to their accumulated national debt (Mumba, 2014).

This argument was a platform on which President Michael Sata campaigned to yield results from the 2011 electorate. Sata announced the suspension of foreign auctioning of emeralds and ordered that all precious stones mined in Zambia be sold in the country to boost revenues. He further ushered in mineral tax changes, amid mine owner protests. Some sectors of society saw these drastic changes as a way of ignoring the people's plea and maintaining favourable deals for the large Chinese mining investors at the time. This led to miners on the Copperbelt desperately seeking redress from government (Mumba, 2014).

The current President, Edgar Lungu's tax regime, just like most in the past thrives on a low level of information and misalignment of individual and group interests with broader social interests (Lundstl et al., 2015). Zambians and the EITI cannot run away from the fact that mining players are influential in various processes in the mining industry (Jordana and Levi-Faur, 2004; Brockmyer, 2016). Reacting to the 2015 national budget plans in 2014, some mining companies threatened to shut down due to displeasure, (IMF, 2015). Most recently( as alluded by a respondent in this study), mining houses threatened to lay off thousands of workers in response to government changes in the 2019 budget over the increase of mineral royalty, abolition of value added tax which was reclaimable and its replacement with sales tax which is not claimable.

Furthermore, there was public outcry over the Zambian tax regimes favouring the mining companies and encouraging tax schemes including transfer pricing, hedging and trading through "shell" companies in 2015 a year before the re-election of Edgar Lungu as president of Zambia (World Bank, 2016).

President Lungu brought optimism with the 2015 budget in Zambia which introduced significant changes to the mining fiscal regime. It moved away from a system comprising a uniform royalty rate of six percent, corporate income tax and a variable income tax, to a royalty system with differentiated rates for underground mines at eight percent and open cast mines at 20%. However, this also left questions about the political will of government to enter uncomplicated mining deals amidst worries about the low contribution of the mining sector to budget revenues- a national dilemma that the ZEITI meant to resolve in its implementation in Zambia (The IMF, 2015; ZEITI 2018).

**4.2.3 The ZEITI balance between being a Global Standard and being a national process is an achievement in itself**

**i. Improvement in both the content and timeliness in production of the ZEITI reports**

The Global EITI undertook an extensive strategic review addressing issues in the 2011 standard, highlighting of the need for the EITI to provide comprehensive and reliable information for stakeholders, linking EITI with processes around tax collection, extractive policy and budget arrangements and ensuring that the initiative moves from just compliance. The new 2013 standard at the time was aimed at making EITI reports more understandable; making the EITI relevant in each country; being more accurate on disclosures of mineral resource payments, receipts and beneficial ownership; recognising countries that went beyond minimum compliance in meeting the standard and having a more precise set of rules (Rich and Moberg, 2015; ZEITI, 2014).

In its early years, the ZEITI struggled with lack of real time data processes to inform the necessary debate. This study revealed that ZEITI was able to gain stability in the production of reconciliation reports. For instance, resulting from the indicators of small local structures and audits systems, the 2016 reconciliation report was produced in 2018, which, although two years behind was an improvement from the past years when Zambia was more than four years behind in the production of these reports (ZEITI, 2017). These reports have in the recent years facilitated discussions about policy on mining contracting processes, tax payments, and how the government spends the revenue it receives in Zambia (Brockmyer & Fox, 2015).

To achieve success, the standard in an MSI should generate indicators that more clearly align EITI activities with core national level activities (Brockmyer & Fox, 2015). Government is after all the custodian of the outcomes of the EITI process. This study noted that in Zambia, the mining industry contributes over 70% of foreign exchange into the country, hence the ZEITI emphasis on industry transparency and multi-stakeholder watch. As a step towards mitigating transfer pricing, hedging and trading through “shell” companies; and creation of a platform for sharing information about the mining sector, the ZEITI advocated for the implementation of the Zambia Mineral Value Chain Mechanism, (ZEITI, 2017) which promotes disclosure and monitoring from “preliminary studies and discussions about whether to extract, through the contracting process, to tax

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payments, to how the government spends the revenue it receives” .(Brockmyer & Fox , 2015:28).

### **ii. Government efforts in maintaining comprehensiveness through legislation**

Multi-stakeholder comprehensiveness in terms of increased participation by key stakeholders such as the mining companies’ entailed continued transparency and accountability about the revenues collected. The EITI being a voluntary process posed the likelihood of missing out on this opportunity, therefore, the ZEITI begun in this period, a process to enshrine the MSI into law. It is worth noting that the ZEITI reports produced in 2013 and 2014 revealed that there was a steady increase in revenues collected from the mining sector, but also that the discrepancies noted in the reconciliation were increasing. These reports were therefore used as a tool for discussion at various forums, as then it was not just speculation by stakeholders and citizens at large, but sound argument for debate through EITI information (ZEITI, 2014; ZEITI, 2015). This is what gave rise to the introduction of the ZEITI Bill.

### **iii. Governments support of the sustainability of the EITI process**

According to the stakeholder interviewed in the study, the Zambian government made tremendous efforts in owning the MSI process with the aim of ensuring sustainability (Van Huijstee, 2012). After reaping the apparent EITI benefits, the Zambian government has stepped up to the EITI challenge through their efforts in financing a ‘working secretariat’- the ZEITI secretariat, and complementing the initial predominantly foreign financed ZEITI through inclusion in the national budget. In the interest of sustainability, the Zambian government and the ZEITI have been taking such right steps towards their transparency and accountability goal, (Rich and Moberg, 2015) by funding ‘the dialogue,’ the BO efforts and the whole Mineral Value Chain Mechanisms. There is EITI allocation in the Zambian national budget in which the government provides 80% of the ZEITI operational funds annually (EITI, 2018).

## **4.3 Monitoring EITI results in Zambia: The ZEITI celebrates meaningful progress (2016 - 2018)**

### **4.3.1 Accomplishments of the ZEITI in Zambia**

In Zambia, the extractive industry stakeholders from the government, the private sector and civil society have come to terms with the limitation inherent in their interest groups, and appreciate the potential benefits arising from the interests of competing

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stakeholders. The ZEITI stakeholders, in this study indicated their appreciation of the accomplishments of the EITI international standard as an external authority that assists in moderating stakeholder's powers in the extractive industry in Zambia. Some of these benefits are highlighted below.

### **i. The convening power of the EITI in Zambia**

The ZEITI has been able to facilitate stakeholders in agreeing and making a recommendation on reform. This study revealed that in December 2018, the ZEITI conducted training for ZEITI stakeholders on Financial Modeling, so that issues of royalty tax, for instance, which have been a contentious issue in Zambia, could be resolved. This is aimed at providing a pool of stakeholders that are able to create financial models, read them and interpret them to fellow stakeholders and the public, thus contributing to the changes in the industry, to avoid an impasse between government and mining companies in the event of increases in mining taxes (ZEITI, 2017). The availability of verifiable data has helped government to argue its case that revenue collection from the mining sector was not optimal, and the data has also demystified the many rumours held by the public regarding the sector.

### **ii. The double-edged benefit to mining companies and the mining communities**

The mining companies are happy to report through the ZEITI framework without being suspected of engaging in illicit activities, hence gaining credibility and legitimacy in the industry. The mines have also made the ZEITI a platform for showcasing their community social responsibility efforts and contributing to moving away from just collection of revenues to mineral revenue sharing, and utilisation, in line with EITI payments at sub-national level elements according to EITI requirement 5. In Zambia the revenue from the mining sector loses its identity when it is remitted to the Treasury because it is mixed together with revenues from other sectors. However, in districts where mining companies are located, the Zambia district councils use 10% of the property rates paid by mines for the betterment of the community, although this was not the case for Solwezi District Council which received 23 000USD in 2014, without extending the same to the community (ZEITI, 2017). ZEITI have been exposing such discrepancies as well as pushing for an extension of this process to the "sharing of royalty taxes" received by the Treasury with the community in which the mines are located, for transparency purposes.

**iii. ZEITI: A credible voice for the Civil Society Organisations (CSOs)**

Stakeholders interviewed indicated that CSOs involved with the ZEITI showed credibility concerning their standing especially those elected to co-chair of the MSG. According to the ZEITI secretariat representative interviewed in the study, the country has greatly benefited in that, some participating CSOs who were formerly 'slogan driven' have 'come around' after working on the EITI and now appreciate the data that should drive the extractive industry in formulating reforms.

**iv. The EITI Standard has encouraged innovation in the governance of extractive industry stakeholders in Zambia**

Legal and policy regimes including taxation regimes are critical to mining companies in deciding how valuable mineral deposits brought to the market are. It is what tips the balance between competing mining projects. In 2016, Zambia's president Edgar Lungu faced the tough choices ahead of the August elections, with a choice between losing the Mopani Copper Mines (MCM) investment of over US\$1 billion as part of its construction of three new mine shafts, thus risking thousands of jobs in the mining sector, and safeguarding the oncoming election that year by maintaining the citizen favoured tax regime (Suris, 2016).

The citizen favoured tax announcement of 2015 had generated displeasure among mining companies; however, the joy to the Zambian citizenry was short-lived as it was offset soon after President Lungu was re-elected to power in 2016. In 2016, the Zambian government introduced a new Mineral Royalty Tax based on a sliding scale that varied between four and six percent. The new legislation was readily accepted by the mining companies as a move toward pragmatic and realistic tax policy, and according to the mining companies this was indication that government viewed the companies in the industry as partners in development (Zambia Chamber of Mines, 2016).

Further, it was apparent that Zambia had continued to experience bottlenecks constraining the mining sector's growth potential. These bottlenecks included the instability of its mining and fiscal policies; lack of strong domestic procurement policies; budget opaqueness; as well as lack of integration of the mineral sector into national development planning. These bottlenecks continued to pose serious gaps in

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development. However, the country has also continued to foster increased openness, transparency and independence of the licensing authorities through an updated Mines and Minerals Act (2015) which also prescribes the implementation of the EITI (Zambia Chamber of Mines, 2016).

In 2016, the Mining Investment and Governance Review report by the World Bank highlighted Zambia's mining challenges, and these are the areas, which the ZEITI considered in drawing their 2016 to 2020 strategic plan (The World Bank, 2016; ZEITI, 2015). ZEITI Stakeholders interviewed in this study thus indicated that the ZEITI was making efforts to committing to better policy stability for the mining sector through the following interventions:

- a.** Informing the debate on tax regimes, and the integration of 'the mineral sector into national development plans';
- b.** Instituting mechanisms, to ensure meaningful consultation among all stakeholders;
- c.** Influencing policy in the mining industry including ensuring registration of mining companies with PACRA to foster better transparency (the recommendation to legislate the EITI process giving rise to a draft EITI Bill, and recommendation and dissemination of information are the steps toward change although very slow and frustrating);
- d.** Developing (and subsequently implementation) of local content, local employment and local development policies for the mining sector The idea is to expand the scope of the report to include issues that are part of the Policy discussions in the country and as means to diversify the economy and create economic linkages between the mining sector and other sectors of the economy;
- e.** Adequately resourcing sector regulatory and monitoring agencies, particularly ZEMA and geo-data services; which has taken long and the EITI is still pushing for these through mainstreaming of the EITI process amidst the legislative challenges that exit;
- f.** Ensuring communication and coordination among ministries that can affect the mining sector;
- g.** Ensuring that the ZEITI secretariat goes beyond the collection of data and put emphasis on the use of this data to stir debate and influence reform.
- h.** Efforts at influencing public financial management, including budget management and public investment programs, in order to not only optimise revenue from the extractive industry, but also to influence the expenditure thereof;
- i.** Managing government discretion in mining licensing decisions, and making what discretion there is, transparent and accountable.

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(The World Bank, 2016).

These are some of the things that the ZEITI stakeholders in this study highlighted as first steps in tackling the extractive industry issues in Zambia and they noted that the ZEITI is actively addressing the issues. “Even if results for these efforts might not be apparent now, it is something that should have been implemented a long time ago considering that the mining problems are not new. The problem is huge, and the task is large, but with time the difference will become apparent,” indicated one of the respondents in the study.

### **4.3.2 Zambia’s compliance with the EITI Standard and what it means**

The latest EITI validation based on the 2016 standard, which commenced in 2017 on the progress of the ZEITI found Zambia to have made meaningful progress. This validation process showed that Zambia has made several strides to ensure that there was disclosure of revenues by mining companies to enable government to collect revenues according to the global EITI standard. The 2017 validation also noted the need for improvement in some areas of disclosures of information in the extractive sector, and the potential use of this data in addressing issues in the mining sector (ZEITI, 2018). The ZEITI validation scores are highlighted in figure 7.

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**Figure 7: The 2017 EITI validation score for Zambia**

EITI Requirements		Level of Progress				
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond
MSG oversight	Government engagement (#1.1)				█	
	Industry engagement (#1.2)				█	
	Civil society engagement (#1.3)				█	
	MSG governance (#1.4)				█	
	Workplan (#1.5)				█	
Licenses and contracts	Legal framework (#2.1)				█	
	License allocations (#2.2)		█			
	License register (#2.3)				█	
	Policy on contract disclosure (#2.4)			█		
	Beneficial ownership (#2.5)	█				
	State participation (#2.6)				█	
Monitoring production	Exploration data (#3.1)				█	
	Production data (#3.2)			█		
	Export data (#3.3)				█	
Revenue collection	Comprehensiveness (#4.1)				█	
	In-kind revenues (#4.2)	█				
	Barter agreements (#4.3)	█				
	Transportation revenues (#4.4)	█				
	SOE transactions (#4.5)				█	
	Direct subnational payments (#4.6)				█	
	Disaggregation (#4.7)				█	
	Data timeliness (#4.8)				█	
	Data quality (#4.9)				█	
Revenue allocation	Revenue management and expenditures (#5.1)				█	
	Subnational transfers (#5.2)	█				
	Distribution of revenues (#5.3)	█				





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when in fact it is withholding colossal amounts of money in Value Added Tax (VAT) refunds to the mines. It had to take the government to clarify that the mining companies were the ones owing government K14.6 billion from 2013 and 2014 transactions in which some mining companies had fraudulent claims. The government added that it was making efforts to protect government revenue and eradicate fraudulent refund claims and associated revenue leakages (Funga, 2017). The stakeholders from this study indicated that the ZEITI made active efforts in appealing to stakeholders such as the Zambia Revenue Authority and the Zambia Chamber of Mines in settling this matter through the use of available data from the EITI (Zambia Chamber of Mines, 2016).

The recommendations from the validation that saw the EITI being rated a success in Zambia, also address many issues that the different players in the mining industry needed to focus on (Kapdi & Dentons, 2019; ZEITI, 2018). These include:

- i. recommendations to government to continue the facilitation of efforts in ensuring comprehensive information gathering and sharing on the process of license transfers;
- ii. issues of Ministry of Mine and Mineral Development Act concerning contractual provisions that affect the disclosure of contracts in the petroleum exploration;
- iii. Issues of rules and practices regarding the financial relationship between the government and state-owned enterprises and third-party financing are sorted to ensure production data;
- iv. follow-up on report recommendations; and
- v. ensure that public statements continue to include commitments to extractives industry transparency and the EITI,

Rich and Moberg (2015) assert that in the EITI process, the disclosed information is not taken as an end but is used by all stakeholders to foster reform in the mining industry. An example is the ZEITI emphasis on the need to collect information on a project level unlike the company level, that can enable the community to see and trace from which projects mineral revenue is derived,” as noted by CSO respondents in the study.

For the ZEITI secretariat, the recommendations from the validation process border on issues of MSG comprehensiveness and legitimacy which were still not adequately collaborated.

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These include:

- i. strengthening the collaboration between civil society representatives on the Zambia EITI Council, ZEC;
- ii. the engagement of artisanal and small-scale mining sector who were not involved in the past; and,
- iii. ensuring that the ZEITI regulatory framework was enforced.

The ZEITI stakeholders were also encouraged to continue with efforts towards improved licensing, data availability in the Cadaster Unit at the Ministry of Mines and to address the gaps identified in the ZEITI report's which are also the critical elements that informed the ZEITI 2016 to 2020 strategic plan development (ZEITI, 2017; Kapdi & Robert 2018).

#### **4.4. A Critique on the EITI success in Zambia's extractive industry**

Critics have indicated that information disclosure has not empowered the citizens in terms of benefiting from the extractive industry in terms of optimal revenue collection and the use of that revenue by the Zambian government towards social economic development. Whilst it is one of the EITI requirements, the government has not satisfactorily demonstrated that it has used the little revenue collected from the mines for social economic development. Proponents of this notion assert that the desired change or impact requires 'translation, aggregation, benchmarking, simplification, and communication'. It also requires showing that the revenues collected were spent prudently (Brockmyer & Fox, 2015; Kapdi & Robert 2018; Levy, 2014).

## **Chapter 5: Conclusions**

This study explored international standard based global MSIs success and contribution to sustainable development. The study thus, asked whether these MSIs could fetch meaningful change towards developmental outcomes. In this regard, whether there was optimisation of revenues from the extractive industry through the EITI in Zambia.

The hypotheses for this study was as follows:

- ❖ **H:** In an international standard based global MSIs, success is celebrated with no regards to the anticipated developmental outcomes, when developmental stakeholders and predatory stakeholders agree to 'standards' that do not affect what matters to the predatory stakeholders.

Through tracing the experiences of the EITI processes, this study explored the possible causal mechanisms in the EITI that influenced the MSI direction in Zambia. The methodology also endeavoured to reveal the obscured causal factors that influenced the EITI experiences in Zambia (Alexander & Barnett, 2005). The experiences and outcomes (key moments) regarding the EITI was used to determine the extent to which the EITI contributed to the developmental change brought to the extractive industry. The concepts and theories related to MSIs that have been expounded by other researchers were explored and used in illustrating these key moments.

### **5.1. The EITI contribution to Zambia's development**

Three significant periods on the ZEITI timeline conforming to its key moments enabled the study to respond to the hypothesis (**H**) about whether the EITI process genuinely contributed towards development outcomes in Zambia in the reviewed timeline. In other words, 'whether developmental stakeholders and predatory stakeholders in the extractive industry agreed to an EITI standard that did not affect what matters to the predatory stakeholder, resulting into the success of the EITI in Zambia being celebrated with no regards to filling up the developmental gaps that the EITI was created for.'

Throughout the ZEITI implementation timeline, the study revealed challenges in the Zambian mining industry that the MSI was created to mitigate, including issues of the prevailing tax regimes, tax evasion, and corruption in the reporting process. This was coupled with serious concerns from citizens that government needed to address these

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challenges to avoid mining revenue leakages as well as enable the channeling of the revenue collected from the industry to social economic development.

Firstly, in the early years of commitment, design and formation, from 2008 to 2011, the ZEITI worked hard to ensure its multi-stakeholder governance was able to answer to the long-term mining industry transparency gaps in Zambia. This was pursued amidst local complexities and the evolving EITI Standard at the global level. The complexities included national politics, as well as other social economic complexities. During its early enforcement years, the ZEITI also strived to achieve multi-stakeholder comprehensiveness in its organisation, through efforts to include all stakeholders in the extractive industry in Zambia, as envisaged from the ZEITI MGS composition. EITI also ensured that stakeholders such as the Chinese who were initially not very interested in the EITI process were made a part through mandatory national processes, such as the PACRA registration. Advocating for the inclusion of the Artisan miners in the ZEITI reconciliation reports, which is underway, is yet another example.

Secondly, in its implementation and the testing of its applicability in Zambia, the ZEITI showed improvement in both the content and timeliness in production of the ZEITI reports. The MSI showed progress in mainstreaming its processes into government, through for example, the Zambian government stepping up to the EITI challenge of financing EITI activities and championing the MSG, through the Secretary to Treasury, a senior government official being the chairperson of the MSG. These steps by government who are the major custodians of the EITI outcomes, gave the ZEITI the balance between being a 'global standard' and being a 'national process', which is a MSI success.

The ZEITI also relied on the EITI principles as foundation for mainstreaming the EITI into the national processes, as is the case in the development of the Zambian Mineral Value Chain Mechanism suited for the country local needs and capacity and aimed at tracking the extractive industry taxes and revenues in Zambia.

This study has revealed that, in its formation and implementation, the EITI navigated some challenges in Zambia, including the cloudy Zambian legal framework, to ensure "a fit" in filling the necessary governance gaps in the mining industry; and also navigated the complex stakeholder politics, to ensure "a fit" in filling the necessary governance gaps in the mining industry. The ZEITI has hinged on building stakeholder consensus;

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and ensuring relevance in national debates on mining policy and tax through the provision of tax payments and receipts data in Zambia.

Finally, this study discussed the phase of monitoring of EITI results in the extractive industry in Zambia - the period from 2016 to 2018, in which ZEITI celebrates 'meaningful progresses' as validated on the global EITI level notwithstanding the serious challenges Zambia is still facing in the extractive industry.

The EITI in Zambia celebrates several accomplishments including convening and empowering the voices of relevant stakeholders in the industry; and building mining companies' confidence in social responsibility through the sub national payments by mining companies as well as local content reporting. The EITI Standard has also encouraged innovation in the governance of the extractive industry stakeholders in Zambia, by steering debate toward related mining policy reforms and advocating for transparency and accountability processes. These processes include the declaration of BO by mining companies required as part of the company registration process in Zambia. The ZEITI Score from the 2017 EITI validation indicates that Zambia has made meaningful progress in complying with the EITI Standard. (Adam Smith International Independent Validator, 2017).

Despite this, the mining sector in Zambia is still experiencing governance challenges after the EITI implementation, the bottom line is that it has been rated by the Global EITI as having made meaningful progress because ZEITI has been achieving incremental progress toward fulfilling its objective and this should not be ignored or labeled negatively.

Although not in plain sight, the ZEITI has guaranteed the optimisation of extractive industry revenue in Zambia over the years. The MSI has innovated to fill in the governance gaps in Zambia's mining industry; it has steered mining policy reforms and has been striving towards learning and adaptation, as in the case of the mining legal framework in Zambia.

The study concludes that although ZEITI has yet to address some of the deeper mining issues in Zambia, it has so far achieved multi-stakeholder collaboration through MSG organisation, among other things; and its option of responding to the EITI requirements was better than that of not doing anything at all, while expecting developmental outcomes

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in the extractive industry (Rich & Moberg, 2015; ZEITI, 2013). The ZEITI ensured that, through the global EITI secretariat remedial measures were undertaken, stakeholders were systematically organised, the structures of participation evolved according to need, and monitoring of progress was conducted. This was therefore enough for international standard based multi-stakeholder success in complex environments such as Zambia.

The stance for the EITI as an international standard based global MSI is that the ZEITI has been steady in building trust towards strong multi-stakeholder organisation; it has brought enough stakeholders to the table on issues that matter, including, accountability concerning the extractive industry resources, relevant policy and legislative reforms as revealed in this study; and, it has improved transparency through disclosures in the industry. The credibility of the EITI as an international standard MSI has been found in ensuring that extractive industry revenue collection is done according to standard so that with time higher goals as stipulated in the EITI theory of change who's ultimate goal is the optimisation of revenue collection from the industry will be achieved. Therefore, the EITI standard has been powerful enough to leverage sufficient power for the weaker stakeholders to bear and offset any predation in the extractive industry in Zambia.

It can therefore be said that the study results do not support hypothesis **H<sub>1</sub>**, because as observed with the ZEITI, developmental outcomes have been the driving force for all stakeholder participation in the MSI. Further to this, the standards agreed on under ZEITI promotes optimal revenue collection by government, which may be viewed as not being in the interest of the mines, and yet the implementation of the ZEITI in Zambia has been successfully appreciated and supported by all stakeholders including the mines.

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# Pursuing Development Through International Standard Based Global Multi-Stakeholder Initiatives: An Account of the Extractive Industry Transparency Initiative in Zambia

## APPENDIX 1: INTERVIEW GUIDES

“Pursuing Development through International Standard Based Global Multi Stakeholder Initiatives: An Account of the Extractive Industry Transparency Initiative (EITI) in Zambia”.

### 1. QUESTIONS FOR EITI SECRETARIAT

#### a) **EITI/COST establishment and implementation in Zambia.**

- Who was instrumental in establishing the EITI?
- The EITI aim/ objectives
- The EITI Theory of Change. How were the objectives determined and how the EITI hoped to achieve them?
- The EITI coordination and it has evolved over the years
- Has there been any competing initiative or opposing views to the initiative.
- Selection criteria of the council members (ZEC), Chairmanship, MSG representation.
- EITI activities and their enough to meet objectives.
- EITI funding and budgets over the years
- What are the challenges now, and forecasted ones

#### b) **What happened when? What were the key moments, what influenced them; and which directions did the EITI take after that? The lessons learned in the EITI key moments. Refer to**

##### i. **For EITI**

- Pre EITI, Government commitment, candidate country,
- 2011 Validation, declaration meaningful progress,
- 2012 Secretariat review, designated compliant country,
- 2017 Validation commences, 2016 to 2020 strategic plan.

**QUESTIONS FOR ZAMBIA EITI STAKEHOLDERS** (Government, Civil Society, Privates Companies)

#### a) EITI Stakeholder Experiences



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- Stakeholder (Government, Private Sector, Civil Society engagement) and their level of engagement.
  - Stakeholder roles, perceived benefits, incentives, threats to participation
  - Selection criteria of the council members (council), Chairmanship, MSG representation.
  - EITI activities and their sufficient to meet objective.
  - EITI funding and budgets over the years
  - How has the Zambia fared on the EITI objectives over the years/ Has the EITI contributed to meaningful development?
  - What are the challenges now, and forecasted ones
  - Who among the stakeholders is cardinal in driving this development within the EITI and how?
  - Has anyone been left out?
- b) What happened when? What were the key moments, what influenced them; and which directions did the EITI take after that? The lessons learned in the EITI. Refer to**
- Pre EITI, Government commitment, candidate country,
  - 2011 Validation, declaration meaningful progress,
  - 2012 Secretariat review, designated compliant country,
  - 2017 Validation commences, 2016 to 2020 strategic plan.

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**APPENDIX 2: LIST OF RESPONDENTS FOR THE STUDY INTERVIEWS**

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