

Validation of Tajikistan

For decision

The Validation Committee recommends that the EITI Board agrees that Tajikistan has made inadequate progress in implementing the 2016 EITI Standard. As a consequence, in accordance with requirement 8.3.c.iii, Tajikistan would be suspended and will need to take corrective actions as outlined below.

1 Recommendation

The Validation Committee makes the following recommendation to the EITI Board:

The Board agrees that Tajikistan has made inadequate progress overall in implementing the 2016 EITI Standard. In taking this decision the EITI Board noted the strong commitment by the Government of Tajikistan and the important contributions by civil society to the process. The Board highlighted that although there is a need for improvement in terms of disclosure of information related to the extractive sector, the EITI reporting process has underscored opportunities for reform. The Board was encouraged by the efforts of the government and the EITI Council to act on the recommendations from EITI reports to strengthen management of the extractive sector, including efforts to establish a publicly accessible cadastre, ensure mandatory disclosure of beneficial ownership and improve tax collection systems.

The Board's determination of Tajikistan's progress with the EITI's requirements is outlined in the assessment card, below. The EITI Board agreed that Tajikistan had not made satisfactory progress on requirements 1.2, 1.3, 2.2, 2.3, 2.6, 3.2, 3.3, 4.1, 4.2, 4.3, 4.5, 4.9, 6.1, 6.2, 7.1 and 7.4. The major areas of concern relate to industry engagement (#1.2), civil society engagement (#1.3), license allocations (#2.2), license registers (#2.3), state participation (#2.6), including SOE transactions (#4.5) and quasi-fiscal expenditures (#6.2), production data (#3.2) and export data (#3.3), comprehensiveness (#4.1), in-kind revenues (#4.2), barter arrangements (#4.3), data quality and assurance (#4.9), social expenditures (#6.1), public debate (#7.1) and the documentation of impact (#7.4). The EITI Board disagreed with the validator on the following requirements: government engagement (#1.1), export data (#3.3) and in-kind revenues (#4.2)¹.

*In accordance with requirement 8.3.c.iii, the EITI Board agreed that Tajikistan will be suspended and will need to take corrective actions outlined below. Progress with the corrective actions will be assessed in a second Validation commencing on **<date of Board decision + 18 months>**. Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in delisting in accordance with the EITI Standard. In accordance with the EITI Standard, the Tajikistan EITI Council 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 July 2016. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed an Independent Validator, who submitted a Validation Report to the EITI Board. Tajikistan's EITI Council were invited to comment throughout the process. The EITI Council's comments on the report were taken into consideration. The final decision was taken by the EITI Board.

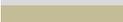
¹ As per the VC minutes of 12 December 2016, available from [link].

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		No Progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
1MSG 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 EI revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management & expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1.a)					
	Discretionary social expenditures (#6.1.b)					
	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 & impact of implementation (#7.4)					

	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.
-	No change in performance since the last Validation.
←	The country is performing worse than in the last Validation.
→	The country is performing better than in the last Validation.

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 second Validation commencing on **<date of Board decision + 18 months>**:

1. In accordance with the requirement 1.2.a, companies should demonstrate that they are fully, actively and effectively engaged in the EITI process. In accordance with requirement 8.3.c.i, the company constituency is requested 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 **<date>**. It should confirm whether geographical constraints constitute an obstacle to company participation, and if so, take steps to address this and other possible obstacles and undertake outreach activities directed at companies that are not currently on or affiliated with the Council.
2. In accordance with requirement 1.3 and the civil society protocol, the government must ensure an enabling environment for civil society participation. Specifically, in accordance with requirement 1.3.e.i and 1.3.e.iv, civil society representatives substantively engaged in the EITI process must be able to speak freely on transparency and natural resource governance issues and express opinions about the EITI without restraint, coercion or reprisal. The Board noted that the government recently passed new regulations which may cause legal and regulatory barriers for civil society. The EITI Council is encouraged to undertake sustained outreach activities directed at CSOs that are not currently on or affiliated with the Council. This could include further dialogue on these challenges both within Tajikistan and externally with other EITI implementing countries.
3. In accordance with requirement 2.2.a, Tajikistan must disclose the technical and financial criteria used in awarding or transferring a license, including any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. It is required that the information is disclosed for all license awards and transfers taking place during the accounting year covered by the EITI Report, including license allocations pertaining to companies that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality threshold. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them.
4. In accordance with requirement 2.3.b, the EITI Council should ensure that the publically available register or cadastre includes information about the license holder, duration of the license, coordinates of the license area and the date of application for the license. Where coordinates are not collated, the government is required to ensure that the size and location of the license area are disclosed in the license register and that the coordinates are publicly available from the relevant government agency without unreasonable fees and restrictions. The EITI Report should include guidance on how to access the coordinates and the cost, if any, of accessing the data. The EITI Report should also document plans and timelines for making this information freely and electronically available through the license register.
5. In accordance with requirement 2.4.b, the EITI Council is required to document the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals through the EITI Report. This should include relevant legal provisions, and any reforms that are planned or underway.

6. In accordance with requirement 2.6.a, the EITI Council must disclose an explanation of the prevailing rules and practices 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, the EITI Council should ensure disclosures from the government and SOE(s) of their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period. The government should also disclose any loans provided by the state or SOEs to oil, gas and mining companies operating in the country.
7. In accordance with requirement 3.2, Tajikistan must disclose production data for all commodities produced during the fiscal year covered by the EITI Report, including total production volumes and the value of production by commodity and region.
8. In accordance with requirement 3.3, Tajikistan must disclose export data for all commodities exported during the fiscal year covered by the EITI Report, including total export volumes and the value of exports by commodity and by region of origin.
9. In accordance with requirement 4.1, the EITI Council should ensure adherence to the standard TOR for Independent Administrators. Specifically, the EITI Council should:
 - a) Undertake further scoping work in order to better define the material revenue streams and reporting entities ahead of the 2015 EITI Report. Ensure that future reporting templates are developed in consultation with the Independent Administrator.
 - b) In accordance with requirement 4.1.c and the standard TOR for Independent Administrators, provide a comprehensive reconciliation of government revenues and company payments including ensuring that all companies making material payments and all government entities receiving material revenues comprehensively disclose these payments and revenues. The EITI Council should also ensure that the Independent Administrator identifies any discrepancies (including offsetting discrepancies) in accordance with the agreed scope and clarifies the causes of any significant discrepancies or other gaps in the reported data.
 - c) In accordance with the standard TOR for Independent Administrators, ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report.
 - d) In accordance with the standard TOR for Independent Administrators, ensure that the Independent Administrator undertakes a review of the prevailing auditing and assurance practices among companies and government entities is undertaken prior to commencing data collection, and provide an assessment on the comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
 - e) Where previous EITI Reports have recommended corrective actions and reforms, the Independent Administrator should comment on the progress in implementing those measures.
10. In accordance with requirement 4.2, Tajikistan is required to disclose the revenues collected in-kind through disclosing the volumes sold and revenues received. Specifically, this should include any gold production by SOEs, transfer of gold to the Central Bank and revenues from gold sales, if any.
11. In accordance with requirement 4.3, the EITI Council and the Independent Administrator are required to consider whether there are any agreements, or sets of agreements involving the provisions of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities. To be able to do so, the EITI Council and the Independent

Administrator need to gain a full understanding of the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream, and the materiality of these agreements relative to the conventional contracts. Where the multi-stakeholder group concludes that these agreements are material, the multi-stakeholder group and the Independent Administrator are required to ensure that the EITI Report addresses these agreements, providing a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams.

12. In accordance with requirement 4.5, the EITI Council must ensure that the reporting process comprehensively addresses the role of state-owned enterprises (SOEs), including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.
13. In accordance with requirement 4.9.b.iii and the standard Terms of Reference and the 'agreed upon procedure for EITI Report' endorsed by the EITI Board, the EITI Council should:
 - a) examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his /her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided.
 - b) Ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested assurances. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report.
 - c) The EITI Council should make sure that future reporting exercises set an adequate timeframe for reporting entities to understand and provide the necessary data, and for the IA to complete its work.
14. In accordance with requirement 6.1(a), the EITI Council should clarify whether mandatory social expenditures exist, including distinguishing between voluntary and mandatory social expenditures. Any mandatory social expenditures must be disclosed and, where possible, reconciled. Where such benefits are provided in-kind, the EITI Council should ensure that the nature and the deemed value of the in-kind transactions are disclosed. 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.
15. In accordance with the requirement 6.2, "...implementing countries must include disclosures from SOEs on their quasi-fiscal expenditures. Quasi-fiscal expenditures include arrangements whereby SOEs undertake public social expenditure such as payments for social services, public infrastructure, fuel subsidies and national debt servicing, etc. outside of national budgetary process." Accordingly, the EITI Council is required to assess what types of quasi-fiscal expenditures are made by SOEs and whether these are material. If material, the EITI Council should ensure that quasi-fiscal expenditures are disclosed.
16. In accordance with requirement 7.1, the EITI Council must ensure that the EITI Report is comprehensible, actively promoted, publically accessible and contributes to public debate. Key audiences should include government, parliamentarians, civil society, companies and the media. In accordance with requirement 7.1(e), the EITI Council should also ensure that outreach events, whether organised by government, civil society or companies, are undertaken to spread awareness of and facilitate dialogue about the EITI Report across country. The EITI Council should discuss the role the EITI could play in achieving national priorities and how it can generate public debate around natural resource use. It is encouraging that the EITI Council is currently drafting a communications strategy.

The EITI Council is encouraged to provide more EITI data in open data formats.

17. In accordance with requirement 7.4iv-v, the EITI Council should ensure that future annual progress reports 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 multi-stakeholder group's responses to and progress made in addressing the recommendations from reconciliation and Validation in accordance with Requirement 7.3.