Board decision on the Validation of Iraq

Decision reference: 2017-55/BM-38
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The Board's decision

The Board came to the following decision regarding Iraq’s status:

The Board agreed that Iraq has made inadequate progress overall in implementing the 2016 EITI Standard. In accordance with Requirement 8.3c(iii), Iraq will be temporarily suspended until it demonstrates meaningful progress in a new Validation. The Board’s determination of Iraq’s progress with the EITI’s requirements is outlined in the assessment card below.

The EITI Board agreed that Iraq has gone beyond the requirement in the EITI Standard on Requirement 4.2 and made satisfactory progress in meeting the requirements in the EITI Standard on Requirements 1.3, 3.1, 3.3, and 4.8. The Board further agreed that Iraq has made meaningful progress in meeting requirements 1.5, 3.2, 4.5, 4.7, 6.3, 7.1 and 7.3, inadequate progress in meeting requirements 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.6, 4.1, 4.9, 5.1, 5.2, 6.1 and 7.4, and no progress in meeting requirement 4.6. The areas of concern relate 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).

Accordingly, the EITI Board agreed that Iraq is suspended and will need to take corrective actions outlined below. Progress with the corrective actions will be assessed in a second Validation commencing on 25 April 2019. Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in delisting in accordance with Requirement 8.3c in the EITI Standard. In accordance with the EITI Standard, Iraq’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 January 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.

Background

The Government of Iraq initially committed to implement the EITI in July 2007 and publicly announced its commitment to work with all stakeholder groups at the 4th EITI Global Conference in Doha, Qatar, in February 2009. Prime Minister Nouri al-Maliki declared Iraq’s formal commitment to EITI at the Iraq EITI (IEITI) launch conference on 10-11 January 2010. The country was accepted as an EITI Candidate on 10 January 2010. The multi-stakeholder group, the Iraqi Stakeholders Committee (ISC), held its first meeting on 22-23 September 2010. The EITI International Board designated Iraq Compliant under the EITI Rules on 12 December 2012.
The Validation process commenced on 1 January 2017. In accordance with the Validation procedures, an initial assessment was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report. Comments to the initial assessment and the draft Validation report were received from the MSG. The Independent Validator reviewed the comments and responded to the MSG, before finalising the Validation report.

The Validation Committee reviewed the case on 4 October 2017. Based on the findings above, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below.

The Committee also agreed to recommend an overall assessment of “inadequate progress” in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:

ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.

... 

iii. Inadequate progress. The country will be suspended and requested to undertake corrective actions until the second Validation. For the suspension to be lifted, the country must in its second Validation demonstrate at least meaningful progress.

The Validation Committee agreed to recommend a period of 18 months to undertake the corrective actions. This recommendation takes into account that the challenges identified are relatively significant and seeks to align the Validation deadline with the deadline for the 2017 EITI Report.

Scorecard

<table>
<thead>
<tr>
<th>EITI Requirements</th>
<th>Level of Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government engagement (#1.1)</td>
<td>No Progress</td>
</tr>
<tr>
<td>Industry engagement (#1.2)</td>
<td></td>
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<tr>
<td>Civil society engagement (#1.3)</td>
<td>Inadequate</td>
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<tr>
<td>MSG governance (#1.4)</td>
<td>Meaningful</td>
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<tr>
<td>Workplan (#1.5)</td>
<td>Satisfactory</td>
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<tr>
<td>Categories</td>
<td>Requirements</td>
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<tr>
<td>MSG oversight</td>
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# EITI Requirements

<table>
<thead>
<tr>
<th>Categories</th>
<th>Requirements</th>
<th>Level of Progress</th>
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<tbody>
<tr>
<td>Legal framework (#2.1)</td>
<td></td>
<td>Beyond</td>
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<td>License allocations (#2.2)</td>
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<td>Beyond</td>
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<td>License register (#2.3)</td>
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<td>Beyond</td>
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<td>Policy on contract disclosure (#2.4)</td>
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<td>Beyond</td>
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<tr>
<td>Beneficial ownership (#2.5)</td>
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<td>Satisfactory</td>
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<td>State participation (#2.6)</td>
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<td>Satisfactory</td>
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<tr>
<td>Exploration data (#3.1)</td>
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<td>Inadequate</td>
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<tr>
<td>Production data (#3.2)</td>
<td></td>
<td>No Progress</td>
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<tr>
<td>Export data (#3.3)</td>
<td></td>
<td>No Progress</td>
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<tr>
<td>Comprehensiveness (#4.1)</td>
<td></td>
<td>Inadequate</td>
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<tr>
<td>In-kind revenues (#4.2)</td>
<td></td>
<td>Inadequate</td>
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<td>Barter agreements (#4.3)</td>
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<td>Inadequate</td>
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<td>Transportation revenues (#4.4)</td>
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<td>Inadequate</td>
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<td>SOE transactions (#4.5)</td>
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<td>Inadequate</td>
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<td>Direct subnational payments (#4.6)</td>
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<td>Inadequate</td>
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<td>Disaggregation (#4.7)</td>
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<td>Data timeliness (#4.8)</td>
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<td>No Progress</td>
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<td>Data quality (#4.9)</td>
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<td>Distribution of revenues (#5.1)</td>
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<td>Subnational transfers (#5.2)</td>
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<td>No Progress</td>
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<td>Revenue management and expenditures (#5.3)</td>
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<td>SOE quasi-fiscal expenditures (#6.2)</td>
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<td>Economic contribution (#6.3)</td>
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<td>No Progress</td>
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<td>Public debate (#7.1)</td>
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<td>No Progress</td>
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<tr>
<td>Data accessibility (#7.2)</td>
<td></td>
<td>No Progress</td>
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<tr>
<td>Follow up on recommendations (#7.3)</td>
<td></td>
<td>No Progress</td>
</tr>
<tr>
<td>Outcomes and impact of implementation (#7.4)</td>
<td></td>
<td>Beyond</td>
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</table>
EITI Requirements | Level of Progress
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Categories | Requirements | No Progress | Inadequate | Meaningful | Satisfactory | Beyond

**Overall Progress**

**No progress.** All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.

**Inadequate progress.** Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.

**Meaningful progress.** Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.

**Satisfactory progress.** All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.

**Beyond.** The country has gone beyond the requirements.

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 Iraq. Progress in addressing these corrective actions will be assessed in a second Validation commencing on 25 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.
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 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 on 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.

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 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.


News

The EITI Board concludes that Iraq’s “potential has yet to be fulfilled” in oil and mining sector

More government involvement is needed to extend transparency in the governance of the oil and mining sector.

26 October 2017 - At its meeting in Manila, the Philippines, the EITI Board today commended Iraq’s efforts to bring transparency to its oil exports and encouraged the Government of Iraq to make progress on a number of other aspects of the sector. While recognising the difficulties under which Iraq was implementing the EITI, the EITI Board concluded that additional work was needed to demonstrate adequate progress across the sector in implementing its Standard. As a result, the EITI Board concluded that Iraq had made inadequate progress overall. Iraq will have 18 months to carry out corrective actions and will be temporarily suspended in the meantime.

Iraq - “potential has yet to be fulfilled”

Efforts to bring transparency to the state’s oil exports, which account for over 90% of budget revenue, have made Iraq a frontrunner in shaping the EITI Standard globally. Iraq was the first country in the EITI to reconcile oil sales on a cargo-by-cargo basis and remains one of the few EITI countries to do so. Iraq’s publication of information on physical crude oil flows in the domestic market, including supplies to refineries and power generators, is unique in the region. Continued efforts are 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 EITI Board noted that the Iraqi Federal Government will need to lead efforts to extend the transparency that it has brought to its oil sales to the rest of the sector. “Although there is strong potential for the EITI to have a positive impact in the governance of Iraq’s oil and gas sector”, the Board concluded, “this potential has yet to be fulfilled”.

Referring to Iraq’s Validation, Fredrik Reinfeldt, Chair of the EITI, said:
“Iraq has, in many ways, been a regional pioneer in implementing the EITI Standard. We have seen some progress, although there are still challenges that remain to be addressed. Government engagement will be necessary to generate reform and open up the sector.”

Moving beyond reconciliation of oil sales

The initial findings and stakeholder consultations that underpin the EITI Board’s decision show that Iraq has struggled to move beyond the reconciliation of oil sales to explain the broader picture in which these payments are made.

According to EITI Regional Director Pablo Valverde, “The EITI has provided a platform for discussions among stakeholders that does not otherwise exist in Iraq, and has generated important debates. It is now time for the EITI in Iraq to build on the progress done on oil sales transparency to bring clarity to the whole of the sector.”

Scorecard

Notes

- The EITI is a coalition of governments, companies, civil society groups, investors and international organisations.
- EITI is chaired by Fredrik Reinfeldt. Mr Reinfeldt was the Prime Minister of Sweden (2006-2014).
- 53 countries are members of the EITI.
- Validation is the EITI’s independent evaluation mechanism. It assesses countries against progress made in meeting the 2016 Standard.
- The Board decision in full, including corrective actions and impact of the EITI in the country, can be found here: eiti.org/validation/iraq/2017
- The reports giving an extensive review of Iraq’s extractive sector can be found here: eiti.org/document/validation-of-iraq-2017-documentation
- See here for a full explanation of the various levels of progress under the EITI Standard.
- To learn more about Iraq, visit eiti.org/iraq or their national EITI page