

Board decision on the Validation of Kazakhstan

Decision reference: 2018-11/BM-39/BP-39-5-D

On 13 February 2018, the EITI Board came to the following decision on Kazakhstan's status:

Following the conclusion of Kazakhstan's Validation, the EITI Board decides that Kazakhstan has made meaningful progress overall in implementing the EITI Standard.

The Board congratulates the Government of Kazakhstan and National Stakeholders Council (NSC) on the progress made in improving transparency and accountability in the extractive industries by providing timely and reliable information to the public, including civil society, media and affected communities. It is notable how Kazakhstan has gradually expanded its EITI reporting in response to demand for more information, including on local content, social investments and transportation of oil, gas and minerals. The Board encourages the government to continue the recent discussions on transparency in contracts and beneficial ownership, and to improve the disclosures of transactions related to state-owned enterprises in order to address existing transparency gaps.

After ten years of EITI reports, Kazakhstan has taken important steps towards "EITI mainstreaming", including by providing public access to relevant financial data the government's database for tracking contractual obligations as well as the launch of the online license cadastre. The Board encourages the government and the NSC to explore opportunities for fully transitioning to mainstreamed implementation by implementing the recommendations of the recently completed feasibility study.

The Board recognises **Kazakhstan's efforts to go beyond the requirements of the EITI Standard regarding disclosures related to the legal framework (requirement 2.1), exploration data (3.1), export data (3.3), data timeliness (4.8), distribution of revenues (5.1) revenue management and expenditures (5.3), and data accessibility (7.2).** The Board also takes note of the government's efforts to increase beneficial ownership transparency by proposing mandatory beneficial ownership reporting by oil, gas and mining companies in the draft new Law on Subsoil.

The Board has determined that Kazakhstan will have 18 months, i.e. until 13 August 2019 before a second Validation to carry out corrective actions regarding the requirements relating to MSG governance (1.4), license register (2.3), state-participation (2.6), production data (3.2), barter arrangements (4.3), transportation (4.4), data quality (4.9), social expenditures (6.1), SOE quasi-fiscal expenditures (6.2) and outcomes and impact of EITI implementation (7.4), with SOE quasi-fiscal expenditures being the main area of concern. Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. **In accordance with the EITI Standard, Kazakhstan's multi-stakeholder group may request an extension of this timeframe, or request that Validation commences earlier than scheduled.**

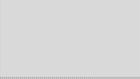
The Board's decision followed a Validation that commenced on 1 July 2017. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed by an Independent Validator, who submitted a draft Validation report to the MSG for comment. The MSG's comments on the report were taken into consideration by the independent Validator in finalising the Validation report and the independent Validator responded to the MSG's comments. The final decision was taken by the EITI Board.

Assessment card

The EITI Board agreed the following assessment card:

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#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	Distribution of revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management and expenditures (#5.3)					
Socio-economic contribution	Social expenditures (#6.1)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes and impact of implementation (#7.4)					
Overall progress						

Legend to the assessment card:

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	The country is compliant with the EITI requirement.
	The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Corrective Actions

The EITI Board agreed the following corrective actions to be undertaken by Kazakhstan. Progress in addressing these corrective actions will be assessed in a second Validation commencing on 13 August 2019:

1. In accordance with requirement 1.4.a.i and 1.4.a.ii on MSG governance, civil society should agree a process for ensuring diverse and representative participation of civil society in the National Stakeholder Council. The invitation to participate in the work of the NSC must be open, transparent and independent. In accordance with requirement 1.4.a.ii and the NSC MoU, civil society members of the NSC should also make sure that their funding sources and affiliations are transparent.
2. In accordance with requirement 2.3 on license registers, the government should publish the date of application for licenses and contracts, as well as the date of award and duration of the licenses and contracts, ideally on the online license register.
3. In accordance with requirement 2.6 on state-participation, the government should engage SOEs in the EITI process and ensure that future EITI Reports comprehensively:
 - lists all SOEs and all subsidiaries engaged in exploration, production or transportation of oil, gas and minerals. For each of these SOEs and subsidiaries, any ownership held in oil, gas and mining assets should be disclosed, as well as any changes in ownership during the financial year and the terms and valuations related to such changes in ownership. The terms attached to the equity stake of the SOE and/or subsidiary in each of their projects should also be transparent.
 - Describes the rules and practices regarding the financial relationship between each SOE and/or subsidiary and the government, e.g. the rules and practices governing transfers of funds between the SOE/SOE subsidiary and the state, retained earnings, reinvestments and third-party financing. The description could also include other benefits such as e.g. preferential rights to licenses and contracts, etc.
 - Details on any loans or loan guarantees provided by the government and SOEs, to any private companies or subsidiaries or affiliates that are engaged in oil, gas and mining activities.
4. In accordance with requirement 3.2 on production data, the government should disclose production values for minerals and metals.
5. In accordance with requirement 4.3 on barter arrangements, the government and the NSC should establish the relevance and applicability of barter arrangements, i.e. whether oil, gas and minerals are fully or partially exchanged for any goods or services. This should include assessment of whether any bilateral swap agreements with Russia could qualify as a barter arrangement.
6. In accordance with requirement 4.4 on transportation, the government and the NSC should

strengthen its plans for overcoming barriers to full transparency in revenues from transportation of oil, gas and minerals in the country, including by engaging more directly with transportation companies.

7. In accordance with requirement 4.9 and the Standard Terms of Reference for Independent Administrators, the NSC should make sure that the production of future EITI Reports includes the development of an inception report. The NSC should also ensure that the Independent Administrator carries out a review of prevailing auditing and accounting practices in government agencies and that the approach to data assurance for government agencies is reflected in the inception report. Alternatively, the NSC is encouraged to explore opportunities for fully transitioning to mainstreamed implementation.
8. In accordance with requirement 6.1, the NSC should clarify the various types of mandatory social expenditures that exist and ensure that all material social expenditures are covered in the next EITI Report.
9. In accordance with requirement 6.2, the government and the NSC should ensure that SOEs disclose any material quasi-fiscal expenditures. Quasi-fiscal expenditures include arrangements whereby SOE(s) undertake public social expenditure such as payments for social services, public infrastructure, fuel subsidies and national debt servicing, etc. outside of the national budgetary process. The multi-stakeholder group is required to develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.
10. In accordance with requirement 7.4, the NSC should ensure that the next annual progress report includes an assessment of the impact of the implementation of the work plan and other EITI activities. In addition, the NSC should ensure that the production of the annual progress report is an opportunity for wider stakeholders to provide feedback and input to the EITI process in Kazakhstan.

The government and the National Stakeholder Council is encouraged to consider the other **recommendations in the Validator's Report and the International Secretariat's initial assessment, and to document the NSC's responses** to these recommendations in the next annual progress report. For example, in its consideration of further amendments to laws affecting civil society and in its practice of enforcing these laws, the government should take care to ensure that such measures do not affect the ability of civil society to effectively participate in the EITI. The MSG is also encouraged to continue its work on the governance challenges associated with environmental payments. Specifically, there are concerns that environmental rehabilitation payments and environmental fines are not spent on environmental reclamation as intended, but on other budget needs. Further transparency in these transactions would be desirable, notably tracking payment and receipt of environmental fees and fines as well as transparency in spending of the money earmarked for environmental rehabilitation through the EITI.