Board decision on requirement 8.3.c.i

2018-39/BM-40/BP-40-4-A

The Board reaffirms its commitment to the importance of the adherence to Civil Society Protocol.

The Board agrees that:

If a country has made inadequate progress or less on any one of the requirements relating to stakeholder engagement (Requirements 1.1, 1.2 and 1.3), suspension pursuant to Requirement 8.3.c.i would apply.

If on the first validation under this policy a country has made meaningful progress on requirement 1.3 on civil society due to a deficiency related to the Civil Society Protocol, the country will not be suspended and will be expected to demonstrate progress in addressing the corrective actions established by the Board. In accordance with Requirements 8.3.c.iii-iv, failure to demonstrate progress in addressing the corrective actions in the two subsequent Validations will result in suspension pursuant to Requirement 8.3.c.iv.

The Board reaffirmed that, in accordance with Requirement 8.6, the Board can at any time suspend or delist a country if significant aspects of the EITI Requirements are not adhered to.

The Board also reaffirms that:

- The procedures for assessing adherence to these requirements are set out in Requirement 8.3.a assessment of Progress with EITI implementation, the EITI Validation Guide, and the Validation procedures. In accordance with these procedures, the Validation Committee will review the Validation Report and the comments from multi-stakeholder groups, and make a recommendation to the EITI Board.

- In accordance with 2.6 of the Protocol, “for contextual purposes, the EITI Board will review the broader environment in which the EITI operates for example by reference to indicators or other types of assessments”. The Board may consider agreeing a standard set of indicators to be considered as part of this review.

1 URL to the decision: https://eiti.org/BD/2018-39
2 Reaffirming that pursuant to the Requirement 8.c. not reaching satisfactory progress in the third validation results in suspension.
3 Requirement 8.6 states: “Where it is manifestly clear that a significant aspect of the EITI Principles and Requirements are not adhered to by an implementing country, the EITI Board will suspend or delist that country. In accordance with provisions 8.2-8.4, this includes cases where a country has not met the requirements for timely EITI reporting, publication of annual progress reports and/or achieving compliance with the EITI Requirements by the deadlines established by the EITI Board. Where the EITI Board is concerned that adherence to the EITI Principles and Requirements is compromised, it may task the International Secretariat with gathering information about the situation and submitting a report to the EITI Board.”
5 https://eiti.org/document/eiti-validation-procedures
• In accordance with Requirement 8.3.d.ii, the Board retains the right to establish shorter or longer timeframes for undertaking corrective actions beyond the standard 3-18 months’ timeframe.

In accordance with requirement 8.3.a.i, in order for the EITI Board to conclude that a country has made satisfactory progress, Validation needs to demonstrate that all aspects of the requirement have been implemented and that the broader objective of the requirement has been fulfilled. In determining whether the broader objective of requirement 1.3 has been fulfilled, the Validations undertaken to date have:

• Considered each element of the Protocol on civil society participation, namely: expression, operation, association, engagement, and access to public decision-making. An assessment of “satisfactory progress” requires that all aspects have been implemented and that the broader objective of the protocol has been fulfilled.

• Consulted civil society representatives who are substantively involved in the EITI process, including but not limited to members of the multi-stakeholder group. The ‘EITI process’ includes: activities related to preparing for EITI sign-up; MSG meetings; CSO constituency side-meetings on EITI, including interactions with MSG representatives; producing EITI Reports; producing materials or conducting analysis of EITI Reports; expressing views related to EITI activities; and expressing views related to natural resource governance.

• Reviewed existing laws/regulations and the general political environment that may restrict CSO’s ability to engage in the EITI process. This may include: requirements to register as legal entities, barriers to accessing funding, limits to freedom of movement, government inspection of NGO activities and/or requirements for CSO reporting on activities. Validation considers the trends in the legal framework – are they deteriorating or getting better?

• The extent to which any administrative restrictions have affected CSOs involved in the EITI process. Where concerns are raised, Validation considers whether administrative practice involves government discretion. For example, does the government appear to purposely and systematically neglect applications for registration from certain NGOs?

This language will be added to the Validation Guide.