



**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.

№.№	Evaluation of The international EITI Secretariat	Review of the NCS
1	<p><i>requirement 1.4</i> - 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.</p>	<p>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:</p> <ol style="list-style-type: none"> 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

		<p>election procedure with broad participation of participants.</p> <p>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).</p> <p>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</p> <p>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</p>
2	<p><i>requirement 2.3</i> - license Registry. Kazakhstan has implemented the corrective measure for the license Register and has made satisfactory progress on Demand 2.3.</p>	<p>-</p> <p>satisfactorily</p>
3	<p><i>requirement 2.6</i> - Public administration. Kazakhstan partially fulfilled the corrective measure on Public participation and has made significant progress with notable improvements on Requirement 2.6.</p> <p>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.</p>	<p>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.</p> <p>We believe the implementation of this requirement is satisfactory.</p>

4	<p><i>requirement 3.2-production Data.</i> Kazakhstan partially met the corrective measure for production Data and made significant progress with notable improvements on Demand 3.2.</p>	<p>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).</p> <p>We believe the implementation of this requirement is satisfactory.</p>
5	<p><i>requirement 4.3-Barter and infrastructure agreements.</i> Kazakhstan has partially implemented the corrective measure for Barter and infrastructure agreements and has made significant progress with notable improvements on Demand 4.3.</p> <p>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.</p>	<p>The Additional Report (pp. 61-63) provides links to the website of the Committee on Statistics, where you can find out the cost of a unit of production with screenshots on how to choose the right source of information. The data on production volumes are given in Appendix 6 (key regions where the extraction of the main priority minerals is concentrated).</p> <p>We consider the fulfillment of this requirement to be satisfactory.</p>
6	<p><i>requirement 4.4-Transport revenue.</i> Kazakhstan has partially implemented the corrective measure for Transport revenue and has made significant progress with notable improvements under Requirement 4.4.</p> <p>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</p>	<p>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.</p> <p>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.</p>

	<p>TemirZholy», emphasizing its resistance on the issue of disclosure of railway revenues transportation of fossil resources related to the confidentiality of commercial information.</p> <p>In accordance with Requirement 4.4 Kazakhstan must ensure that revenues are publicly available, received by SOEs from the transportation of fossil resources, with disaggregation by company in case of materiality.</p>	
7	<p><i>requirement 4.9</i> the Quality and reliability of the data.</p> <p>Kazakhstan met the corrective measure for data Quality and reliability and made satisfactory progress on Demand 4.9.</p>	satisfactorily
8	<p><i>requirement 6.1</i>-Social expenses.</p> <p>Kazakhstan has partially implemented the corrective measure for Social spending and has made significant progress with notable improvements on Demand 6.1.</p> <p>The 2017 EITI report mentions reconciliation of data on mandatory social expenditures according to the budget classification codes (<i>further BCC</i>) budget code 206114 and unilateral disclosure of other social expenditures. Submitted data on mandatory social services expenditures according to the budget code of the BCC 206114 differ from the data in different appendices of the 2017 EITI Report, do not distinguish between cash social expenditures and social expenditures in kind, and do not identify non-governmental organizations beneficiaries'. In accordance with Requirement 6.1 Kazakhstan must ensure a clear separation between mandatory and voluntary social expenses, as well as exhaustive disclosure of mandatory social expenses if they are significant, indicating the method of payment in cash or in kind, the nature and estimated cost of transactions in kind, and the identity of any non-governmental beneficiary.</p>	<p>Kazakhstan became one of the first countries participating in the EITI, which carried out the verification of data on social investments between these companies and local executive authority. The difference is revealed in the applications and explanations are given. Work continues on the subject of a clear division between voluntary and mandatory payments. At the same time, it should be noted that voluntary payments that are not agreed with the local executive authority are sponsorship assistance and are not included in the reports of the License and Contract terms.</p> <p>Mandatory payments are provided by the companies ' Work programs. Mandatory social expenditures are monitored by the competent authorities and measures are taken in case of non-fulfillment (a fine of 1 % of the amount of non-fulfilled obligations). Only payments to BCC 206114 are mandatory, and social support in kind is voluntary.</p> <p>Given that a lot of work has been done, consider this requirement satisfactory.</p>
9	<p><i>requirement 6.2</i> - quasi-Fiscal costs.</p> <p>Kazakhstan partially met the adjustment measure for quasi-Fiscal costs and made significant progress on Requirement 6.2.</p> <p>The 2017 EITI report lists the quasi-fiscal costs of SOEs, although it also includes reservations about classifying certain costs</p>	<p>The report form for quasi-fiscal expenses has been entered into the EGSU system and information is available online.</p> <p>Kazakhstan will conduct a full analysis of all expenditures of mining SOEs (and their subsidiaries)that may</p>

	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	<i>requirement 7.4</i> - 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**