

Validation of Ukraine

For decision

For discussion

For information

The International Secretariat recommends that the Validation Committee recommends that the EITI Board agrees that Ukraine has made *meaningful progress* in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Ukraine will be requested to undertake corrective actions before the second Validation on **<date of Board decision + 18 months>**.

Supporting documentation

Final Validation report [[English](#) | [French](#) | [Ukrainian](#)].

Comments on the draft Validation Report and initial assessment by the MSG [[English](#) | [Ukrainian](#)].

Draft Validation report [[English](#) | [Ukrainian](#)].

Initial assessment by the International Secretariat [[English](#) | [Ukrainian](#)].

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

The recommendation implies a second Validation commencing in late 2019. The cost of second Validations varies depending on the complexity of the extractive industries and the number of corrective actions. In this case, a second Validation is expected to cost circa 25 000 USD, including staff time and travel (if needed).

Document history

Draft Board Paper reviewed by the Validation Committee	26 April 2018
Validation Committee agreement on a Board Paper	TBC

VALIDATION OF UKRAINE

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Proposed Board decision on the Validation of Ukraine

The Validation Committee recommends that the EITI Board takes the following decision:

Following the conclusion of Ukraine’s Validation, the EITI Board decides that Ukraine has made meaningful progress overall in implementing the EITI Standard.

The Board congratulates the Government of Ukraine and the Multi-Stakeholder Group (MSG) on the progress made in strengthening the governance of the extractive industries. The EITI has helped ensure timely information on the revenues from mining, oil and gas, including from transportation, is provided to the public, most notably civil society, media and affected communities. The Board welcomes the extension of EITI implementation to a larger group of companies and to new sectors including coal, manganese, titanium mining and hydrocarbons transportation. Ukraine’s EITI implementation has helped drive broader economic, financial and institutional reforms by supporting the adoption of a law on “Transparency in the Extractive Industries”, and amendments to the laws on “State Registration of Legal Entities and Individual Entrepreneurs” and on the “Budget Code”.

The EITI has also provided a mechanism for civil society to raise concerns with government and industry stakeholders, leveraging active dissemination and outreach efforts and by providing a platform for public debate and informing policy-making. Civil society has played a central role in driving EITI follow-up on reforms and by building its own capacity to improve accountability in the government’s management of the extractive industries. The Board encourages the government and MSG to pursue discussions on transparency in contracts and project-level reporting, and to enhance efforts to improve the transparency of the state-owned enterprises.

The Board recognises Ukraine’s efforts to go beyond the requirements of the EITI Standard related to the engagement of civil society (1.3), beneficial ownership transparency (2.5), distribution of revenues (5.1), social expenditures (6.1) and public debate (7.1). The Board welcomes the government’s commitment to entrench an enabling environment for EITI implementation in sector policies and legislations, and encourages the MSG’s efforts to move towards systematic disclosures of EITI data through government and company systems.

*The Board has determined that Ukraine will have **18 months**, i.e. until **<date of Board decision + 18 months**, before a second Validation to carry out corrective actions regarding the requirements relating to state-participation (2.6), production data (3.2), comprehensiveness*

(4.1), transportation (4.4), SOE transactions (4.5), data quality (4.9), SOE quasi-fiscal expenditures (6.2) and economic contribution (6.3). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Ukraine's MSG 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 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 Ukraine committed to implement the EITI on 30 September 2009. The Multi-Stakeholder Group was formed on 10 October 2012. The country was accepted as an EITI Candidate on 17 October 2013 at the EITI Board's meeting in Abidjan.

The Validation process commenced on 1 July 2017. In accordance with the Validation procedures, an initial assessment [[English](#) | [Ukrainian](#)] was prepared by the International Secretariat. The Independent Validator reviewed the findings and wrote a draft Validation report [[English](#) | [Ukrainian](#)]. [Comments from the MSG \[English | Ukrainian\] were received on 23 May 2018. The Independent Validator reviewed the comments, provided response to the MSG and finalised the Validation report \[English | French | Ukrainian\] on 24 May 2018. According to the Independent Validator, the majority of the MSG's comments on the draft Validation report related to new information in the most recent EITI Report covering 2016, which was published after the commencement of Validation on 23 May 2018. The Validator noted these developments but noted that only the EITI Board had the mandate to take this updated information into account.](#)

The Validation Committee reviewed the case on 26 April and 6 June 2018. 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 "meaningful 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.
- ...
- iv. **Meaningful progress.** The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.

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






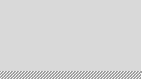

and seeks to align the Validation deadline with the timetable for Ukraine's 2016 and 2017 EITI Reports.

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG 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 revenues (#5.1)					■
	Subnational transfers (#5.2)				■	
	Revenue management and expenditures (#5.3)	■	■	■	■	■
Socio-economic contribution	Mandatory social expenditures (#6.1)					■
	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 and impact of implementation (#7.4)				■	

Legend to the assessment card

	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 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.

Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Ukraine. 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 requirement 2.6.a, the MSG should provide a comprehensive overview of state-owned enterprises, including an explanation of the prevailing rules and practices related to SOEs' retained earnings, reinvestment and third-party funding. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies in line with requirement 2.6.b.
2. In accordance with Requirement 3.2, the MSG should ensure that future reports disclose the production values for every extractives commodity produced, including crude oil, natural gas and every mineral covered by reports. To strengthen implementation, the MSG may wish to comment on parallel reporting systems for production volumes including regular publication and verification procedures, to ensure consistent, regular and reliable data.
3. In accordance with Requirement 4.1.c, the MSG should ensure that the materiality of payments from each non-reporting entity and the nature of discrepancies are clearly assessed to support the IA's overall assessment of the comprehensiveness of reconciliation. In accordance with Requirement 4.1.d, unless there are significant practical barriers, the government is additionally required to provide full disclosure of material revenues from non-material companies, disaggregated by revenue stream.
4. In accordance with Requirement 4.4, the MSG should ensure that the next EITI Report disaggregates the transportation revenues by pipeline/route and by paying company.

5. In accordance with Requirement 4.5, the MSG should engage relevant government entities and SOEs with the view to 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.
6. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator 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 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.
 - c. 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 and reliability of the report.
7. In accordance with Requirement 6.2, the MSG should clarify a definition of materiality with regards to quasi-fiscal expenditures by SOEs, including SOE subsidiaries and joint ventures. The MSG should ensure disclosure of quasi-fiscal expenditures are in accordance with requirement 6.2. This includes the nature of the subsidy scheme for household utility-payments, and the role of state-owned enterprises. It also includes the financial relationship between the SOE and its subsidiaries, including joint ventures, especially pertaining to coverage of losses. To ensure disclosure is comprehensive, the MSG may wish to define which expenditures are of a quasi-fiscal nature using national laws and regulations.
8. In accordance with Requirement 6.3, the MSG should clarify the public availability of estimates of informal extractives activities, including but not limited to artisanal and small-scale mining.

The government and the MSG are 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.

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