



# Workshop on Civic Space and the EITI Process

Independent Tool to Assess  
Conditions for Civil Society

May 13-14, 2016, Yangon

# EITI's Civil Society Protocol



# Protocol: Key Terms

**Civil society representatives** “are **substantively involved** in the **EITI process**, including but **not limited to** members of the multi-stakeholder group.”

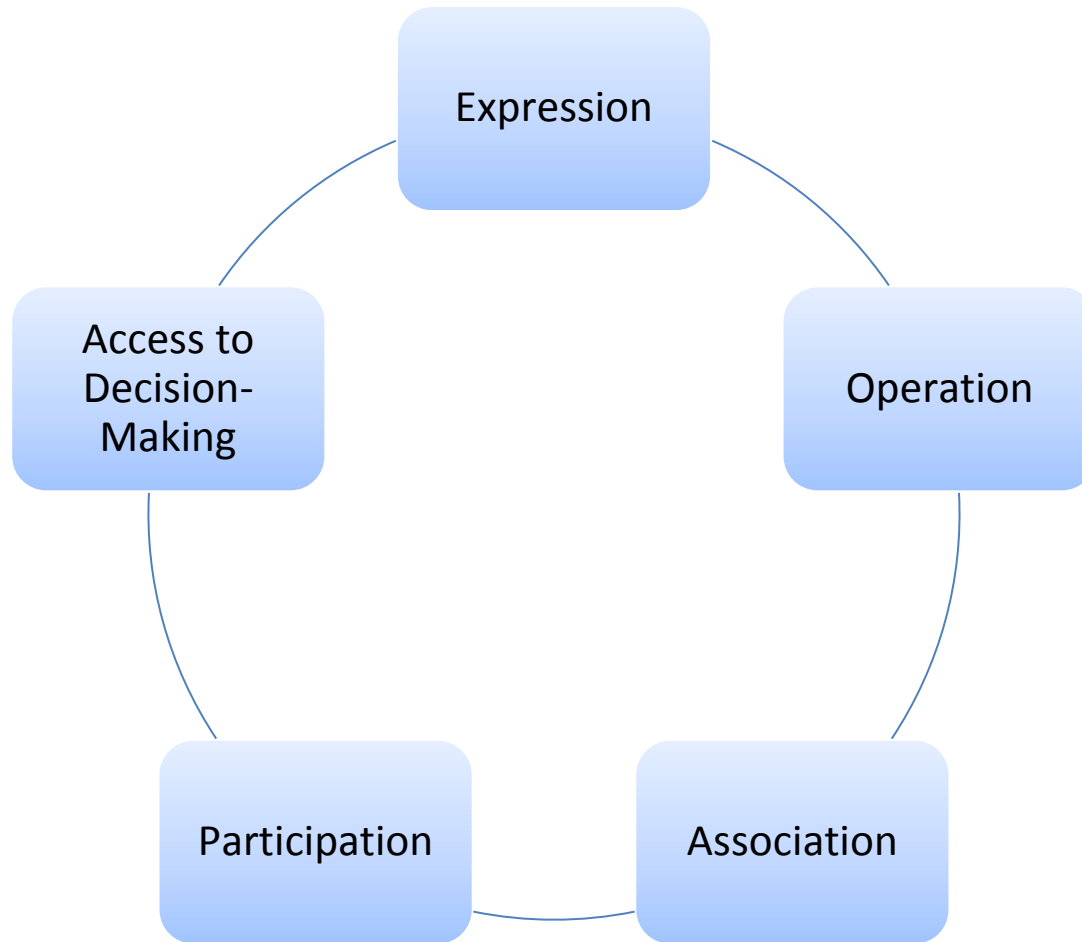
**EITI process**: activities related to participation in formal or technical EITI matters (e.g., MSG meetings) as well as “**expressing views related to EITI activities**” and “**natural resource governance.**”

# Protocol: Key Concept

“Where concerns related to the participation of civil society are raised, the EITI Board will as appropriate strive to establish whether there is a **direct link** to the EITI process.”

“Depending on the circumstances of the case including the extent to which it can be established that there is a **direct link** between the concerns raised and the EITI process, the Board will consider an appropriate response.”

# Protocol: 5 Elements of an Enabling Environment



# Protections of the Protocol

Under the Protocol, civil society representatives should be able to:

- **Engage in public debate** related to the EITI process and **express opinions** about the EITI process **without restraint, coercion or reprisal**.
- **Operate freely** in relation to the EITI process.
- **Communicate and cooperate** with each other regarding the EITI process.
- Be **fully, actively and effectively engaged** in the design, implementation, monitoring and evaluation of the EITI process.
- **Speak freely** on transparency and natural resource governance issues, and ensure that the EITI contributes to **public debate**.

# Opportunities to Raise Concerns

Key EITI Decision Points

- Pre-candidacy
- Candidacy
- “Ad hoc” developments
- Validation
  - Corrective measures
- Annual work plan
- Annual reports



# **The Reporting Template**

**An Independent Tool to Use the  
EITI Civil Society Protocol**

# Format of the Template

<b>Introduction .....</b>	<b>2</b>
<b>Questionnaire on Baseline Restrictions.....</b>	<b>7</b>
<b>Questionnaire on New Restrictions .....</b>	<b>14</b>
<b>Questionnaire on Specific Incidents .....</b>	<b>16</b>
<b>Confidential Annex .....</b>	<b>20</b>
<b>Guidance Note: Restrictions .....</b>	<b>21</b>
<b>Guidance Note: Incidents .....</b>	<b>34</b>

# **Format of the Template: Appendices**

**Key Terms Used in the Reporting Template .....**

**Decision Points on Civic Participation in EITI.....**

**Simplified Classification of Civil Society Ties to EITI**

**Potential Corrective Actions via EITI Mechanisms...**

**Illustrative List of Ad Hoc Incidents, by Category ....**

# Format of the Questionnaires

- Questionnaire**.....
- Basic Information .....
- Summary .....
- Detailed Information.....
- Relevance to EITI.....

# Summary Information

- **Description**
- **Who is Involved?**
  - **Responsible Party**
  - **Affected Parties**
- **Rationale**
- **Relevance**
- **Corrective action**
- **Sourcing**
- **Verification**
- **Confidentiality**

# Additional Information: Incidents

## Who / What / When / Where / Why / How

- Person(s) Affected
- Responsible  
Person/Entity
- Alternate viewpoint
- Witnesses
- Response
  - Complaint?
  - Investigation?
  - Outcome?

# Assessing Relevance to EITI

Do the concerns relate to the **extractive industries**?

Which **element** of the EITI Civil Society Protocol is implicated?

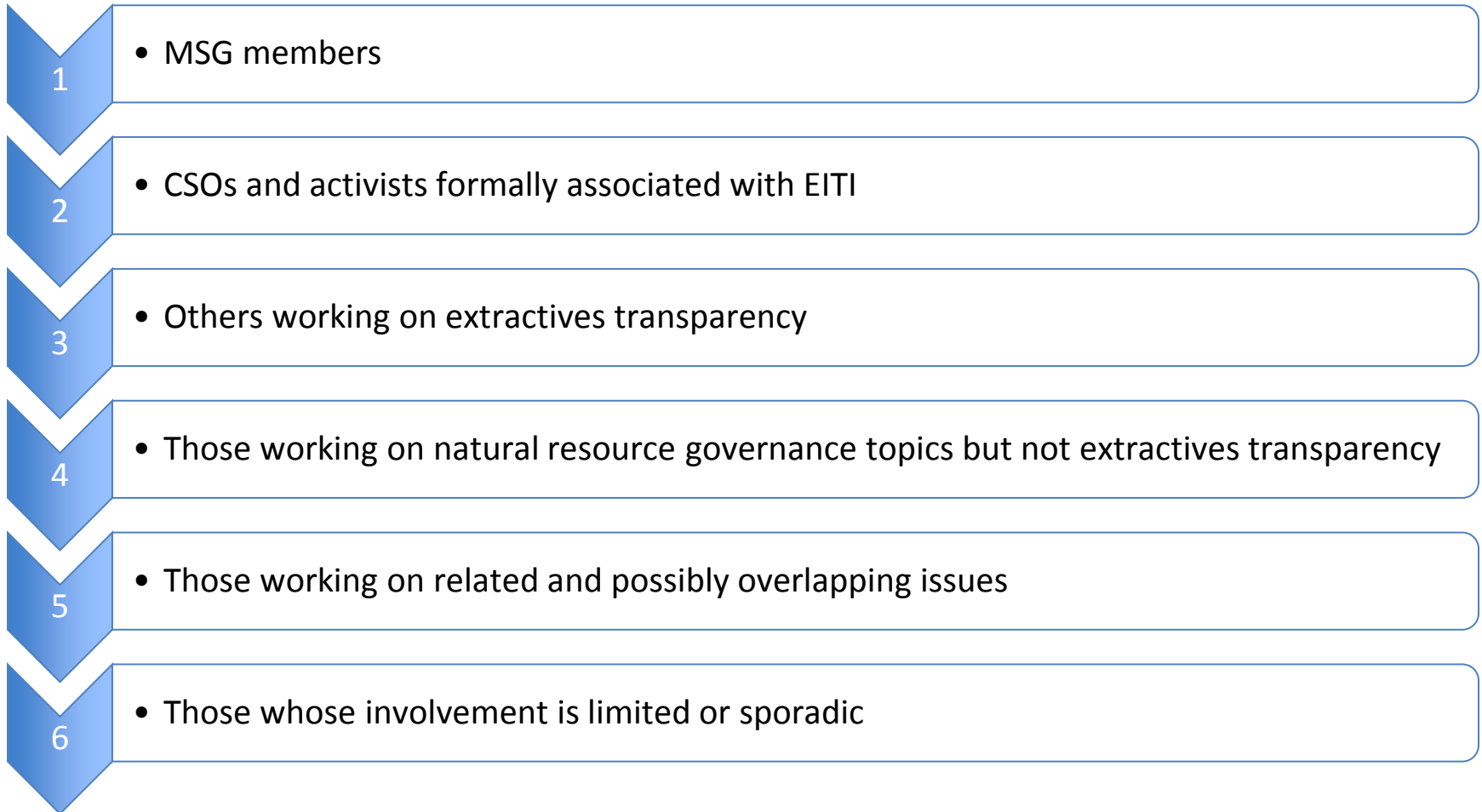
How closely are the CSOs impacted **associated** with the EITI process?

In what other ways do the **circumstances** suggest a connection to EITI?

How has CSO **participation** in the EITI process been affected?

# Assessing Relevance: Guidance

## Who is Affected?





# Assessing Compliance with the Protocol



Climate

Impact

Trend

Issues

Expression Operation Association Engagement Access

# Assessing Compliance: Selected Issues

Expression

- Freedom of speech; of information; of communication; Privacy

Operation

- Registration; Funding; Policy independence; Operational freedom

Association

- Establishment; Membership; Assembly; Communication; Coordination

Engagement

- Capacity; Participation; Advocacy; Effectiveness

Access

- Analysis; Outreach; Dissemination; Media access; Debate; Policy

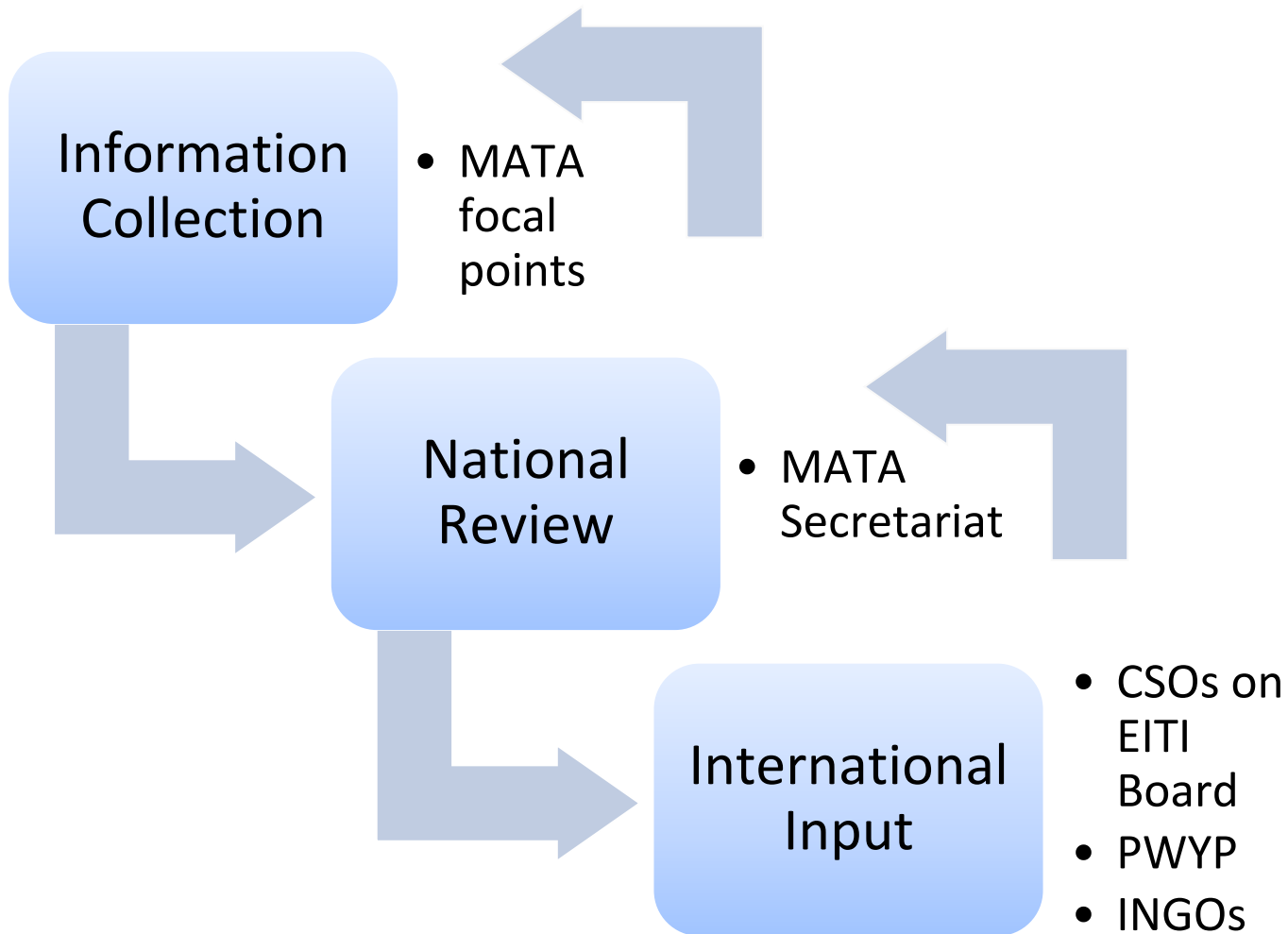
# Selected Issues: Association

- **Establishment:** Barriers to establishing CSOs?
- **Membership:** People discouraged from joining CSOs?
- **Assembly:** CSOs prevented from holding meetings or gathering for another purpose?
- **Communication:** Barriers to CSO outreach, information-sharing and dialogue?
- **Coordination:** Barriers to coordinated or collaborative efforts?
- **Other:** Any other significant factors?

# Reporting & Review Process

A Proposal

# Reporting & Review Process



# **Tips for Documenting Incidents & Restrictions**

**Group Exercise**

Who?

What?

When?

Where?

Why?

How?

# Tips for Reporting

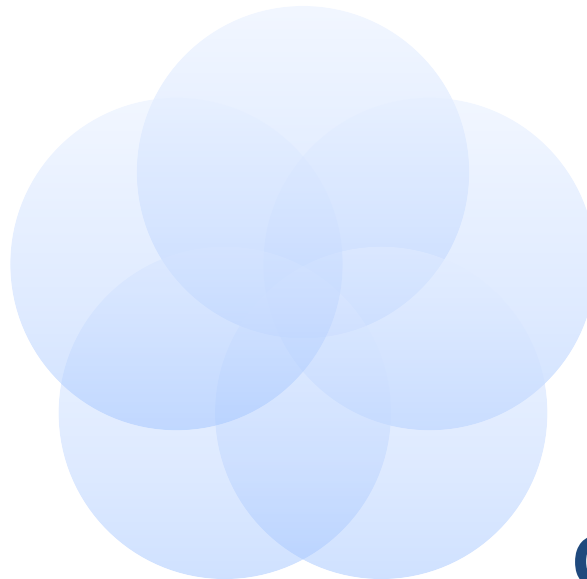
**Confidentiality**

**Relevance**

**Accuracy**

**Fairness**

**Credibility**





# **Confidentiality & Protection**

**Issues to Consider**

# Confidentiality of Interviews

- Prior informed consent
- Assessment of potential risk
- Personally identifying details
- Anonymity and alternatives

# Protection

## Interviewees

- Discuss measures
- Explain limitations
- Provide referrals
- Exchange contact information
- Follow up

## Records

- Interview notes
- Documentary evidence (e.g., photos)
- Computer files
- Paper files
- Incident report itself

# Confidential Annex of Template

## Basic Information

1. Who prepared this annex?
2. Who is permitted to see it?
3. Who is the source of the confidential information?
4. To which questionnaire does the information correspond?

## Confidential Information

Please provide below any information that is particularly sensitive. For each item, please specify the section, sub-section and page number to which the information corresponds so that it can be matched up with the text in the main report.

# Seeking Action to Address Concerns

Options to Consider

# Using the Information:

## Reports on Restrictions and Incidents



# Seeking Action: At Which Level?



# Possible Actions via EITI: Sub-National Level

- Meeting between relevant authorities and CSOs to discuss the restriction/incident.
- Reversal of the action taken.



# Possible Actions via EITI:

## National Level (Part 1)

- Discussion within the MSG or the national rapid response committee, where one exists.
- Meeting between CSOs and relevant government officials to discuss the restriction/incident.
- Reversal of the restrictive policy or practice / reversal of the action taken, in the case of an incident.

# Possible Actions via EITI: National Level (Part 2)

- Formal investigation.
- Seminars and workshops to discuss the impact on the EITI process of the restriction/incident.
- Inclusion of plans to address the issue in the EITI work plan.
- Reporting on developments related to the issue in the annual EITI progress report.

# Possible Actions via EITI: Company or Industry Level

- Written response to concerns.
- Meetings with those affected or their representatives to engage in dialogue and seek a resolution.
- Access to a formal company or industry grievance procedure, if available.

# Possible Actions via EITI:

## International Level (Part 1)

- Monitoring of developments by the Board's Rapid Response Committee (RRC).
- Fact-finding by RRC or Secretariat.
- Commissioning an independent assessment.
- Secretariat meeting, call or written communication to inquire and express concern to the National EITI Coordinator.

# Possible Actions via EITI:

## International Level (Part 2)

- Private letter from EITI Chair or Board to the government.
- Publicly issued Secretariat or Chair statement.
- EITI Board or Secretariat missions to the country.
- Request for high-level meeting (e.g. EITI Chair with head of state).

# Possible Actions via EITI:

## International Level (Part 3)

- Notice to government with a warning that a lack of progress could bring consequences.
- Board decision on early validation, demotion, suspension or de-listing.
- Board decision on remedial actions, with monitoring and assessment of implementation.
- Public Board declaration announcing the decision.

# Seeking Action to Address Concerns

Options via Other Mechanisms

# Types of Mechanisms

- Intergovernmental mechanisms (e.g., UN human rights bodies)
- Judicial mechanisms
- Mediation mechanisms
- International financial institutions' mechanisms
- Industry mechanisms
- Company mechanisms



# Other Options: Campaigning

- Media pressure
- Shareholder engagement
- CSO coalition building

# Discussion

**Thank you!**