Second Validation of Tajikistan - Board decision

Decision reference: 2020-02/BC-284
## Table of contents

- **The Board's decision** ........................................................................................................... 3
- **Background** ......................................................................................................................... 3
- **Scorecard** ............................................................................................................................ 6
- **Corrective actions** ................................................................................................................ 7
The Board's decision

Following the conclusion of Tajikistan’s second Validation, the EITI Board agrees that Tajikistan has made meaningful progress overall in implementing the 2016 EITI Standard and lifts the suspension.

The Board commends Tajikistan for using the EITI to improve disclosures of data in the extractive sector and to create a platform for dialogue among different stakeholder groups. The Board acknowledges the EITI Council’s efforts to disclose information on production and export of gold, silver and other precious metals that had not been previously publicly available. The Board also recognises the Government’s commitment to improve EITI implementation and the country’s efforts to strengthen industry and civil society engagement. The Board takes note of the ongoing development of the online mining cadastre and welcomes the further focus on systematic disclosure of information about the extractive sector through government and company systems. Furthermore, there is sufficient evidence to suggest that the EITI is playing an important role in widening the civic space in relation to the extractive industries and that civil society representatives are sufficiently engaged in design and monitoring of the EITI process in Tajikistan. The Government of Tajikistan is urged to continue ensuring that there are no legal, regulatory or practical constraints for civil society to fully, actively and effectively engage in all aspects of EITI implementation and debate about natural resource governance, particularly in terms of freedom of expression, operation and association.

The Board nonetheless encourages Tajikistan to clarify the legal framework for licensing processes, further enhance disclosures related to state-owned enterprises and their financial relations with government, as well as ensure comprehensive disclosure of information about social and quasi-fiscal expenditures. Tajikistan should also ensure that the EITI reporting process focuses on assessing the comprehensiveness and quality of available data as well as documents impact and outcomes of EITI implementation. Tajikistan is encouraged to use EITI reporting as an annual diagnostic of public and private sector audit practices as a means of supporting broader public finance management reforms. Moreover, further work on beneficial ownership and contract transparency is welcomed and encouraged.

The Board has determined that Tajikistan will have 18 months, i.e. until 23 July 2021, before a third Validation to carry out corrective actions regarding requirements relating to license allocations (#2.2), license register (#2.3), policy on contract disclosure (#2.4), state participation (#2.6), export data (#3.3), comprehensiveness (#4.1), SOE transactions (#4.5), data quality (#4.9), mandatory social expenditures (#6.1), quasi-fiscal expenditures (#6.2), outcomes and impact of implementation (#7.4). Failure to achieve satisfactory progress in the third Validation will result in temporary suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Tajikistan’s EITI Council may request an extension of this timeframe or request that Validation commences earlier than scheduled.

Background

Tajikistan was accepted as an EITI Candidate in February 2013. The country was suspended in April 2015 as it was unable to produce its first EITI Report in accordance with the reporting deadline of 26 February 2015. The 2014 EITI Report was published in November 2015. The first Validation of Tajikistan commenced on 1 July 2016. On 8 February 2017, the EITI Board suspended Tajikistan due to inadequate progress overall in implementing the 2016 EITI Standard. Seventeen corrective
actions were identified by the Board, pertaining to the following requirements:

1. Industry engagement (#1.2),

2. Civil society engagement (#1.3),

3. License allocations (#2.2),

4. License register (#2.3),

5. Contract disclosure (#2.4),

6. State participation (#2.6),

7. Production data (#3.2),

8. Export data (#3.3),

9. Comprehensiveness (#4.1),

10. In-kind revenues (#4.2),

11. Infrastructure provisions and barter arrangements (#4.3),

12. SOE transactions (#4.5),

13. Data quality and assurance (#4.9),

14. Mandatory social expenditures (#6.1),

15. Quasi-fiscal expenditures (#6.2),

16. Public debate (#7.1),

17. The outcomes and impact of EITI implementation (#7.4).
The EITI Board asked Tajikistan to address these corrective actions to be assessed in a second Validation commencing on 8 September 2018. Tajikistan has undertaken a number of activities to address the corrective actions:

- On 26 December 2016, the EITI Council approved an Open Data Policy paper.

- On 30 January 2017, the EITI Council approved the 2016 Scoping Study.

- On 30 January 2017, the EITI Council approved the ToRs for the 2015-2016 EITI Report and hired the Independent Administrator on 31 March 2017.

- In April 2017, the CSO Coalition “Transparency for Development”, with support from PWYP, developed an action plan to address the corrective action on civil society.

- In June 2017, EITI Tajikistan conducted a meeting with the company constituency, where the industry constituency action plan was developed and approved.

- On 16 June 2017, the EITI Council approved the 2016 Annual Progress Report.

- In February 2018, Tajikistan published its second EITI Report, covering 2015-2016 fiscal years. The report was updated with supplementary information and shared with the EITI International Secretariat in August 2018.

- On 2 May, the EITI Council approved the 2018 EITI work plan.

- On 1 June 2018, the EITI Council approved the 2017 Annual Progress Report.

- In August 2018, the CSO MSG members prepared and published an assessment of the corrective actions.

In addition to addressing the corrective actions, the EITI Council conducted a number of studies, including on quasi-fiscal expenditures, legal review, government’s commitments on transparency and others.

Tajikistan’s second Validation commenced on 8 September 2018. Having reviewed the steps taken by Tajikistan to address the seventeen corrective actions requested by the EITI Board, the Secretariat’s assessment is that Tajikistan has fully addressed six corrective actions, having made “satisfactory progress” on four of the corresponding requirements, with two requirements now assessed as “not applicable in the year under review. Of the other eleven outstanding corrective actions, the International Secretariat’s assessment is that Tajikistan has partly addressed eight of the corrective actions and has not addressed three of the corrective actions. The draft assessment
was sent to the EITI Council in English on 11 September and in Russian on 23 September 2019. Following receipt of the EITI Council’s comments on 14 October 2019, the assessment was finalised for consideration by the EITI Board. The Validation Committee reviewed the case on 8 January 2020 and agreed the recommendation.

Scorecard

<table>
<thead>
<tr>
<th>EITI Requirements</th>
<th>Level of Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Categories</strong></td>
<td></td>
</tr>
<tr>
<td>MSG oversight</td>
<td></td>
</tr>
<tr>
<td>Government engagement (#1.1)</td>
<td>Satisfactory</td>
</tr>
<tr>
<td>Industry engagement (#1.2)</td>
<td></td>
</tr>
<tr>
<td>Civil society engagement (#1.3)</td>
<td></td>
</tr>
<tr>
<td>MSG governance (#1.4)</td>
<td>Beyond</td>
</tr>
<tr>
<td>Workplan (#1.5)</td>
<td></td>
</tr>
<tr>
<td><strong>Licenses and contracts</strong></td>
<td></td>
</tr>
<tr>
<td>Legal framework (#2.1)</td>
<td>Beyond</td>
</tr>
<tr>
<td>License allocations (#2.2)</td>
<td></td>
</tr>
<tr>
<td>License register (#2.3)</td>
<td></td>
</tr>
<tr>
<td>Policy on contract disclosure (#2.4)</td>
<td></td>
</tr>
<tr>
<td>Beneficial ownership (#2.5)</td>
<td></td>
</tr>
<tr>
<td>State participation (#2.6)</td>
<td>Beyond</td>
</tr>
<tr>
<td><strong>Monitoring production</strong></td>
<td></td>
</tr>
<tr>
<td>Exploration data (#3.1)</td>
<td>Beyond</td>
</tr>
<tr>
<td>Production data (#3.2)</td>
<td></td>
</tr>
<tr>
<td>Export data (#3.3)</td>
<td>Beyond</td>
</tr>
<tr>
<td><strong>Revenue collection</strong></td>
<td></td>
</tr>
<tr>
<td>Comprehensiveness (#4.1)</td>
<td>Beyond</td>
</tr>
<tr>
<td>In-kind revenues (#4.2)</td>
<td></td>
</tr>
<tr>
<td>Barter agreements (#4.3)</td>
<td></td>
</tr>
<tr>
<td>Transportation revenues (#4.4)</td>
<td></td>
</tr>
<tr>
<td>SOE transactions (#4.5)</td>
<td></td>
</tr>
<tr>
<td>Direct subnational payments (#4.6)</td>
<td></td>
</tr>
<tr>
<td>Disaggregation (#4.7)</td>
<td></td>
</tr>
<tr>
<td>Data timeliness (#4.8)</td>
<td></td>
</tr>
<tr>
<td>Data quality (#4.9)</td>
<td></td>
</tr>
</tbody>
</table>
### EITI Requirements

<table>
<thead>
<tr>
<th>Categories</th>
<th>Requirements</th>
<th>Level of Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>No Progress</td>
</tr>
<tr>
<td><strong>Revenue allocation</strong></td>
<td>Distribution of revenues (#5.1)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Subnational transfers (#5.2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Revenue management and expenditures (#5.3)</td>
<td></td>
</tr>
<tr>
<td><strong>Socio-economic contribution</strong></td>
<td>Mandatory social expenditures (#6.1)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>SOE quasi-fiscal expenditures (#6.2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Economic contribution (#6.3)</td>
<td></td>
</tr>
<tr>
<td><strong>Outcomes and impact</strong></td>
<td>Public debate (#7.1)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Data accessibility (#7.2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Follow up on recommendations (#7.3)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Outcomes and impact of implementation (#7.4)</td>
<td></td>
</tr>
<tr>
<td><strong>Overall Progress</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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 Tajikistan. Progress in addressing these corrective actions will be assessed in a third Validation commencing on 23 July 2021.
1. In accordance with Requirement 2.2, Tajikistan should ensure that the statutory procedures for awarding and transferring licenses through direct negotiations, including technical and financial criteria assessed, are clearly described and publicly-available. Tajikistan should ensure that the specific licenses awarded and transferred, and the identity of license-holders be publicly accessible, alongside an assessment of any non-trivial deviations from statutory procedures for awarding and transferring licenses. To strengthen implementation, Tajikistan is encouraged to use EITI reporting as a means of commenting on the efficiency of the current licensing system.

2. In accordance with Requirement 2.3.b, Tajikistan should maintain a publicly available register or any other cadastre system with information on all active extractives licenses, including dates of application and license coordinates. Given that the Department of Geology is currently working on the establishment of Tajikistan’s extractives cadastre system, Tajikistan EITI is encouraged to start disclosing information through this cadastre system rather than through publication of open data files on the government websites.

3. In accordance with Requirement 2.4.b, Tajikistan is required to publicly document the government’s policy on disclosure of licenses and contracts that govern the exploration and exploitation of oil, gas and minerals. This should include relevant legal provisions, and any reforms that are planned or underway. To strengthen implementation, Tajikistan is also encouraged to publicly clarify the differences in contractual obligations across different contracts and investment agreements.

4. In accordance with Requirement 2.6.a, Tajikistan must disclose an explanation of the prevailing rules regarding the financial relationship between the government and state-owned enterprises (SOEs) and any SOE subsidiaries operating in the extractive sector. In accordance with Requirement 2.6.b, Tajikistan should ensure that the terms attached to the state (and any SOE’s) equity stake in mining, oil and gas companies is publicly disclosed, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest, are disclosed. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues. Where the government and SOE(s) have provided loans or loan guarantees to mining, oil and gas companies operating within the country, details on these transactions should be disclosed.

5. In accordance with requirement 3.3, Tajikistan must disclose export data for the fiscal year covered by the EITI Report, including total export volumes and the value of exports by commodity and by state/region of origin. This could include sources of the export data and information on how the export volumes and values disclosed in the EITI Report have been calculated.

6. In accordance with Requirement 4.1, Tajikistan should ensure that the scoping study is based on a comprehensive list of all extractive companies operating in the extractive industries in Tajikistan. Tajikistan should ensure that the materiality threshold for selecting companies
ensures that all material companies that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation, and ensure that all companies making material payments to the government comprehensively disclose these payments in accordance with the agreed scope. Tajikistan should ensure that the report provides an assessment of the materiality of payments from non-reporting companies and their impact on the comprehensiveness of the reconciliation.

7. In accordance with Requirement 4.5, Tajikistan must ensure that the reporting process comprehensively addresses the role of state-owned enterprises (SOEs), including material transfers between SOEs and other government agencies, in particular 10% net profit pay and Treasury transfers to SOEs, including comprehensively reconciling such transfers where material. The EITI Council should review the materiality of 10% net profit pay and document its decision.

8. In accordance with Requirement 4.9 and the standard Terms of Reference for Independent Administrators (IA), Tajikistan should ensure that the IA provides a clear assessment of the comprehensiveness and reliability of reconciled financial data, as well as a final reconciliation coverage in light of reporting omissions. Tajikistan is encouraged to use EITI reporting as an annual diagnostic of public and private sector audit practices as a means of supporting broader public finance management reforms.

9. In accordance with requirement 6.1, the EITI Council should review and agree whether mandatory social expenditures mandated by law or the contract with the government (including local governments) that governs the extractive investment exist and where these provisions are stipulated. Tajikistan must disclose and, where possible, reconcile the mandatory social expenditures. Where such benefits are provided in kind, it is required that implementing countries disclose the nature and the deemed value of the in-kind transaction. Where the beneficiary of the mandated social expenditure is a third party, i.e. not a government agency, it is required that the name and function of the beneficiary be disclosed. Where reconciliation is not feasible, countries should provide unilateral company and/or government disclosures of these transactions. To strengthen implementation, the EITI Council could review and agree whether discretionary social expenditures and transfers are material and develop a reporting process with a view to achieving transparency commensurate with the disclosure of other payments and revenue streams to government entities. Additionally, to address the issue of interpretation of the government expectation, the government and EITI Council should work together to establish a credible reporting system to record social infrastructure and other social expenditures committed by companies during bidding process.

10. In accordance with Requirement 6.2, Tajikistan should review its definition of quasi-fiscal expenditures for EITI reporting purposes to ensure it is aligned with the definition provided in the EITI Standard and the IMF’s Fiscal Transparency Manual. Tajikistan should ensure a level of transparency in quasi-fiscal expenditures commensurate with other payments and revenue streams and should include SOE subsidiaries and joint ventures.

11. In accordance with Requirement 7.4iv-v, the EITI Council should ensure that future annual
progress review include an assessment of progress with achieving the objectives set out in the work plan including the impact and outcomes of the stated objectives, as well as a narrative account of efforts to strengthen the impact of EITI implementation on natural resource governance. This should include an overview of the EITI Council’s responses to and progress made in addressing the recommendations from reconciliation and Validation in accordance with Requirement 7.3.

The government and the EITI Council are encouraged to consider the other recommendations in the International Secretariat’s assessment, and to document the EITI Council’s responses to these recommendations in the next annual progress report.