

Afghanistan Validation

Decision reference: 2019-1/BC-264

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The Board's decision

Following the conclusion of Afghanistan's Validation of 2017, the EITI Board commended Afghanistan's efforts to improve transparency in the management of the extractive industries and encouraged the Government of Afghanistan to continue making progress. While recognising the particularly challenging circumstances in which Afghanistan was implementing the EITI, the EITI Board concluded that Afghanistan made inadequate progress overall in implementing the EITI Standard. In accordance with the Standard, Afghanistan has been temporarily suspended until it demonstrates meaningful progress in a new Validation.

In taking this decision, the Board recognised Afghanistan's commitment to contract transparency beyond the requirements in the Standard (Requirement 2.4) and ongoing efforts to address perennial challenges in the management of licenses. The Board also recognised Afghanistan's achievement of satisfactory progress on requirements of the EITI Standard concerning the engagement of industry (1.2) and civil society (1.3), legal framework (2.1), exploration data (3.1), disaggregation (4.7) and data timeliness (4.8). This was particularly noteworthy given the security situation in the country over the last decade and the broader political and regional circumstances.

In making its decision, the Board noted the potential benefits that effective follow-up of EITI recommendations could have on Afghanistan's natural resource development. While stakeholders have used the EITI to encourage progress on cadastral management and revenue traceability, more could be done to address public financial management issues and to improve oversight of state-owned extractive companies in particular.

The Board saw better coordination and sustained political commitment as particularly necessary to improve the impact of implementation. The EITI Standard should be a key instrument to drive meaningful reform in natural resource governance in Afghanistan, however emphasis on compliance, internal governance discussions and lack of coordination have regularly crowded out this potential. The Board noted that the appointment of the Minister of Mines and Petroleum to Chair the EITI process in 2017 was a step towards addressing some of these challenges and encouraged that line ministries involved in implementation be further empowered to implement recommendations from the EITI process.

The Board noted that developing government and company systems that systematically disclose information required by the EITI Standard will in some cases be the most efficient way to address key EITI reporting requirements. The successful establishment of an automated non-tax payment system as planned and linking it to the Ministry of Finance's revenue collection systems would provide some level of assurance over government revenues. Implementation of the government's plans to assign individual tax ID numbers per mining license and disaggregate extractives-specific revenue classifications should strengthen the government's own oversight of the sector. Using annual EITI reporting as a diagnostic of state-owned enterprises' financial relations with the government would support the government's corporatisation plans for the two companies. Such progress requires proactive – and operational – engagement from all constituencies.

The Board determined that Afghanistan will have 18 months to carry out corrective actions regarding requirements relating to government engagement (1.1), MSG governance (1.4), work plan (1.5), license allocations (2.2) and register (2.3), state participation (2.6), production data (3.2), export data (3.3), data comprehensiveness (4.1), transportation revenues (4.4), SOE transactions (4.5), data quality (4.9), distribution of revenues (5.1), SOE quasi-fiscal expenditures (6.2), economic

contribution (6.3), public debate (7.1), follow-up on recommendations (7.3) and outcomes and impact of implementation (7.4). The Board believed that this will help build trust in the sector and the wider economy, demonstrate the commitment of all stakeholder groups to transparency and accountable management of the country’s natural resources, and ensure that there is reliable information available to help inform public debate and policy discussions related to the extractive sector. 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, Afghanistan’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 November 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 Board took note of the request from the Acting Minister of Mines and Petroleum Nargis Nehan to take into account work undertaken since the commencement of Validation. Following an evaluation by the International Secretariat, the Board noted improvements in the coverage of license register(s) (requirement 2.3) and changed its assessment from “inadequate progress” to “meaningful progress”. The Board also welcomed the Acting Minister’s clear commitment to address the corrective actions highlighted in the Validation, and welcomed that substantial progress had been made in recent months, including the development of a new work plan and preparations for the next EITI Report. The final decision was taken by the EITI Board.

Scorecard

EITI Requirements		Level of Progress				
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond
MSG oversight	Government engagement (#1.1) 					
	Industry engagement (#1.2) 					
	Civil society engagement (#1.3) 					
	MSG governance (#1.4) 					
	Workplan (#1.5) 					

EITI Requirements		Level of Progress					
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond	
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	Revenue management and expenditures (#5.1)						
	Subnational transfers (#5.2)						
	Distribution of revenues (#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)						

EITI Requirements		Level of Progress				
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond
Overall Progress						

-  **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 requirements.
-  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 Afghanistan. Progress in addressing these corrective actions will be assessed in a second Validation commencing on 18 July 2020:

1. In accordance with Requirement 1.1, Afghanistan should ensure that a senior individual that has the confidence of all stakeholders, authority to coordinate action and mobilise resources provides consistent government leadership of the EITI. Afghanistan should also ensure that engagement is consistent across government departments. In accordance with requirement 8.3.c.i, the government constituency is requested to develop and disclose an action plan for addressing the deficiencies in government engagement documented in the initial assessment within three months of the Board’s decision, i.e. by 18 April 2019. To strengthen implementation, Afghanistan is encouraged to ensure that government representatives on the MSG attend meetings regularly. AEITI should also consider inviting representatives from SEC and Presidential advisors given their apparent influence over extractives issues. Institutional disagreements over leadership of the EITI process should be addressed to ensure that the government is able to improve implementation at the operational level and use the EITI as a platform for reform. Given the importance of the Mutual Accountability Framework in the Afghan context, the government and development partners are encouraged to identify targets that will help Afghanistan address challenges to the sector through the EITI rather than continuing to focus on compliance.

2. In accordance with Requirement 1.4, Afghanistan should ensure that any deviations from the MSG's ToR are adequately and publicly codified. The MSG should ensure that its lack of per diem practice is publicly clarified. To facilitate compliance with the ToR, the MSG may wish to consider simpler and less prescriptive ToR while ensuring that all the elements in Requirement 1.4 are covered. This is to ensure that the invitation to participate in the group is open and transparent, that the nomination process is independent and free from any suggestion of coercion, and that civil society MSG members are operationally, and in policy terms, independent of government and companies. Bearing in mind the desirability of pluralistic and diverse representation, CSOs and industry may wish to consider ways of encouraging women to participate in the EITI process. To help planning, encourage participation of all stakeholders and ensure that papers are submitted in time, the MSG may wish to agree dates of quarterly meetings that are aligned with the EITI's reporting timeframes. To help members engage more actively, MSG members should consider working and publishing in local languages rather than English. The MSG should also ensure that there is sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption.
3. In accordance with Requirement 1.5, the MSG should ensure that its work plans are fully costed, updated regularly, consistently published online and are aligned with the reporting and Validation deadlines established by the EITI Board. In order to ensure that objectives are met, Afghanistan is encouraged to ensure that the AEITI procurement plan agreed with the World Bank and other sources of funding reflects the objectives of the MSG as explained by the AEITI annual work plan.
4. In accordance with Requirement 2.2, Afghanistan should ensure that the number of licenses awarded and transferred in the year(s) under review in both mining and oil and gas be publicly accessible, alongside a description of the actual allocation and transfer process (including the roles of relevant government entities) and any non-trivial deviations from statutory procedures in practice. Afghanistan should clarify the technical and financial criteria (and their weightings) used for assessing license allocations and transfers. Afghanistan may also wish to comment on the efficiency of the current license allocation and transfer system as a means of clarifying procedures and curbing non-trivial deviations.
5. In accordance with Requirement 2.3, Afghanistan should maintain a publicly available register or cadastre system with timely and comprehensive information on all mining, oil and gas licenses including license-holder name, dates of application, award and expiry, commodity(ies) covered and coordinates. The MSG should work with the MOMP to ensure all license information listed in Requirement 2.3.b is available for all extractives licenses active in the period under review.
6. In accordance with Requirement 2.6, Afghanistan should provide an explanation of the prevailing rules and practices related to SOEs' retained earnings, reinvestment and third-party financing. 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. AEITI may wish to align reporting with the government's corporatisation strategy for the two extractives SOEs with a view to providing annual diagnostics to support reforms. As a first step and in the absence of publicly available information on the SOEs, AEITI may also wish to pursue the publication of existing studies of SOEs that have been conducted for the MOF and MOMP but that are not currently available to the public.
7. In accordance with Requirement 3.2, Afghanistan should ensure that production volumes and values for all extractive commodities produced are publicly accessible. Where comprehensive disclosure of production figures for all minerals produced is not technically-feasible (e.g. for security reasons), Afghanistan should ensure that the reasons for non-disclosure are clearly

explained and that publicly-available estimates are comprehensively disclosed and assessed. Afghanistan may wish to use EITI reporting to explain challenges in the production of official production statistics and track the implementation of key reforms in the MOMP's mine inspection and oversight.

8. In accordance with Requirement 3.3, Afghanistan should ensure that export volumes and values for all extractive commodities exported are publicly accessible. In the absence of reliable official data, Afghanistan should at a minimum ensure that estimates are comprehensively disclosed and compared. Afghanistan may wish to use EITI reporting as a diagnostic tool to identify discrepancies in export data from different sources and support the government's efforts to curb smuggling. Given the apparent purchase of oil by local small refineries, AEITI should consider data requests to such refineries.
9. In accordance with Requirement 4.1, Afghanistan should ensure that all companies selected in the scope of reporting comprehensively report all material payment flows and that decisions on the materiality of revenue flows are based on government unilateral disclosure of total extractives revenues, including those not statutorily-mandated but nevertheless collected. Afghanistan should also ensure that full unilateral government disclosure of material revenues from non-material companies is presented disaggregated by revenue flow rather than by company. The MSG is encouraged to consider revisiting the materiality threshold for payments to strike a balance between the comprehensiveness of disclosures and the quality of reporting considering limited resources at their disposal.
10. In accordance with Requirement 4.4, Afghanistan should ensure that its assessment of the materiality of any revenues from the transportation of oil, gas and minerals be publicly documented and that any such material revenues be disclosed disaggregated to levels commensurate with the reporting of other payments and revenue streams.
11. In accordance with Requirement 4.5, Afghanistan should undertake a comprehensive assessment of transactions between extractives SOEs and government entities to ensure that the reporting process comprehensively addresses the role of SOEs, including transfers between SOEs and other government agencies.
12. In accordance with Requirement 4.9, Afghanistan should ensure that the ToR for the IA is in line with the standard ToR approved by the EITI Board and that agreement on any deviations from the standard ToR be properly documented. Afghanistan should ensure that a review of actual auditing practices by reporting companies and government entities be conducted before agreeing procedures to ensure the reliability of EITI information. Afghanistan should ensure that the quality assurances agreed for EITI reporting be clearly documented, that compliance with agreed procedures by reporting entities be clearly assessed and that the IA provide a clear assessment of the comprehensiveness and reliability of EITI reporting. The MSG should also ensure that summary data tables for all EITI Reports are prepared in a timely manner in line with requirements of the Board-approved IA's ToR.
13. In accordance with Requirement 5.1, Afghanistan should ensure that the allocation of extractives revenues not recorded in the national budget are explained, with links provided to relevant financial reports as applicable. Afghanistan may wish to explore the extent to which it could use extractives-specific GFS classifications from its EITI summary data tables (together with its per-license tax ID numbers) as a means of disaggregating extractives revenues in MOF systems.
14. In accordance with Requirement 6.1, Afghanistan should ensure that a clear definition of any mandatory social expenditures is publicly provided and assess the materiality of such expenditures in the period under review. The MSG may wish to consider the extent to which disclosure of Community Development Agreements (or review of key terms) would be necessary to provide a comprehensive assessment of the existence of mandatory social

expenditures. Afghanistan should ensure that public disclosure of mandatory social expenditures be disaggregated by type of payment (distinguishing cash and in-kind) and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures.

15. In accordance with Requirement 6.2, Afghanistan should undertake a comprehensive review of all expenditures undertaken by extractives SOEs that could be considered quasi-fiscal. The MSG should develop a reporting process for quasi-fiscal expenditures with a view to achieving a level of transparency commensurate with other payments and revenue streams.
16. In accordance with Requirement 6.3, Afghanistan should disclose comprehensive information about the extractive industries' contribution to the economy in relative and absolute terms, including to GDP, government revenues, exports and employment.
17. In accordance with requirement 7.1, Afghanistan should ensure that EITI reports are comprehensible, actively promoted, publicly accessible and contribute to public debate. Taking into account the security situation, the MSG should continue to seek to carry out outreach events to spread awareness of and facilitate dialogue about the EITI Report across the country whenever possible. The MSG may wish to consider linking the AEITI communications strategy more closely to the work plan and tailoring key messages to sector priorities rather than to EITI implementation more broadly. The MSG is also encouraged to ensure that the open data policy is posted online and that EITI reports are available in open data format.
18. In accordance with Requirement 7.3, Afghanistan should take steps to act upon lessons learnt with a view to strengthen the impact of EITI implementation on natural resource governance. In particular the MSG should consider improving its procedures to process recommendations. Taking into consideration the importance of the MAS and the IMF's ECF review frameworks in an Afghan context, the MSG is encouraged to encourage the development of "smart deliverables" that issue from EITI recommendations and serve to prioritise these.
19. In accordance with Requirement 7.4, Afghanistan should ensure that all stakeholders are able to participate in the production of the annual progress report and review the impact of EITI implementation. Stakeholders beyond the MSG should be able to provide feedback on the EITI process and have their views reflected in the annual progress report. The MSG should ensure that an assessment of progress with achieving the objectives set out in its work plan is carried out, including the impact and outcomes of the stated objectives. The MSG may wish to use the APR template provided by the International Secretariat to ensure that the different tools to review progress are harmonised. The MSG is encouraged to ensure that the APR, the MSG's action plan and any other management tools are used to feed into the annual work plans.

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.