

Official opinion of Azerbaijan's MSG on EITI International Secretariat's draft report on Validation of Azerbaijan: Report on initial data collection and stakeholder consultation

MSG governance and functioning (#1.3):

1. Despite some certain difficulties in EITI Coalition activities in general, we state that there are no restraint, coercion or anything else that restricts the right to speak and operate freely within the MSG. Each stakeholder group has the right to appoint its own representatives. The nomination process is independent and free from any suggestion of coercion. MSG meetings are conducted in accordance with the Memorandum of Understanding (MOU) on EITI implementation in Azerbaijan, which states:
 - Each Party shall appoint with equal rights 3 (three) principal members and up to 3 (three) alternate members to the MSG. (MOU, 1.2.1)
 - Alternate members have the right to attend the MSG meetings as observers. An alternate member exercises the authorities of the principal member in the case of non-attendance of the latter at any MSG meeting. (MOU, 1.2.3)
 - An extraordinary meeting of the MSG shall be held at the request of any of the Parties. The date of such extraordinary meeting shall be set within 10 (ten) working days of the date of the request. (MOU, 1.3.5)
 - Decisions of the MSG are made at meetings of the MSG (in accordance with clause 1.3 of this Memorandum). (MOU, 1.4.1)
 - The decisions of the MSG are made on the basis of consensus of the members of MSG attending the MSG meeting. (MOU, 1.4.2)

- Any position expressed by a member of the MSG is considered to be the position of the relevant Party. Therefore, prior to the meeting, the members of MSG should seek to reach an agreement on the issue with the Party that they represent. (MOU, 1.4.3)

During 2015-2016 12 Multi-Stakeholder Group (MSG) meetings, 8 Working Groups meetings with participation of Civil Society representatives (protocols available) were held, numerous other events and activities with active involvement of Civil Society MSG representatives took place. We cannot agree that civil society groups involved in the EITI as members of the multi-stakeholder group are operationally, and in policy terms, not independent of government and/or companies. We consider that assessment results of this requirement should be reviewed again. In addition, the assessment of the civil society engagement evaluates the execution of corrective actions (Board decision on Azerbaijan, 29th meeting) in accordance with civil society protocol. The draft report states that for the assessment of the requirement 1.4.a.ii - the specific requirement on ensuring that the civil society MSG members are operationally and in policy terms independent of government and/or companies is assessed under section 2.3 (which corresponds to the corrective action c) in the Board decision) of the civil society protocol. However, during assessment some clauses from the section 2.2 (which corresponds to the corrective action b) of the Board decision) of the protocol were addressed, that affects the overall assessment. We believe it is a purely technical mistake. Taking all abovementioned into consideration we consider that the assessment results of this requirement should be reviewed again.

Work Plan (#1.5):

2. *“One of the activities under objective three is specifically aimed at “solving issues concerning the capacity constraints of the Coalition” (2016 work plan activity 3.2.1). Further details on what this entails are not provided in the work plan”* (page 15, Secretariat's report). Activities named as “solving issues concerning the capacity constraints of the Coalition” was included in the initial version of the work plan 2016. Later, The Work Plan was updated in accordance with Civil Society Protocol changing the section 3.2.1 as follows: “Discussing how to ensure the active participation of the civil

society in the EITI implementation, any obstacle to it and how to eliminate it". It's subsections a, b, c, d, e were altered accordingly.

State participation (#2.6):

Regarding mining sector

3. There were not any state-owned companies operating in the mining sector for the year 2014. The government share in the mining PSA belongs to the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan. Because the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan is a governmental organization, no state-owned companies were registered in the mining sector. The project is managed and implemented by the Azerbaijan International Mineral Recourse Operating Company. The detailed information was provided in "3.2. Overview of the Mining Industry" of EITI Report under the heading "Gold and silver extraction".

Regarding relationship with state agencies

4. SOCAR considers that the information provided in the State participation (#2.6) is thorough. The applied method was compiled with Independent Administrator based on the sample sent by the International Secretariat. However, the relationship with state agencies are provided in more details in the section 3.5 on State Participation in Extractive Industry of the 2014 EITI Report.

Regarding the level of ownership of PSAs

5. The following additional information can be included to the information provided by SOCAR on the expenditures in the 2014 EITI Report. The existing general practice on the expenditures is as following:
Contractor shall be entitled to the recovery of its Petroleum Costs from Total Production as follows:

- All Operating Costs shall first be recovered;
 - All Capital Costs shall then be recovered from a maximum of fifty (50) percent of Petroleum remaining out of Total Production after deduction of Petroleum required to recover Contractor's Operating Costs ("Capital Cost Recovery Petroleum").
6. The EITI Report provides the information on investment in jointly controlled entities and investment in associates. The detailed information was provided in "3.5. State participation in extractive industry" of EITI Report under the part b) "the level of beneficial ownership in mining, oil and gas companies operating within the country's extractive industry". Moreover, throughout the EITI Report links numerous sources, including the publicly available financial statements of SOCAR for the year ended 31 December 2014 were provided.

Regarding SGC

7. According to the EITI Standard, SOCAR should provide information on changes of ownership in Joint Venture (JV) and subsidiaries (JV and Subsidiaries, not associate). SGC Upstream is neither JV nor subsidiary of SOCAR. SGC Upstream is not subsidiary of SOCAR but it is subsidiary of SGC. SGC is an associate of SOCAR with share of 49%. For detailed information please see 2014 EITI Report, section 3.5.

It would be great if the Validator could provide the commitment source about the presentation of the written information on the current issue.

SOE quasi-fiscal expenditures (#6.2):

8. SOCAR approves the recommendations of the validation report and supports the relevant clarification of quasi-fiscal expenditures within the MSG accordingly. SOCAR believes that the information on quasi-fiscal expenditures as defined by the International Monetary Fund (IMF) was provided in the 2014 Report. However, we are open for more comprehensive discussions within the MSG on clarification of this information.

According to the definition given by the IMF to quasi-fiscal expenditures, quasi-fiscal expenditures like subsidized social services did not occur. More detailed information on the 476 million AZN (manat) state transfers can be found in the SOCAR's Financial Report. Nevertheless, the company looks forward to the clarification on the definition of quasi-fiscal expenditures within the MSG.

9. 11003.355 Thousand AZN (manat) social expenditure was done according to SOCAR Charity and Sponsorship standard 009.2012. All these expenditures were at the discretion of SOCAR. They are not quasi fiscal expenditures. Details were presented in Sustainable Development Reports of SOCAR.

Outcomes and impact of implementation (#7.4):

10. The Secretariat's report marks this requirement under "meaningful progress" arguing that the Progress report 2015 does not contain an analysis of impact as well as it was prepared in a rush.

A separate paragraph on impact of EITI implementation was included into the Progress report upon recommendations of the International Secretariat (e-mail dated 11 July)¹. It states that:

The EITI stakeholders of Azerbaijan identify two major positive impacts of the EITI implementation in the country:

- Fruitful policy dialogue among government, companies and civil society. These three parties have gathered around a table to formulate policies and make decisions. Thus, the EITI made a difference in the sector and brought about new type of policy-making to the country.

¹ Brief information on efforts to strengthen and extend the EITI implementation was also added to the Progress report upon recommendations of the International Secretariat in their e-mail dated 11 July 2016. See pages 27-28, Progress report 2015

- Trust to the government and companies in the extractive sectors. Before the EITI has been implemented in Azerbaijan, both civil society and media had a lot of questions regarding the revenues coming from extractive sectors. Tons of articles were being published during that period on inappropriate use of revenues, corruption and bribery. The EITI dropped this kind of issues from the agenda by promoting transparency and accountability in extractive industry revenues.

These two major effects of the EITI are accepted by all three parties. Moreover, the EITI implementation has also impacted parties in different ways depending on their nature and circumstances. The Secretariat's report highlights all stakeholder views in this regard.

Azerbaijan cannot add anything new to this list. True core of the EITI is all about mutual understanding and cooperation among three important parties as well as transparency of extractive revenues. It is undeniable that Azerbaijan has achieved both.

Bearing these in mind we believe that Azerbaijan fully complies with "Impact and outcomes" requirement and assessment results of this requirement should be reviewed again.

Other issues:

Misunderstandings and disagreements:

11. Page 37 of the Report says that *"there is no minute that confirms MSG approval of the reporting templates..."* It is important to note that the reporting templates are integral part of MoU - the main regulating document which was signed in 2014 among all EITI stakeholders. The MSG reviews templates on regular basis.
12. *"Despite the lack of engagement from government and companies, the International Secretariat's initial assessment is that Azerbaijan has completed the corrective action requested by the EITI Board and made satisfactory progress with this requirement"*

(page 50, Secretariat's report). We would not agree with the first part of the statement, as a number of Coalition events were realized with the initiative of government, particularly with its technical and financial support.

Factual mistakes:

13. *"The MSG has reviewed progress with implementation on a regular basis, including by publishing annual progress reports over the past three years"* (page 53, Secretariat's report). The sentence should be corrected as: "...over the past five years (2011-2015)".
14. *"The national secretariat explained that the list of revenue streams was approved ahead of the 2013 EITI Report as part of the agreement on the reporting templates that were included with the revised MoU, approved in May 2014"* (page 30, Secretariat's report). It should be taken into consideration that the MoU was signed in June 2014.
15. *"The revenue data is disaggregated by individual company and revenue stream. A table on p.31 shows the revenue streams collected by SOFAZ, and the Ministry of Finance"* (page 35, Secretariat's report). The sentence should be corrected as: "...by SOFAZ, and the Ministry of Taxes".