

# Board decision on the Validation of Iraq

Decision reference: 2017-55/BM-38/BP-38-6-E

On 26 October 2017, the EITI Board came to the following decision on Iraq's status:

Following the conclusion of Iraq's Validation, the EITI Board commends Iraq's efforts to bring transparency to its oil exports and encourages Iraq to make a full transition to the EITI Standard. While recognising the difficulties under which in which Iraq is implementing the EITI, the EITI Board concludes that Iraq has made inadequate progress overall in implementing the EITI Standard. In accordance with the Standard, Iraq will be temporarily suspended until it demonstrates meaningful progress in a new Validation.

The Board recognises Iraq's pioneering implementation of the EITI in the region and commends the government's efforts to bring transparency to the country's oil exports beyond the requirements in the Standard (4.2). As the first country in the EITI to reconcile oil sales on a cargo-by-cargo basis, Iraq has demonstrated that where there is political will it has the ability and ambition to demonstrate strong regional leadership in the sector. The Board also recognises Iraq's achievement of satisfactory progress on requirements of the EITI Standard regarding the engagement of civil society (1.3), exploration and export data (3.1 and 3.3), and data timeliness (4.8). This is particularly noteworthy given the security situation in the country over the last decade and the broader political and regional circumstances.

In making its decision, the Board notes that a full transition to the EITI Standard would help provide information that is in high demand in Iraq's political debate, including clarifying the legal framework and fiscal terms in the sector, the relationship between state-owned enterprises and the government and sub-national transfers. Stakeholder consultations during Validation have further highlighted the strong potential for the EITI to contribute actively to the government's reform agenda.

The Board sees government engagement and improved MSG governance as particularly necessary to improve the impact of the EITI process. There government is therefore encouraged to demonstrate its commitment to the EITI by appointing a government lead that may drive recommendations to become government policy, publicly restate its commitment to extractives transparency, and ensure that senior government officials are represented and engaged in the multi-stakeholder group.

The Board notes that mainstreaming disclosures required by the EITI Standard will in most cases be the most efficient way of implementing corrective actions resulting from this Validation. Websites of the Ministry of Finance, Board of Supreme Audit, SOMO and other government entities could provide timelier data on budget execution, oil and gas revenues, petrodollar allocations and transfers, corporate income tax and signature bonus income as well as other documents such as audited public accounts. Special emphasis is recommended on explaining transactions between SOEs and the government in line with Requirements 2.6 and 4.5 of the Standard. These are all areas that would complement the government's ongoing sector reforms and allow stakeholders to contribute meaningfully to policy discussions. Progress in these areas will require sustained high-level government commitment.

Validation has also demonstrated that there are opportunities for stakeholders, in particular government and industry, to further use the EITI to address what they have identified as key challenges in the extractive sector. The Board therefore encourages Iraq EITI and the government to ensure that work plans are closer aligned to national priorities for the sector.

The Board has determined that Iraq will have 18 months to carry out corrective actions regarding the requirements relating to government and company engagement (requirements 1.1 and 1.2), MSG governance (1.4), EITI work plan (1.5), legal framework, license allocations and register (2.1, 2.2 and 2.3), the







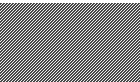
government's policy on contract disclosure (2.4), state participation (2.6), production data (3.2), comprehensiveness of revenue disclosures (4.1), transactions by state-owned enterprises (4.5), direct subnational payments (4.6), level of disaggregation (4.7), data quality (4.9), distribution of revenues (5.1), sub-national transfers (5.2), mandatory social expenditures, economic contribution of the extractive sector (6.3), public debate (7.1) and follow-up on recommendations (7.3). The Board believes that this will help build trust in the sector and the wider economy, demonstrate the commitment of all stakeholder groups to transparency and accountable management of the country's natural resources, and ensure that there is reliable information available to help inform public debate and policy discussions related to the extractive sector.

## Assessment card

The EITI Board agreed the following assessment card:

EITI Requirements		LEVEL OF PROGRESS				
		No	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	Mandatory 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)					
<b>Overall assessment</b>	<b>Inadequate progress</b>					

*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.

## Recommendations

The EITI Board agreed the following corrective actions to be undertaken by Iraq. Progress in addressing these corrective actions will be assessed in a second Validation commencing on 26 April 2019:

1. In accordance with requirement 1.1, the government should demonstrate that it is fully, actively and effectively engaged in the EITI process. The government should demonstrate its commitment to the EITI by appointing a government lead to chair the process and ensure that senior government officials are represented and engaged in the multi-stakeholder group. The government should also ensure that links are made between Iraq's EITI's objectives and ongoing work within their respective agencies. In accordance with requirement 8.3.c.i, the government is required to develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment and Validator's report within three months of the Board's decision, i.e. by **26 January 2018**.
2. In line with Requirement 1.2, the MSG should develop a plan to engage more actively with the industry constituency, for instance through the Iraq Oil Company Forum. To galvanise industry's attention, the MSG should ensure extensive consultations with industry are undertaken to ensure EITI implementation objectives are consistent with priorities of the industry constituency. In accordance with requirement 8.3.c.i, the company constituency is required to develop and disclose an action plan for addressing the deficiencies in company engagement documented in the initial assessment and Validator's report within three months of the Board's decision, i.e. by **26 January 2018**.
3. In line with Requirement 1.3, to strengthen implementation, civil society members of the MSG may wish to consider formalising and strengthening their mechanisms for canvassing the broader constituency on key EITI documents, in order to broaden public oversight of EITI reporting and implementation. Basic improvements in MSG governance such as the use of Arabic as the working language should encourage more active civil society participation (*see Requirement 1.4*).
4. In line with Requirement 1.4, to strengthen implementation, the MSG should update its internal governance rules to cover all provisions of Requirement 1.4, develop a language policy that is conducive to achieving the goals of implementation in Iraq and publish procedures for nominating and changing MSG representatives, including the duration of mandates. The MSG should revisit its internal decision-making procedures to ensure statutory MSG rules are in line with current practice and treat each of the constituencies as equal. The MSG should also clarify whether there is a practice of per diems for attending EITI meetings or other payments to MSG members, consider keeping public attendance records and consider posting MSG minutes online.
5. In line with Requirement 1.5, MSG members should in the future consult with stakeholders from all constituencies and ensure that national priorities are adequately reflected in the work plan in order to continue building on the recent efforts to bring the work plan in line with the EITI's requirements
6. In line with Requirement 2.1, the MSG should ensure that future IEITI Reports provide descriptions of the main laws and fiscal terms related to the mining, oil and gas sectors, including an overview of the roles of the main government entities involved in overseeing the sectors and of recent or ongoing reforms. The MSG could consider using the IEITI website as a repository of the regularly-updated information on fiscal terms and the legal environment for the mining, oil and gas industry.

7. In line with Requirement 2.2, the MSG should ensure that future IEITI Reports clearly define the number of licenses (including Technical Service Contracts) awarded and transferred in the year(s) under review in both mining and oil and gas, describe the actual process and highlight any non-trivial deviations in practice. The MSG should clarify the technical and financial criteria (and their weightings) used for assessing allocations and transfers of licenses and equity in TSC consortia, both for any discretionary oil and gas contracts (including in the KRG) and for mining license awards and transfers. The MSG may also wish to comment on the efficiency of the current contract allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.
8. The MSG should ensure that future IEITI Reports provide all information covered under Requirement 2.3 for all licenses held by material companies (including both oil and gas and mining) or provide a link to where such license information is available to the public. The MSG may also wish to work with the MoO and MIM to disclose license information for all material companies through a publicly-accessible cadastral system and provide free access to such a register online.
9. In line with Requirement 2.4, the MSG should work with government representatives to clarify the Federal Government's policy on contract disclosure and document any instances of contract disclosure either through future IEITI Reports or through other channels such as the IEITI website. The MSG is also encouraged to undertake a detailed review of which PSCs have been published by the KRG, with a view to clarifying the practice of contract disclosure in the KRG.
10. In line with Requirement 2.5, the MSG should clarify the government's policy on beneficial ownership disclosure in future IEITI Reports and provide the legal ownership of all material companies. The MSG may wish to consider how reporting of transfers of equity in TSC consortia and mining licenses under Requirement 2.2 may help support work on beneficial ownership disclosure.
11. The MSG should ensure that all aspects of Requirement 2.6 are adequately addressed during the scoping for future IEITI Reports. It should clearly establish its definition of SOEs to delineate the SOEs within the scope of EITI reporting. The MSG should include a comprehensive list of SOEs and their subsidiaries in the next IEITI Report, clarifying the financial relations in practice between SOEs and government as well as any loans and loan guarantees from the government or SOEs to upstream mining, oil and gas companies. The MSG may wish to work closely with MoO and the NOCs to shape the structure of routine disclosures as a means of publishing information required under the EITI Standard on a timelier basis.
12. In line with Requirement 3.2, the MSG should ensure that future IEITI Reports disclose the production volumes and values for all every extractives commodity produced, including crude oil, natural gas and every mineral produced. To continue improving under Requirement 3.1, the MSG may wish to expand its coverage of the mining sector by including more specific updates on current production, primarily in quarrying.
13. In line with Requirement 4.1, the MSG should consider undertaking a comprehensive scoping study to consider options for defining materiality thresholds ahead of agreeing the ToR for its next EITI Report. The MSG should ensure that all material revenue flows (in both petroleum and mining) listed under Requirement 4.1.b are included in the scope of reconciliation and that the materiality threshold for selecting companies ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation. The list of material companies should also clearly be defined. The MSG is invited to consider whether setting a quantitative materiality threshold for selecting companies would ensure these aims are met. The

MSG should ensure that Iraq's next IEITI Report includes the IA's assessment of the materiality of omissions, its statement on the comprehensiveness of the IEITI Report and that full unilateral government disclosure of material revenues from non-material companies is included. In accordance with requirement 8.3.c.i, the MSG is required to develop and disclose an action plan for addressing weaknesses in data comprehensiveness documented in the initial assessment and Validator's report within three months of the Board's decision, i.e. by **26 January 2018**.

14. To continuing making progress under Requirement 4.2, the MSG is encouraged to consider publishing the reconciled oil sales data disaggregated by cargo (and associated information) it already collects. The MSG may also wish to use SOMO's regular online disclosures as a means of embedding EITI reporting of oil sales within routine government systems. The MSG could consider joining the EITI targeted effort on commodity trading to provide a framework for ensuring that disclosures of the state's sales of its in-kind revenues are in line with international best practice.
15. While there is no evidence of barter or infrastructure agreements in the KRG, the MSG is encouraged to examine all of the published KRG PSCs to assess the potential for infrastructure provisions or barter components of these PSCs in line with Requirement 4.3.
16. In line with Requirement 4.4, the MSG is strongly encouraged to review the financial statements of the six SOEs engaged in transportation, distribution and marketing of oil and gas to assess the materiality of any potential revenues to government, through transfers to the MoF.
17. In line with Requirement 4.5, the MSG should clarify the scope of transactions between SOEs and other government agencies as well as between SOEs and companies in the mining, oil and gas sector. Drawing upon the MSG's definition of SOEs under Requirement 2.6, the MSG should ensure future IEITI Reports disclose the disaggregated value of such financial transactions for the year under review. Given the lack of clarity surrounding financial relations between oil and gas SOEs and the government, the MSG is encouraged to consider whether reconciliation of such financial transactions (both statutory and ad hoc) would further the broader objective of transparency in transactions between SOEs and government.
18. The MSG should secure the KRG's active participation in scoping and shaping Iraqi EITI disclosures of direct subnational payments under Requirement 4.6. The MSG is encouraged to consider whether working with the MoO and the KRG to establish its own regional-level structure for EITI implementation could ensure more efficient coverage of subnational direct payments. The KRG's EITI MSG could publish its own reports, which could then be included in the national IEITI Reports.
19. In line with Requirement 4.7, the MSG should ensure that all reconciled financial data is disaggregated by company, revenue stream and government entity. The MSG is also encouraged to agree a definition of project to ensure consistency in its project-level reporting.
20. To further strengthen implementation of Requirement 4.8, the MSG may wish to work with the General Commission on Taxes, the General Customs Authority, SOMO, the Ministry of Oil, the Ministry of Finance, the Central Bank of Iraq and the Iraqi Board of Supreme Audit to assess the potential for mainstreaming key EITI disclosures and ensuring even timelier publication of EITI information.
21. In line with Requirement 4.9, the MSG should ensure that a review of actual auditing practices by reporting companies and government entities be conducted before agreeing procedures to ensure the reliability of EITI information. The MSG should also ensure that the ToR for the IA is in line with



the standard ToR approved by the EITI Board and that its agreement on any deviations from the ToR in the final EITI Reports be properly documented. The MSG should also ensure that the IA include an assessment of whether the payments and revenues disclosed in the EITI Reports were subject to credible, independent audit, applying international auditing standards as well as a description of follow-up on past EITI recommendations. In accordance with requirement 8.3.c.i, the MSG is required to develop and disclose an action plan for addressing weaknesses in data reliability documented in the initial assessment and Validator's report within three months of the Board's decision, i.e. by **26 January 2018**.

22. In line with Requirement 5.1, the MSG should work with the IA in preparing the next IEITI Report to clearly trace any mining, oil and gas revenues that are not recorded in the national budget and clearly explain the allocation of any off-budget revenues. To further strengthen implementation under Requirement 5.3, the MSG could consider tracking more comprehensively the spending of extractive industry revenues earmarked for specific purposes. This form of annual diagnostic of public financial management would be of particular relevance to the IMF's standby agreement with Iraq.<sup>1</sup>
23. In line with Requirement 5.2, the MSG should assess the materiality of subnational transfers and ensure that future IEITI Reports provide the specific formula for calculating subnational transfers linked to extractives revenues to individual governorates, disclose any material subnational transfers and any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.
24. In line with Requirement 5.3, the MSG could consider working with relevant stakeholders including parliamentarians to ensure that future EITI Reports provide additional information on budgetary oil price and production assumptions as well as revenue forecasts.
25. In line with Requirement 6.1, the MSG should clarify ensure that reporting of mandatory social expenditures be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. The MSG may also wish to consider the feasibility of reconciling mandatory social expenditures.
26. In line with Requirement 6.3, the MSG should ensure that future IEITI Reports provide the extractive industries, in oil and gas as well as mining in Iraq (including Kurdistan), share of GDP, government revenues, exports and employment in absolute and relative terms. It should also ensure that the location of all significant production is clearly delineated.
27. In line with Requirement 7.1, IEITI should ensure that future reports are comprehensible, actively promoted, publicly accessible and contribute to public debate. IEITI should consider developing a communications strategy that looks beyond building brand recognition to addressing the national priorities identified in the work plan. IEITI should also agree a clear policy on the access, release and re-use of EITI data and make EITI Reports available in an open data format online.
28. In line with Requirement 7.3, the MSG should consider how to act upon lessons learned with regards to the KRG and identify opportunities to increase engagement with stakeholders there. The MSG

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<sup>1</sup> <https://www.imf.org/external/country/irq/>

could also take a proactive role in formulating its own recommendations.

29. In line with Requirement 7.4, the MSG should ensure that annual progress reports reflect activities in the year under review clearly and that progress against the work plan is clear. The MSG should also ensure that all stakeholders are given an opportunity to provide input to the annual progress report and that their views are adequately reflected. As secretariat staff participating in meetings makes up a large part of the annual progress report's listed activities, the MSG may wish to consider what kind of activities the report should include. The MSG should also consider drafting and publishing annual progress reports in Arabic to improve the dialogue between stakeholders and ensure that there is a common understanding of the activities carried out by the MSG in the year under review.

The MSG is encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and to document the MSG's responses to these recommendations in the next annual progress report.

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*This decision can be found online under: <https://eiti.org/validation/iraq/2017>*

*The documentation on this Validation (Validation Report, MSG Comments and initial data collection) can be found here: <https://eiti.org/document/validation-of-iraq-2017-documentation>*