Comments of the National Council of stakeholders (NCS) on the draft evaluation of the International EITI Secretariat on validation

Kazakhstan, January 2020
Comments of the National Council of stakeholders (NCS) on the draft evaluation of the International EITI Secretariat on validation

The NCS comments were prepared in order to agree on the objectivity of the preliminary assessment of the International EITI Secretariat for the second validation in Kazakhstan, during which 10 corrective measures were given to achieve a satisfactory assessment.

The preliminary assessment of the International Secretariat is that Kazakhstan has fully implemented three of the ten corrective measures and has made satisfactory progress in meeting the relevant requirements, as well as significant progress with notable improvements in the implementation of the remaining seven corrective measures. It was noted that there had been a regression to requirement 2.2 for issuing licenses.

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<th>№№</th>
<th>Evaluation of The international EITI Secretariat</th>
<th>Review of the NCS</th>
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<td>1</td>
<td>requirement 1.4 - the Management of the NCS. Kazakhstan has partially implemented the corrective measure for MSG Supervision and has made significant progress with notable improvements on Demand 1.4. As a result of the decrease in donor support, financial difficulties have worsened since 2018, limiting civil society participation in the EITI implementation process. This was compounded by the emergence of divisions in the stakeholder group, so that instead of evenly distributing the EITI workload among NGOs, all the work fell on the shoulders of a few people. Thus, while meeting the requirements of an open invitation to participate in the EITI process and independent nomination of candidates, the broader goal of ensuring diverse and representative participation of civil society was not achieved.</td>
<td>Members of The EITI dialogue Platform of the Republic of Kazakhstan GENERALLY agree with the assessment of the International EITI Secretariat regarding the participation of civil society (requirement 1.4). While recognizing the problems identified by the international Secretariat, we consider it important to note the following: 1. It is almost impossible to develop a new procedure for electing NHS members from civil society that will suit all interested NGOs, since any consultations are ignored or boycotted by individual NGOs that criticize the DP. The DP as such emerged as a mechanism that was developed by all parties - active participants in the EITI from the GO-for their participation and that was supported and approved by all participants. However, as soon as the NCS did not elect specific individuals, this procedure immediately ceased to suit them. The requirement that their coalitions be assigned seats in the NCS may, in our view, infringe on the interests of any other coalitions that may require the same provision). 2. It is almost impossible to involve independent NGOs/experts in the development of a new procedure and the organization and conduct of elections, since this requires additional funds both for the development of the procedure and for the conduct of the</td>
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3. Almaty NGOs are in exactly the same position as any NGOs in Kazakhstan (with the exception of NGOs from Nur Sultan): to participate in the NCS, they need to take into account the cost of travel. With regard to funding, Almaty NGOs are at a disadvantage compared to NGOs from other regions, as in grant competitions, preference is given to NGOs from the regions (for example, the same Soros Kazakhstan Foundation often indicates that NGOs from Almaty cannot participate in competitions).

4. We are taking active steps to involve new NGOs, in particular environmental ones, as well as NGOs from the regions, which is confirmed by the number of new people who participated in the elections to the NCS.

5. Due to lack of funding and reduction of interest in support of EITI implementation in Kazakhstan of international donor organizations, we will work on a practice of use of online meetings, including in Almaty.

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<th>Requirement 2.3 - License Registry.</th>
<th>Kazakhstan has implemented the corrective measure for the license register and has made satisfactory progress on Demand 2.3.</th>
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<td>Requirement 2.6 - Public Administration.</td>
<td>Kazakhstan partially fulfilled the corrective measure on Public participation and has made significant progress with notable improvements on Requirement 2.6. In accordance with Requirement 2.6, Kazakhstan must ensure that an exhaustive list of participants in the share capital of each significant SOE is made public, as well as the conditions related to the state and SOE's participation in each of these companies. Kazakhstan should ensure that the EITI Report reflects financial relations between the SOE and the state during the reporting period, including money transfers between the SOE and the state, retained earnings, re-investment and third-party financing. The Additional report to the 13th National report for 2017 (p. 12-22) provides full information on all National companies with their structures and equity interests in subsidiaries, with links to their annual and financial reports published on official websites in the public domain. Neither party considers the information provided to be insufficient. There were no requests for additional disclosure. <strong>We believe the implementation of this requirement is satisfactory.</strong></td>
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4 **requirement 3.2** - production Data. Kazakhstan partially met the corrective measure for production Data and made significant progress with notable improvements on Demand 3.2.

The Additional report (pages 61-63) contains links to the website of the statistics Committee, where you can get acquainted with the cost of a unit of production with screenshots showing how to choose the right source of information. Data on production volumes are given in Annex 6 (key regions where the production of the main priority minerals is concentrated).

We believe the implementation of this requirement is satisfactory.

5 **requirement 4.3**- Barter and infrastructure agreements. Kazakhstan has partially implemented the corrective measure for Barter and infrastructure agreements and has made significant progress with notable improvements on Demand 4.3.

The 2017 supplemental report lists volumes due to the 2017 natural gas swap agreement. At the same time, it does not specify the volume of deliveries of crude oil and liquefied natural gas made in 2017 as a compensating payment for two pre-financing agreements concluded by JSC NC «KazMunaiGas». According to Requirement 4.3, Kazakhstan must ensure that transactions under significant barter agreements, such as pre-financing agreements (involving the provision of loans in exchange for future supplies of fossil resources), are made public.

We consider the fulfillment of this requirement to be satisfactory.

6 **requirement 4.4** - Transport revenue. Kazakhstan has partially implemented the corrective measure for Transport revenue and has made significant progress with notable improvements under Requirement 4.4.

The 2017 EITI report describes the pipeline and railway transportation system for crude oil, natural gas, and fossil resources, providing only route-disaggregated data on volumes and revenues from crude oil and natural gas (pipeline) transportation, and omitting data on the railway transportation of fossil resources. The Supplement to the 2017 Report directly reports on the difficulties of interaction with the state railway operator of JSC «NC» Kazakhstan

Regarding transportation and transparency of revenues from oil transportation-links to the official websites of KazTransOil, KazTransGas and KTZ. In the 13th National EITI report for 2017, pp. 137-145 and in Annex 7 to the Report. Maximum information is provided according to requirement 4.4. At this stage, we consider an exhaustive presentation of information. More in-depth, detailed requirement 4.4. it is envisaged in the future with the development of a broader scope.
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<th>Requirement</th>
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<tr>
<td>7</td>
<td>requirement 4.9</td>
<td>satisfactorily</td>
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<td>8</td>
<td>requirement 6.1 - Social expenses</td>
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<td>9</td>
<td>requirement 6.2 - quasi-Fiscal costs</td>
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as quasi-fiscal. If there is evidence of efforts made by the NCS to obtain reports on quasi-
fiscal costs, further work is needed to ensure that a complete list of clearly classified 
quasi-fiscal costs is publicly available, including costs (such as subsidies) that are 
not related to social development or local infrastructure. 

be considered quasi-fiscal by the 
International Monetary Fund.

| 10 requirement 7.4 - Results and impact of the 
implementation process. 
Kazakhstan has implemented a corrective 
measure on the results and impact of the 
EITI implementation process and has made 
satisfactory progress on Demand 7.4. | satisfactorily |

Evaluation of Requirements that received a satisfactory rating of the 1st 
validation.

A preliminary assessment by the International Secretariat, pending comments from 
interested parties, is that Kazakhstan has made significant progress on Demand 2.2.

Although the 2017 EITI Report and its Addendum include a description of the process for 
awarding and transferring subsoil use licenses, including an assessment of technical and financial 
criteria, there are discrepancies between the two EITI documents in terms of the number of 
mining and oil and gas licenses awarded in 2017. Although this report confirms that several 
mining licenses were awarded on a competitive basis in 2017 and provides criteria for evaluating 
bids, neither this report nor its Supplement contain a complete list of participants in the 2017 
competitive bidding for each license awarded. Although this Addendum mentions that there are 
no non-trivial deviations from the mandatory procedures for awarding and transferring subsoil 
use licenses in 2017, consultations with stakeholders confirmed that the NCS did not discuss the 
methodology or existence of non-trivial deviations when preparing the 2017 EITI Report and its 
Supplement.

Comment. The Additional report updated data on the number of contracts and lists them. 
The number of contracts in the mining sector (solid minerals) for 2017 is 42 contracts, including 
25 contracts according to the protocols of direct negotiations, 15 contracts based on the results of 
the competition, and 2 contracts by conversion. Number of transferred objects: in 2017 – 149.

The number of contracts for the oil and gas sector in 2017 – 13 contracts, including 6 
contracts according to the protocols of direct negotiations, 7 contracts based on the results of the 
competition, the Number of transferred objects: in 2017 – 42.

The difference in the number of concluded contracts on the website and 
included in the report due to the fact that on the website published the list according to 
License Contract Terms reports (not the performance companies report for different 
reasons (dissolution, bankrupt, unable to fill in the EGSU for technical reasons, etc.), 
and monitoring of concluded contracts is carried daily.

Currently, the legislative list provides for the publication of a list of licenses on 
the Ministry of industry and infrastructural development of the Republic of 
Kazakhstan website.

CONCLUSION OF THE NCS. None of the parties to the NCS has reported 
insufficient implementation of measures and believes that the implementation of the
corrective actions given during the first validation deserves a satisfactory assessment (justification in the table above). An Additional Report was prepared for the 13th national EITI Report for 2017, which reflects the missing data as much as possible and explains the issues and recommendations of the international EITI Secretariat and validation Director Alex Gordy during a visit in May 2019 to Kazakhstan and meetings with interested government agencies, national companies, NCS members and NGOs. It should be noted that for many other criteria, Kazakhstan went beyond the EITI requirements. Currently, work is underway to integrate the EGSU data with the National Bank.

In the future, more detailed and in-depth coverage of the required information data for EITI Reports will be further developed.

Agreed by the NCS
January 14, 2020