

Extractive Industries Transparency Initiative (EITI)

Validation of Azerbaijan

Report on initial data collection and stakeholder consultation by the EITI International Secretariat

31 August 2016

DRAFT

Abbreviations

ACG	Azeri – Chirag – Guneshli
AIMROC	Azerbaijan International Mineral Resources Operating Company
BTC	Baku-Tblisi–Ceyhan
CSO	Civil society organisation
CSSN	Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan
EU	European Union
ICNL	International Centre for Not-for-profit Law
MoF	Ministry of Finance
MoJ	Ministry of Justice
MoT	Ministry of Taxes
MSG	Multi-stakeholder group
NGO	Non-governmental organisation
NRGI	Natural Resource Governance Institute
OPEC	Organisation of the Petroleum Exporting Countries
PSA	Production Sharing Agreement
SOCAR	State Oil Company of the Azerbaijan Republic
SOFAZ	State Oil Fund of the Republic of Azerbaijan
ToR	Terms of Reference
WB	World Bank

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Executive Summary

The government of Azerbaijan announced its commitment to the EITI in 2003 at the EITI Conference in London¹. The country was accepted as an EITI Candidate in 2007 and following their first Validation under the 2009 EITI Rules, the EITI Board designated Azerbaijan EITI Compliant in July 2009. A multi-stakeholder group was formed in 2010. The country has produced EITI reports covering financial years 2005-2014. Azerbaijan underwent its first Validation against the EITI Standard in 2015 and was found to have made meaningful progress².

On 1 June 2016, the EITI Board agreed that Azerbaijan's second Validation against the EITI Standard should commence on 1 July 2016. In accordance with the Validation procedures set out in the 2016 EITI Standard, the International Secretariat was tasked with carrying out initial data collection and stakeholder consultations and preparing a report with an initial evaluation of progress against requirements in accordance with the Validation Guide. The Secretariat has followed the standardised procedure for data collection and stakeholder consultation as agreed by the Board in May 2016³.

While the assessment has not yet been reviewed by the MSG or been quality assured, the International Secretariat's preliminary assessment is while Azerbaijan has made significant progress in meeting the requirements of the EITI Standard, requirements 1.3, 1.4, 2.6, 6.2 and 7.4 are unmet (see Figure 1). The major areas of concern relate to the environment for civil society engagement in the EITI process, disclosure of data related to state-participation in the extractive sector including quasi-fiscal expenditures, and a lack of reflection and documentation of the impact of the EITI process. Recommendations for improving implementation are suggested in the assessment tables for each requirement.

Overall conclusions

Azerbaijan has been a pioneer in EITI implementation, both in terms of being one of the first countries to implement the EITI as well as being the first country to become Compliant with the EITI Rules. A key strength of EITI implementation over the years has been the commitment to regular EITI Reporting. Azerbaijan published its first EITI report covering 2003 financial data in 2005. Since then, figures have been published without exception in a timely fashion. As noted in Azerbaijan's 2015 Validation: "First and foremost, the impact of AzEITI over the past twelve years is that it has provided credible data, which helps further the understanding of the most significant sector to the Azerbaijan economy and is a vital tool for macro-economic analysis and policy debate" (2015 Validation Report, p.57).

Another strength of the EITI process has been the forum for dialogue provided by the multi-stakeholder platform. The concept of multi-stakeholder collaboration was not evident in the early days as illustrated by the somewhat late establishment of Azerbaijan's multi-stakeholder group in February 2010. Since then, the multi-stakeholder group has evolved from a platform that was initially quite narrowly focused on aggregated revenue transparency to a more recent and meaningful conversation about governance of state-owned companies, contract transparency and commodity trading. Although there are opportunities to go further in the level and extent of disclosures, civil society representatives in particular have recently

¹ https://eiti.org/sites/default/files/documents/AZERBAIJAN%20VALIDATION%20FINAL%20REPORT_RCS_15_04_10v2_0.pdf

² https://eiti.org/sites/default/files/documents/boardmeeting_029_minutes.pdf

³ <https://eiti.org/document/validation-procedures>

been more successful in broadening the discussion and engaging other stakeholders in questions around e.g. SOCAR's quasi-fiscal expenditures and ownership arrangements. While much of the credit for the recent expansion and improvements in EITI reporting are due to the high technical capacity and professionalism of civil society representatives on the multi-stakeholder group, government and companies' involvement in the EITI has been consistently strong. Shahmar Movsumov, Executive Director of SOFAZ and EITI Champion has provided political support to the process. Company engagement has also been consistent and BP in particular has played a leading role in coordinating the company constituency.

With a relatively clear and structured oil sector, EITI reporting in Azerbaijan has been easy from a data availability and record keeping point of view. The number of company and government reporting entities is lower than many other EITI countries. Auditing and assurance procedures are strong, with many international companies present. The transition from the EITI Rules to the EITI Standard appears to have been quite smooth. Azerbaijan's 2013 EITI Report for the first time disclosed company-by-company data, and the 2014 EITI Report was another first for the country in terms of disclosures related to commodity trading. As highlighted in this report, the main gaps in EITI reporting relate to SOCAR, the state-owned oil and gas company. However, overall, the direction of travel in terms of reporting and transparency is positive.

Despite Azerbaijan's high dependency on oil and gas, the EITI appears to have played a limited role in stimulating national debate about sector management and the spending of oil revenues. The EITI reports do not appear to have played any significant role in stimulating government reforms in the extractive sector. The involvement of the multi-stakeholder group in facilitating public debate and contributing to awareness raising has been fairly limited. Despite the crucial contribution that each stakeholder can make to such conversations, the NGO Coalition has led most of this work. Although the NGO Coalition has done a commendable job in undertaking analysis and sharing knowledge and information about the EITI process, there is insufficient evidence to demonstrate that these efforts have had an impact on natural resource governance.

One reason for this may be that, in recent years, although the relevance and depth of EITI data has improved, the environment for public debate has become more restrictive and there appears to have been limited opportunities for civil society to effectively contribute to public policy making. This must be seen in the wider context of increasing challenges for civil society to operate in Azerbaijan. Legislation regulating NGO activities have been put into force alongside other measures that, according to the government, are aimed at providing more structure to the NGO sector. Other stakeholders describe these interventions as a targeted clamp down on civil society. The ability of civil society to participate in the EITI remains affected by this wider environment, even if the restrictions that are reported by civil society organisations are unlikely to be caused by the engagement of these civil society groups in the EITI. The shrinking space for civil society alongside lack of access to funding has also exacerbated tensions between civil society organisations that are members of the NGO Coalition, turning more pro-governmental voices against more oppositional groups.

In terms of the future of EITI implementation in Azerbaijan, a key opportunity for making the EITI more relevant and useful would be to move towards more mainstreamed transparency. The government and the multi-stakeholder group have already started to explore next steps in this direction. Other areas where stakeholders have suggested that the EITI might be useful in delivering information include a more participatory debate about natural resource governance as well as deeper disclosures of information related to contracts, state-owned companies, and expenditures. However, it is unlikely that Azerbaijan

will be able to regain its status as a regional leader on EITI or that EITI will be able to deliver on these areas in a meaningful way unless the government takes further steps to improve the opportunities for civil society to participate in the EITI.

Recommendations

Based on the findings from the initial data collection and stakeholder consultations, the International Secretariat makes the following overall recommendations for improving EITI implementation in Azerbaijan. More detailed recommendations are provided in the assessment tables throughout the report.

1. The MSG is recommended to update the license register to include all active contracts, including contracts pertaining to companies not covered in the scope of the EITI Report. The government is encouraged to consider more timely reporting on license allocations and transfers, i.e. when they occur.
2. Given that all production sharing agreements (PSAs) in Azerbaijan are ratified by Parliament, the MSG should consider increasing its efforts to make the remaining PSAs available on the EITI Azerbaijan website.
3. The government should ensure that SOCAR discloses all details regarding its equity stake and changes in ownership. The MSG could consider extending this to SOCAR subsidiaries operating in the downstream sector.
4. The government should ensure that SOCAR discloses all quasi-fiscal expenditures.
5. It is recommended that the MSG includes further contextual data on the mining sector in the next EITI Report, in particular with regards to licenses and contracts awarded at local levels. The government should also clarify the terms attached to the government's share in the two active mining PSAs.
6. The MSG is encouraged consider expanding the reporting on sales of in-kind revenue to include additional information such as the type of product, price, market and sale volume.
7. The MSG is encouraged to extend the reporting on transportation to include a full description of the transportation arrangements including the products transported, transportation route(s), disclosure of tariff rates and the methodologies used to calculate them, and disclosure of volume of the transported commodities.
8. The MSG is encouraged to consider extending EITI Reporting to include information on revenue management and expenditures.
9. The MSG is encouraged to explore opportunities to report on discretionary social expenditures in future EITI reports.
10. It is recommended that the MSG undertakes an analysis of the impact of EITI implementation with a view to identify weaknesses and opportunities for increasing impact. It is recommended that wider stakeholders have an opportunity to contribute to such an analysis.
11. The government should address the remaining issues related to the environment for civil society participating in the EITI, notably legal and practical obstacles related to registration of NGOs, accessibility of registration extracts, registration of grants and any other obstacles affecting the

ability of NGOs to operate. The government should also ensure that there is an enabling environment for civil society to express their views and debate on natural resource governance issues.

12. Civil society should take steps to agree a policy for political and operational independence, and consider issues affecting coalition governance.

Figure 1 – assessment card

EITI REQUIREMENTS		LEVEL OF PROGRESS				
		No	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)			■		
	Workplan (#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	Revenue management and expenditures (#5.1)				■	
	Subnational transfers (#5.2)				■	
	Distribution of revenues (#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 and 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.

Introduction

Overview and background of EITI implementation

The government of Azerbaijan announced its first commitment to the EITI in 2003 at the EITI Conference in London. The country was accepted as an EITI Candidate in 2007, and was the first country to become EITI Compliant in 2009. A multi-stakeholder group (MSG) was established in 2010 to oversee implementation. Shahmar Movsumov, Executive Director of the State Oil Fund of Azerbaijan, is the EITI Champion and Chair of the MSG.

Following concerns related to the ability of civil society to participate in the EITI, the 28th EITI Board meeting requested Azerbaijan to undertake an early Validation against the EITI Standard⁴. Based on the Validation report considered by the EITI Board at its 29th meeting, Azerbaijan was declared an EITI Candidate country with corrective actions to be completed by 15 April 2016⁵. On 1 June 2016, the EITI Board decided that Azerbaijan should undertake a second Validation commencing on 1 July 2016 to verify whether the corrective actions had been completed and the outstanding requirements had been met⁶.

Objectives for implementation and overall progress in implementing the workplan

Azerbaijan defines its EITI objectives each year in an annual work plan. The core focus each year has been the preparation and dissemination of the EITI reports. The 2016 EITI work plan has three objectives:

1. Enhancing public awareness of the profits from the natural resources, enabling citizens to access fast to the information distributed within the framework of the EITI implementation, utilize it and additionally, building an information exchange capacity.
2. Incorporating EITI in the activities of the state bodies (EITI mainstreaming), preparing a credible and mobile database on revenues from extraction, and reporting models.
3. Establish a framework to ensure healthy and advanced relations among the parties of the EITI Azerbaijan (the government, extractive companies, and the civil society)⁷.

The MSG usually updates its work plan in December every year to be ready for the following calendar year. Implementation of the 2016 work plan is broadly on track, with only minor delays in commencement of work plan activities. The work plan serves as a management and monitoring tool by the MSG, and is updated approximately once every quarter.

⁴ <https://eiti.org/node/7196>

⁵ <https://eiti.org/node/7197>

⁶ <https://eiti.org/node/7202>

⁷ 2016 EITI work plan for Azerbaijan <https://drive.google.com/drive/folders/OB04mMaoOD1P8R1Jta2NUZHJt3c>

History of EITI Reporting

- Azerbaijan's first EITI Report was produced in 2005. Reports have been produced for each subsequent year and until 2010 included both semi-annual and annual reports.
- The latest EITI Report covers financial year 2014 and was published in February 2016. This is the second report that Azerbaijan has produced in accordance with the EITI Standard. Summary reports are available for both the 2013 and 2014 EITI Reports.
- The MSG recently commenced preparations for the 2015 EITI Report, which is due to be published by the end of 2016. The current Independent Administrator, Moore Stephens, has been hired to produce the EITI reports covering 2015-2017.
- The MSG is exploring opportunities for mainstreaming EITI reporting⁸ in the future.

Summary of engagement by government, civil society and industry

The current MSG operates under a Memorandum of Understanding that was updated and approved by the MSG in June 2014⁹. Members of the MSG meet regularly and at least four times per year. In addition, a technical working group focused on EITI reporting meets on an ad hoc basis to support the preparation of the EITI reports. Minutes from MSG meetings are not publicly available, although short summaries are published on the Azerbaijan EITI website¹⁰. A list of current MSG members is included in Annex B.

The government, company and civil society constituencies have developed their own procedures and regulations for determining their representation on the MSG. The Government Commission on EITI was established by the Ordinance of Cabinet Ministers in November 2003¹¹. Companies formed a Company Group, currently representing 39 international and local companies active in Azerbaijan and coordinated by BP. The Coalition for Improving Transparency in Extractive Industries was formed in 2004 and currently comprises 138 NGOs.

Although all three stakeholder groups are engaged in the design and implementation of the EITI, there have been growing concerns about the ability of civil society to participate in the process. In April 2013, the EITI Chair wrote to President Ilham Aliyev expressing concern about the shrinking space for civil society. Following further reports of challenges faced by members of the Coalition, the Board decided in July 2014 to send a mission to Azerbaijan to canvass stakeholder views on the situation¹². In October 2014, the EITI Board expressed deep concern about the situation for civil society¹³. Subsequent to the downgrading of Azerbaijan in April 2015, the EITI Chair met with President Ilham Aliyev on 8 October 2015 where the President undertook to resolve the issues raised by the EITI Board on civil society participation¹⁴.

⁸ <https://eiti.org/mainstreaming>

⁹ <http://www.eiti.az/index.php/en/mhsht-ve-azerbaycan-2/multi-stakeholder-group>

¹⁰ <http://www.eiti.az/index.php/en/senedler-2/extracts-from-minutes>

¹¹ No.224 dated 13 November 2003 <http://www.eiti.az/index.php/en/senedler-2/ordinance2/270-ordinance-of-the-cabinet-of-ministers-of-the-republic-of-azerbaijan-224>

¹² <https://eiti.org/node/7195>

¹³ <https://eiti.org/news/statement-eiti-chair-clare-short-azerbaijan>

¹⁴ <https://eiti.org/news/eiti-chair-meets-azerbaijan-president-ilham-aliyev>

Key features of the extractive industry

Azerbaijan has a long tradition of oil production, with the first oil well drilled in 1848. The past 20 years has seen a dramatic increase in development in the petroleum sector in Azerbaijan, beginning with the so-called “Contract of the Century”, a landmark production sharing agreement for the Azeri – Chirag – Guneshli (ACG) deep-water oil fields signed by thirteen companies from eight countries¹⁵. The major producing fields, notably ACG and Shahdeniz - are located in the Caspian Sea, there are also a few producing field and a number of exploration projects onshore, in particular on the Apsheon Peninsula. For the year ending 2014, Azerbaijan reported 7 billion barrels of estimated oil reserves, and 1300 billion cubic meters of estimated natural gas reserves (2014 EITI report, p.31).The country produced 41 953 million tons of oil and 29 555 million cubic meters of gas in 2014 (2014 EITI report, p.31).

The mining sector is negligible compared to oil and gas sector. There are two key gold projects in the western part of Azerbaijan, notably Chovdar and Gadabay. The country produced a total of 1873 kg of gold in 2014. Gold reserves are estimated at 30.2 tonnes (EITI Report, p.31).

Azerbaijan also has a growing network of pipelines, including the Baku-Tblisi-Ceyhan (BTC) to Turkey, as well as the Baku- Supsa, Baku – Novorossiysk and the South Caucasus pipelines. Approximately 80% of all oil production is transported through the BTC pipeline (2014 EITI Report, p.27). The Southern Gas Corridor Project (SGC), a USD 45 billion 3,500km pipeline from Azerbaijan to Italy is being developed and is expected to be online by 2020.

The hydrocarbon sector has made a major contribution to Azerbaijan's real gross domestic product (GDP) in recent years, but the country is also starting to see the impact of declining production and lower oil prices. The hydrocarbon sector accounted for 34.6% of GDP in 2014 compared to 50.2 % in 2011. The sector accounted for 61.7% of total budget revenues and 86% of total exports in 2014 (2014 EITI Report, pp.31-32). The State Oil Fund of Azerbaijan (SOFAZ) was established in 2000. As of 1 April 2016, SOFAZ assets amounted to USD 34.2 billion¹⁶.

Explanation of the Validation process (objectives, timeline, ToR, etc.)

The EITI International Board agreed at its 34th Board meeting in Oslo, Norway that fifteen countries, including Azerbaijan will undergo Validations starting 1 July 2016. Azerbaijan is undertaking its second Validation in accordance with the EITI Standard, meaning that the focus of the Validation is primarily on the corrective actions requested by the Board and the requirements that the Board found outstanding in the 2015 Validation. Specifically, the Board tasked the International Secretariat with undertaking a Review, assessing compliance with required corrective actions, and updating the Validator’s assessment of the draft 2013 EITI Report in order to enable the Board to assess requirements 2, 3, 4, and 5 (see Annex D).

1. Validation is an essential feature of the EITI process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. The Validation report will, in addition, address the impact of the EITI in the country being validated, the implementation of activities encouraged by the EITI Standard, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future

¹⁵ <http://en.president.az/azerbaijan/contract>

¹⁶ http://www.oilfund.az/en_US/hesabat-arxivi/rublukh/2016_1/2016_1_1/

implementation of the EITI.

The Validation process is outlined in chapter 4 of the EITI Standard¹⁷. Validation

2. Validation procedure. In February 2016 the EITI Board approved a revised Validation system. The new system has three phases:

1. Data collection undertaken by the International Secretariat
2. Independent quality assurance by an independent Validator who reports directly the EITI Board
3. Board review.

In May 2016, the Board agreed the [Validation Guide](#), which provides detailed guidance on assessing EITI Requirements. The Board also established detailed [Validation procedures](#), including a standardised procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of reference for the Validator. As previously, there are extensive opportunities for stakeholder participation, as set out below.

The Validation Guide includes a provision that: “Where the MSG wishes that Validation pays particular attention to assessing certain objectives or activities in accordance with the MSG workplan, these should be outlined upon the request of the MSG”. The MSG did not request any issues for particular consideration.

3. Data collection by the International Secretariat. In accordance with the [Validation procedures](#), International Secretariat’s work was conducted in three phases:

1. Desk Review. In the period 21 June-20 July 2016, the Secretariat conducted a detailed desk review of the available documentation relating to the country’s compliance with the EITI Standard, including:

- The EITI work plan and other planning documents such as budgets and communication plans;
- The multi-stakeholder group’s Terms of Reference, and minutes from multi-stakeholder group meetings;
- EITI Reports, and supplementary information such as summary reports and scoping studies;
- Communication materials;
- Annual progress reports; and
- Other information of relevance to EITI implementation and Validation.

This work included initial consultations with stakeholders, who were invited to submit any documentation they considered relevant. In accordance with the [Validation procedures](#), the Secretariat did not take into account any actions undertaken after the commencement of Validation on 1 July 2016.

2. Country visit. The country visit took place from 3-9 July 2016. All meetings took place in Baku. The secretariat met with the multi-stakeholder group and its members, the Independent

¹⁷ See also <https://eiti.org/validation>

Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group.

In addition to meeting with the MSG as a group, the Secretariat met with its constituent members (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders were able to freely express their views. Requests for confidentiality have been respected.

The list of stakeholders consulted was prepared by members of the Azerbaijan MSG, with inputs and suggestions from the national and the International Secretariat. The International Secretariat's view is that the report covers views of the key stakeholders engaged in the EITI process.

3. Reporting on progress against requirements. Based on these consultations, the International Secretariat has prepared this report - making an initial evaluation of progress against requirements in accordance with the Validation Guide. In accordance with the [Validation procedures](#) the report will not include an overall assessment of compliance. The report will be made available to multi-stakeholder group for comment prior to quality assurance by the Independent Validator.

The International Secretariat's team comprised: Sam Bartlett, Dyveke Rogan and Tatiana Sedova.

4. Independent Validation. In accordance with the EITI Standard, the EITI Board will appoint a Validator¹⁸, who will report to the Board via the Validation Committee. The Validator will assess whether the Secretariat's initial data gathering has been carried out in accordance with the Validation Guide. This will include: a detailed desk review of the relevant documentation for each requirement and the Secretariat's initial evaluation for each requirement, and a risk-based approach for spot checks, and further consultations with stakeholders. The Board may request that the Validator undertake spot checks on specific requirements. The Validator will amend or comment on the Secretariat's report as needed. The Validator then prepares a short summary (the Validation Report) for submission to the Board. This will include the Validator's assessment of compliance with each provision, but not an overall assessment of compliance. The multi-stakeholder group will be invited to comment on the Validation Report.

5. Board Review and decision. The final stage in the process is the review by the EITI Board. The Validation Committee will review the Validator's assessment and any feedback from the multi-stakeholder group. The Validation Committee will then make a recommendation to the EITI Board on the country's compliance with the EITI Requirements. The EITI Board will make the final determination of whether the requirements are met or unmet, and on the country's overall compliance in accordance with provision 8.3.a.ii of the EITI Standard. There is an appeal process, as per requirement 8.8.

¹⁸ At the time of writing, the procurement process was ongoing, see <https://eiti.org/node/7118>

Part I – MSG Oversight

1. Oversight by the MSG

1.1 Overview

This section assesses government oversight of the EITI process, stakeholder engagement and the environment for implementation of EITI in country, the governance and functioning of the multi-stakeholder group (MSG), and the EITI work plan.

In accordance with the EITI Board decision of 15 April 2015, only the requirements related to civil society engagement (#1.3) and work-planning (#1.5) are reassessed.

1.2 Assessment

Government oversight of the EITI process (#1.1)

The EITI Board considered this requirement to be met when Azerbaijan was validated in 2015. Accordingly, this requirement has not been re-assessed.

Company engagement (#1.2)

Given that the EITI Board did not establish any corrective actions with respect to this matter, the International Secretariat's understanding is that this requirement was considered met when Azerbaijan was validated in 2015¹⁹. Accordingly, this requirement was not re-assessed.

Civil society engagement (#1.3)

Annex E provides a detailed assessment of this provision and the associated corrective actions.

MSG governance and functioning (#1.4)

The EITI Board considered this requirement to be met when Azerbaijan was validated in 2015. Accordingly, this requirement was not re-assessed. However, concerns were expressed with regards to requirement 1.4.a.ii which states that "Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies."

The corrective action corresponding to this concern is assessed under section 2.3 of the civil society protocol. Based on the findings, the International Secretariat's initial assessment is that Azerbaijan has made meaningful progress in meeting this requirement.

¹⁹ Note that "company engagement" was not a standalone requirement when Azerbaijan was Validated in 2015. However, the Board Paper considered at that meeting noted that: "the International Secretariat's assessment is that provisions 1.3(a) and 1.3(b-e) as concerns company and government participation are considered met".

Work plan (#1.5)

The review of the 2015 Validation of Azerbaijan noted that: “the Validator notes that the work plan does not include objectives for implementation that reflect national priorities for the extractive industries. The Validator also highlights that although the work plan include funding sources it is not fully costed. The Validator confirms that the work plan activities are mostly implemented but that some CSO outreach activities have not been completed.” (EITI Board paper 29-5-A, p.13). Consequently, the EITI Board agreed the following corrective action for Azerbaijan: “The MSG should agree a fully costed work plan that sets out objectives for implementation linked to national priorities for the extractive sector (Requirement 1.4.a)” (Minutes from the 29th EITI Board meeting, p.27).

Documentation of progress

The MSG approved a work plan for 2016 on 26 January 2016²⁰ which contains the following three objectives:

1. Enhancing public awareness of the profits from the natural resources, enabling citizens to access fast to the information distributed within the framework of the EITI implementation, utilize it and additionally, building an information exchange capacity.
2. Incorporating EITI in the activities of the state bodies (EITI mainstreaming), preparing a credible and mobile database on revenues from extraction, and reporting models.
3. Establish a framework to ensure healthy and advanced relations among the parties of the EITI Azerbaijan (the government, extractive companies, and the civil society).

The work plan itself does not explain the rationale behind these objectives or how they link to national priorities or the EITI Principles. The minutes from the MSG meeting held on 25 December 2015 document the approval work plan objectives, noting that:

“During discussion of 2016 Action plan MSG members stressed the importance to conform activities in the plan with the national priorities. The list of objectives prepared by Secretariat based on international experience and local features was discussed and MSG agreed on 4 main goals...: (1) Increase awareness of population about revenues from natural resources, ensure easy access to information disclosed under EITI and benefit by citizens, as well as shaping of information-exchange potential; (2) Integration of EITI to the functioning of state authorities (EITI mainstreaming); (3) Formation of operative database and reporting model on revenues from extraction; and (4) Formation of fine and positive relations among government, extracting companies and civil society in Azerbaijan within EITI, increase of mutual confidence and development of cooperation environment.” (MSG meeting minutes, 25 December 2015, p.9).

It appears that goals number 2 and 3 were merged in the final version approved on 26 January 2016.

MSG meeting minutes also record some earlier discussion of the work plan objectives. On 8 October 2015, the MSG discussed the outcomes of a September 2015 workshop facilitated by the EITI International Secretariat and the preliminary work plan objectives prepared by the national secretariat prior to the workshop. The minutes note that “during the discussions in the seminar it had become obvious that those national priorities should be a bit different” (MSG meeting minutes, 8 October 2015, p.3). The NGO Coalition had provided some input to the work plan objectives including on issues such as

²⁰ <http://www.eiti.az/index.php/en/senedler-2/work-plan-for-implementation-of-eiti>

the enactment of a petroleum law, the promotion of SOCAR, the role of Azerbaijan as a transit location for commodities, and integration of transparency in government systems with a view to improve data accessibility which would fit well with the government policy of digitalisation (MSG meeting minutes, 8 October 2015, p.3). The MSG meeting minutes also note the need to consider reflecting the implications of the global decline of the oil prices and the need for the development of the non-oil sector in the work plan (MSG meeting minutes, 8 October 2015, p.3). The minutes of the 16 July 2015 MSG meeting also refer to the need for work plan objectives to correspond to national priorities and that according to the national secretariat “ensuring transparency and fully inform public about revenues from mining extraction in Azerbaijan” were the main priorities for the 2015 work plan (MSG meeting minutes, 16 July 2015, p.6).

Specific activities are listed under each objective. For instance, in order to achieve objective two, the MSG intends to undertake the following eight activities:

- Analysing the systems applied by the government and holding discussions on the feasibility of the integration of the EITI-introduced database into the systems of other government bodies.
- Preparing capacity-building programmes for the state bodies.
- Engaging the experts into the analysis of the legal and practical experience over the state licenses, contracts and the beneficial ownership
- Steps to strengthen the capacity of the EITI secretariat to manage more effectively the growing flow of information and to increase mobility.
- Conducting a complete study of the experience of the relevant state bodies having been audited.
- Before reporting, holding a seminar of the relevant representatives of the group of companies.
- Studying the international experience over the EITI electronic reporting
- Analysis the current electronic systems of the Azerbaijani government, perform a study of the application of electronic reporting in Azerbaijan.

Detailed activities are also outlined for the two other objectives. The activities are measurable and the majority of them are time-bound although a couple are indicated as taking place “year round”.

The work plan states that there are no capacity constraints affecting the implementation of the majority of the work plan activities. The only work plan activities where the column “capacity constraints” is left blank are related to civil society. The work plan does nevertheless include some capacity building activities such as “preparing capacity-building programs for the state bodies”, “holding a seminar for companies” and “strengthen capacity of the EITI Secretariat” all related to the second objective on mainstreaming (2016 work plan activities 2.2; 2.4; and 2.6). 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.

The work plan includes plans for addressing technical aspects of EITI Reporting and includes activities such as “discussion of and agreement on the TOR for the auditor” for the 2015 report, “checking the materiality of the payments from companies to the State Social Protection Fund”, “updating reporting templates” etc. (2016 work plan; activities 1.2.1.2-1.2.14).

The work plan includes activities aimed at addressing potential legal and regulatory obstacles to implementation, e.g. the activity to “engage experts into the analysis of the legal and practical experience over the state licenses, contracts and beneficial ownership” (2016 work plan; activity 2.3). It should be noted that in 2013, Azerbaijan undertook a detailed legal review of obstacles to the implementation of

the EITI Standard²¹.

Some but not all work plan activities are costed. For some non-costed activities the work plan simply states that “no funding is required”. For other activities, the work plan does not indicate the amount but simply states “Grants allocated for the NGO projects” or “issues concerning the project under consideration”. The International Secretariat understands that the former does not necessarily indicate confirmed funding, but funding that has been part of the funding proposals developed by civil society. The latter appears to be unconfirmed funding that is subject to negotiations with the World Bank. For work plan activities that are fully costed, the work plan confirms the funding source, which in most cases is SOFAZ.

The work plan is available on the EITI Azerbaijan website.

With respect to the detail and scope of EITI implementation, the work plan makes reference to some encouraged activities such as contract transparency. Transportation payments are already covered in the EITI Report. While coverage of voluntary social payments have been discussed, the 2015 Annual Progress Report²² explains that in relation to requirement 5.3 on revenue management and expenditures “According to the MSG decision, implementation of the EITI Standard started from the fulfilment of the requirements and only after full compliance with the requirement MSG will consider the implementation of the encouragements” (2015 Annual Progress Report, p.20). However, minutes from MSG meetings document some ad hoc proposals that would expand EITI reporting. For example, at the MSG meeting on 25 December 2015, an NGO representative proposed to include information on operating and investment expenditures (p.4). A government representative also proposed that the Independent Administrator’s Terms of Reference include a provision to check whether what the companies report to have paid is consistent with a calculation of what should have been paid (MSG meeting minutes, 25 December 2015, p.3-4).

The MSG has typically updated its work plan in the last quarter of every year to be ready for the next calendar year. Thus, the work plan that was adopted in January 2016 runs until December 2016. Implementation of the 2016 work plan is broadly on track, with only minor delays in commencement of work plan activities.

Stakeholder views

The national secretariat confirmed that the MSG had tasked the secretariat with reviewing strategic documents issued by the government, including for example the *Azerbaijan 2020: Look into the future* strategy²³, with a view to suggest objectives linked to national priorities. All stakeholders reported that they were given an opportunity to make inputs, and in December 2015 the MSG had selected three objectives. The first objective on enhancing public awareness of natural resource governance had been selected because it was regarded as closely linked to the EITI principles and goals. The second objective was included because of the link with the government’s priority on promoting e-governance. The third objective on improving multi-stakeholder relations was linked to the outcomes of the meeting between EITI Chair Clare Short and President Ilham Aliyev in October 2015. Most of the input to the work plan had come from the civil society constituency. The national secretariat was not aware that the work plan was available from other sources than the EITI Azerbaijan webpage. According to secretariat staff, the work

²¹ Report by MGB Law Offices, 12 September 2013.

²² http://www.eiti.az/doc/2015/EITI_Progress_Report_2015.pdf

²³ http://www.president.az/files/future_en.pdf

plan was frequently discussed at MSG meetings and updated approximately once every quarter.

The companies noted that the draft 2016 work plan had been disseminated among company MSG members as well as to the wider groups of extractive companies, however their comments had been minor.

With regards to civil society, NGO Coalition representatives confirmed that the draft work plan was circulated in the network for input and that the Coalition Council had held two discussions about the work plan. One civil society representative commented that: “We made a number of proposals and recommendations, and the MSG members informed us afterwards that all our proposals were taken on board by the MSG”.

Initial assessment

In accordance with the corrective action by the EITI Board, the MSG has agreed a fully costed work plan that sets out objectives for implementation linked to national priorities. Although the link between the objectives and priorities for the extractive sector could have been more clearly elaborated, and the rationale for selecting these objectives could have been better explained, the International Secretariat’s assessment is that there has been sufficient discussion and consultations leading to the agreement of these work plan objectives. No stakeholder voiced any concern about the elaboration of the work plan. The work plan includes activities that are costed, timebound and measurable, and the implementation of the workplan is on track. The International Secretariat’s initial assessment is therefore that Azerbaijan has made satisfactory progress in meeting this requirement.

Table 1 - Summary assessment table: MSG oversight

EITI provisions	Summary of main findings	International Secretariat’s initial assessment of progress with the EITI provisions (to be completed for ‘required’ provisions)
Government oversight of the EITI process (#1.1)	The EITI Board considered this requirement to be met when Azerbaijan was Validated in 2015. Accordingly, this requirement was not re-assessed.	Satisfactory progress
Company engagement (#1.2)	The EITI Board considered this requirement to be met when Azerbaijan was Validated in 2015. Accordingly, this requirement was not re-assessed.	Satisfactory progress
Civil society engagement (#1.3)	See annex D	Meaningful progress
MSG governance and functioning (#1.4)	The EITI Board considered this requirement to be met when Azerbaijan was Validated in	Meaningful progress

	2015. Accordingly, this requirement was not re-assessed. However, the implication of the findings of the assessment of corrective action 1.b has implications for Azerbaijan's compliance with this requirement.	
Work plan (#1.5)	The MSG has agreed a work plan that contains objectives that are linked to national priorities. The work plan is costed and contains measurable and time bound activities.	Satisfactory progress
<p>Recommendations:</p> <ol style="list-style-type: none"> 1. In elaborating the next EITI work plan, it is recommended that the MSG provides a clearer explanation of the links between the work plan objectives and the extractive sector, and that the rationale behind the selected objectives is better articulated. The MSG is encouraged to expand the consultation on the work plan objectives to include key stakeholder beyond MSG members. 2. The government should address the remaining issues related to the environment for civil society participating in the EITI, notably legal and practical obstacles related to registration of NGOs, accessibility of registration extracts, registration of grants and any other obstacles affecting the ability of NGOs to operate. The government should also ensure that there is an enabling environment for civil society to express their views and debate on natural resource governance issues. 3. Civil society should take steps to agree a policy for political and operational independence, and consider issues affecting coalition governance. 		

Part II – EITI Disclosures

In reviewing the 2015 Validation of Azerbaijan, the EITI Board concluded that “in the absence of an approved 2013 EITI Report, it was not possible to assess compliance with requirements 2, 3, 4, and 5 [under the 2013 EITI Standard]” (Minutes from the 29th EITI Board meeting, p.27). Consequently, the EITI Board agreed tasked the International Secretariat with updating the Validator’s assessment of the draft 2013 EITI Report in order to enable the Board to assess compliance with Requirements 2, 3, 4 and 5. (Minutes from the 29th EITI Board meeting, p.28).

Since the Board decision in April 2015, Azerbaijan has published EITI reports covering 2013 and 2014. Consistent with the approach used for other countries, the assessment below is based on the latest EITI Report, i.e. the 2014 EITI Report, with references to the 2013 Report where needed.

2. Award of contracts and licenses

2.1 Overview

This section assesses implementation of the EITI requirements related to the legal framework for the extractive sector, licensing activities, contracts, beneficial ownership and state-participation.

2.2 Assessment

Legal framework (#2.1)

Documentation of progress

The 2014 EITI Report explains the legal framework and fiscal regime (p.17-19). The report also provides links to the websites of respective ministries where further details on laws and acts can be accessed. The description of the fiscal regime is limited to an overview of payment types, and in some cases, brief explanations of how these are calculated. No rates are provided. In terms of fiscal devolution, the report confirms that 97% of revenues are centered in Baku region and about 3% is sourced from other regions (p.21). The roles and responsibilities of government agencies involved in the management of the extractive sector are outlined on p.22-23. Ongoing reforms in extractive industries are listed on p.23.

Stakeholder views

The NGO Coalition’s review of the 2014 EITI Report states that “the 2014 EITI Report includes general information on the extractive industry of the country, legal norms on the functioning of the extractive industry, fiscal regime and role of state agencies” (p.4). It welcomes new features such as links to the e-portals hosting laws and regulations, information about the role and responsibilities of government agencies involved in the extractive sector, and data on taxes paid to local budgets (p.4). The review notes that the report could have included a better description of the laws and fiscal regime rather than simply listing the relevant laws (p.5). It states that it is evident that local government receive no payments from the extractive sector (p.5). The review also states that the overview of ongoing reforms could be more comprehensive if it had pointed out the changes to the laws and the implications (p.5).

Other constituencies did not express any views or concerns about this issue.

Initial assessment

The 2014 EITI Report describes the legal framework and fiscal regime governing the extractive industries, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

License allocations (#2.2)

Documentation of progress

The 2014 EITI Report explains that “there is no relevant law regulating oil or production sharing agreements (PSA) in Azerbaijan” and therefore there are no legal criteria for awarding PSAs (p.46). Rather, PSAs are allocated based on negotiations between investors and SOCAR. The report provides a description of all stages of negotiations and signing of PSAs (p.46).

The report explains that in December 2014, BP and SOCAR signed a new PSA to explore an offshore area near the Apsheron Peninsula (p.46). The report does not refer to any deviations from legal and regulatory framework governing license awards in relation to this PSA, nor does it comment on the technical and financial criteria used in evaluating BPs bid for this PSA. There is no information about how the licenses allocated prior to 2014 were awarded.

Stakeholder views

Representatives from BP and SOCAR have explained that although the PSA was awarded on 22 December 2014, it only came in to force when ratified by Parliament on 14 April 2015. Therefore, any further details on the award of this PSA would be disclosed in the 2015 EITI Report as this was the year it had formally been awarded.

The NGO Coalition's review of the 2014 EITI Report states that: “Information on the procedures of PSA signing is placed in section 3.1 on “General Information”... However, the information is incomplete: there is nothing about the deposits the exploration and exploitation activities of which have been started, neither about the mechanisms of involving companies to the exploration and exploitation activities of the deposits (for instance, advertisements, tenders or bids, etc.)” (p.9).

The Independent Administrator confirmed that no new exploration or production activities were started in 2014. However, the Independent Administrator commented that obtaining information about licensing allocation processes pertaining to specific licenses had been challenging given that very little information was available in the public domain.

The companies confirmed that there were no standard technical and financial criteria used for license allocations. Rather, these criteria were set on a case-by-case basis. The same applied to transfers of contracts.

Initial assessment

The 2014 EITI Report and conversations with stakeholders confirm that there were no license allocations or license transfers in 2014. Therefore, the International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

License registers (#2.3)

Documentation of progress

The 2014 EITI Report contains a link²⁴ to information about active PSAs held by oil, gas and gold mining companies. At the time of compiling this report, the list included 17 active PSAs and 1 gold mining license. According to the 2014 EITI Report, the total number of PSAs that have been awarded in Azerbaijan is 31, but only 18 were active in 2014. The information includes the name of the license holder(s), the coordinates of the license area, the date of application for the license, the duration of the license (expiry date), and the commodity being produced. In addition, the date of award is indicated in the overview of PSAs in the EITI Report (2014 EITI Report, p.25-26; 29).

Stakeholder views

The Independent Administrator commented that there is no publicly available register of active PSAs in Azerbaijan; therefore they had to create one in order to meet the EITI Requirements.

Government officials from the Ministry of Ecology and Natural Resources confirmed that the PSA held by AIMROC for the Chovdar gold field was still active, although it was currently being restructured.

No other stakeholders expressed any views or concerns about this issue.

Initial assessment

The 2014 EITI Report discloses information about all active PSAs covered in the scope of the EITI Report, including the name of the license holder, the date of application and duration of the license, the coordinates of the license area, and the commodity being produced.

The EITI Standard notes that “it is *expected* that the license register or cadastre includes information about licenses held by all entities, including companies and individuals or groups that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality threshold”. The use of the term ‘expected’ in the EITI Standard indicates that the multi-stakeholder group should consider the issue, and document their discussions, rationale for disclosure/non-disclosure and any barriers to disclosure. Validation will consider and document the discussions by the multi-stakeholder group.

The register does not include the details of the PSA held by AIMROC for the Chovdar gold field, although this PSA was active in 2014. The EITI Report does not explain why this PSA is not covered in the register and this issue does not appear to have been discussed by MSG members, although stakeholders consulted were of the view that the details could easily be added to the register. The International Secretariat’s initial assessment is that while the MSG should address this issue, it appears to be an issue that can be quickly corrected, and that it would be disproportionate to consider this requirement unmet. Azerbaijan has made satisfactory progress in meeting this requirement.

Contract disclosures (#2.4)

Documentation of progress

The 2014 EITI Report describes the policy and practice on contract disclosure, noting that “There exists no requirement or restriction pursuant to the Azerbaijan legislation for the PSAs to be officially disclosed, but may be disclosed based on mutual consent of the parties thereto” (p.47).

The national EITI secretariat has conducted a survey in order to obtain permission to upload the PSAs on the Azerbaijan EITI website for public access. Five PSAs have been uploaded²⁵ following the survey. The

²⁴ <http://www.eiti.az/index.php/en/senedler-2/registration-of-licenses>

²⁵ <http://www.eiti.az/index.php/en/senedler-2/agreements>

EITI Report contains no commentary on ongoing reforms related to contract transparency.

Stakeholder views

Having published five contracts on the Azerbaijan EITI website, the government considers that the MSG is making good progress on contract transparency.

A company representative commented that all contracts that the company was operating were public documents because they are resolutions of the Government of Azerbaijan, ratified by the Parliament. The company had also posted the contracts on their own website.

Government officials from the Ministry of Ecology and Natural Resources also suggested that the two active PSAs pertaining to the mining sector should be publicly accessible given that these agreements have been passed by Parliament.

Civil society did not express any views on this issue.

Initial assessment

The 2014 EITI Report documents the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. This includes the relevant legal provisions and actual disclosure practices, but does not include a commentary on any reforms that are planned or underway. The International Secretariat understands that there are no reforms planned, and hence no reference to reforms in the Report. The 2014 EITI Report provides an overview of the contracts and licenses that are publicly available, and includes a reference to the location where these are published. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Beneficial ownership disclosure (#2.5)

Documentation of progress

The 2014 EITI Report explains that the concept of beneficial ownership is not recognised in any laws of Azerbaijan and there is no publicly available registry of beneficial owners of companies operating in Azerbaijan (p.47). In June 2016, SOFAZ launched a tender to recruit a firm to prepare the beneficial ownership roadmap for Azerbaijan.

The MSG discussed the new requirements on beneficial ownership at its meeting on 15 April 2016, where the MSG agreed to hire a legal firm to prepare the roadmap on beneficial ownership disclosure (MSG meeting minutes, 15 April 2015, p.4).

Stakeholders views

The national secretariat explained that the ToR for the beneficial ownership roadmap had not been discussed by the MSG because it was commissioned by SOFAZ. According to the secretariat, no MSG representative had asked to see a copy of the ToR. However, the ToR clearly stipulated that the inception report, first and final drafts would be shared with the MSG for input and comments. No other stakeholders expressed any views or concerns about this issue beyond commenting in general terms about the importance of beneficial ownership disclosures in Azerbaijan.

Initial assessment

Implementing countries are not yet required to address beneficial ownership and progress with this

requirement does not yet have any implications for a country's EITI status. The MSG is making progress on the recruitment of a firm to support the development of the beneficial ownership roadmap, which seems to be on track for publication by 1 January 2017 as required.

State-participation (#2.6)

Documentation of progress

The 2014 EITI Report includes an explanation of the prevailing rules and practices regarding the financial relationship between the government and SOCAR, the national oil company. According to the report, it appears that the two means of government financing of SOCAR are share capital and loans (p.38). In 2014, the government contributed AZN 178m to the charter capital of SOCAR (p.38). Details of SOCAR's loans/borrowings are provided on p.42 of the EITI Report, and p.56-59 of the 2014 financial statement. The report does not address SOCAR's retained earnings, but this is given in the financial statement (SOCAR 2014 Financial Statement, p.1). The report does not appear to comment on reinvestments, but the financial statement (p.49-55) provide details on investments in joint ventures and associates. This includes purchases and sales of shares within the SOCAR group (JVs and associated companies). The 2014 EITI Report also explains that as a SOE, SOCAR is sometimes asked to contribute to the financing of other government projects. The value of such transfers by SOCAR to the government was AZN 476 m (p.38, with further details in financial statement). Other than that, SOCAR contributes to government revenue through tax payments, which amounted to AZN 1,855 b in 2014 (p.39).

With regards to government ownership in the extractive sector, the 2014 EITI Report provides an overview of SOCAR's level of ownership in PSAs, including those held by subsidiaries (p.25-26) as well as in associates and joint ventures (p.41). The information about SOCAR's ownership in PSAs does not always include or comprehensively address "...details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest". The Independent Administrator also comments on this stating that "due to lack of information publicly available there were not any relevant information to be added into the report" (p.66). The national secretariat has subsequently explained that "their [SOCAR's affiliates] costs are carried by other contractors until the commencement of development phase during which these contractors start receiving a cost recovery."²⁶

The report confirms that there was one change in SOCAR's ownership in PSAs in 2014, related to the sale of 10 % of Statoil's interest in Shah Deniz to SGC Upstream, a subsidiary of SGC which again is an associate of SOCAR²⁷. This information does not include the terms of the transaction, including details regarding valuation and revenues. With regards to SOCAR's ownership in associate and joint ventures, the report also does not fully disclose all changes in ownership and the details associated with these changes. However, the International Secretariat understands that only one JV – Azgerneft MMC - operate in the upstream oil and gas sector²⁸. According to the EITI report, there were no changes in ownership related to

²⁶ Email from the national secretariat, 10 August 2016.

²⁷ "On July 24, 2014, State Oil Company of Azerbaijan Republic established two companies in the framework of the "Southern Gas Corridor" project [i.e. SGC CJSC]: SOCAR Upstream Management International and SOCAR Midstream Operations. Both companies are at SOCAR's head office and own charter capital in the amount of 1000 AZN. Southern Gas Corridor CJSC established both SGC Upstream and SGC Midstream in 2014. SOCAR and Ministry of industry owns 49% and 51% respectively, of Southern Gas Corridor CJSC." p.24, <http://www.socar.az/socar/assets/documents/en/socar-annual-reports/sus.dev.rep-2014.pdf>

²⁸ Email from the national secretariat, 10 August 2016.

this company.

The minutes from the MSG meeting on 26 January 2016 records some discussion of pending information from SOCAR, including a letter to SOCAR requesting the outstanding information and a response by SOCAR that the information would be provided shortly (MSG meeting minutes, 26 January 2016, p.2).

Loan and loan guarantees are explained in the 2014 EITI Report (p.42) and in the financial statement.

The 2014 EITI Report does not include any commentary on state-owned companies operating in the mining sector. The International Secretariat understands that there were no state-owned companies operating in the mining sector in 2014, although the government has recently re-established AzerGold - a state-owned mining company that used to be active during the soviet times, but which was privatized in the 1990s - to represent the government's interest in mining projects²⁹. At the presentation of the review to the MSG on 15 April 2016, the NGO Coalition commented on the "legacy of AzerGold State Company and unclear links between SOCAR and other entities" (p.5). The minutes record that the MSG decided that "the Secretariat shall examine the issue of including information about DT requirements in EITI Standard about Ministry of Ecology and Natural Resources which is legal successor of AzerGold company" (p.7). The government's ownership in the two existing mining PSAs is currently held by the Ministry of Ecology and Natural Resources. The 2014 EITI Report includes no information about the terms attached to the government's equity stake in these two projects.

Stakeholder views

The review by the NGO Coalition welcomes the improvements in the 2014 report noting that the report includes "general information on SOCAR, the national extraction company; very generic and short information on the relations between SOCAR and state agencies, 3-year dynamics of certain financial indicators, affiliate and subsidiary companies of SOCAR, its beneficiary ownership in joint ventures and changes in beneficiary ownership in 2014, loans and guarantees of the Company, its standards and short information on quasi-fiscal expenses, allocations to the state and enlargement of SOCAR activities in foreign markets" (p.7). However, the review also notes that "...similar to the report of the previous year, this year's Report too lacks most of the information required in this subsection of the Standard: for instance, information on the relationship between SOCAR and Ministry of Finance, Oil Fund, Social Protection Fund, Central Bank and International Bank of Azerbaijan and its liabilities is very generic. Due to fact that the mechanisms of these relationships are not revealed, the information is not easy to comprehend" (p.7).

With regards to government ownership, the review states:

"Information on beneficiary ownership and any changes in this ownership has been copy pasted (even the financial reporting language was kept) into EITI report from SOCAR financial report which makes this information incoherent and difficult to use (for instance existence of the Group is mentioned, but nothing about its members). Therefore, it can be said that this information does not meet the requirements of the Standard. Future EITI Reports shall focus on the improvement and more comprehensive introduction of this information" (p.8).

SOCAR undertook to provide written answers to questions from the NGO coalition regarding the terms attached to their equity stake, and the details related to the acquisition of some of Statoil's share in Shah Deniz. As of 11 July 2016, this information had not been forthcoming.

²⁹ <http://www.president.az/articles/14305>

The NGO Coalition's review also identifies that no details are provided with regards to the Ministry of Ecology and Natural Resources' participation in the joint venture with R.V. Group Services (p.8). Representatives from the Ministry of Ecology and Natural Resources were not in a position to clarify details regarding the government's participation in R.V. Investment Group, and in AIMROCK. According to them, the Ministry of Ecology and Natural Resources were not responsible for regulating or monitoring the government's share in these contracts, even if they are named as the government counterpart to the contracts. Ministry officials acknowledged that during the soviet times, regulation of the government's share had been taken care of by AzerGold. When the company had been privatised, a regulatory vacuum had emerged and currently there was no government agency responsible for regulating the mining sector. It was suggested that the Ministry of Economy and the Ministry of Finance might have further information about the financial terms related to the government's share. It was also suggested that both PSAs are public documents given that they are resolutions passed by Parliament, and the terms should therefore be readily accessible.

Initial assessment

State-participation in the oil and gas sector gives rise to material revenues. SOCAR has disclosed information about the financial relationship between the company and the government. An overview of SOCAR's ownership is provided although this does not fully include information about the terms attached to SOCAR's equity stake, nor does it include details related to the changes in ownership in 2014.

With regards to the mining sector, the 2014 EITI Report lacks information about the state's participation in the two active PSAs. Although this participation is unlikely to be material compared to the oil and gas sector, the MSG has decided to include mining on equal terms as oil and gas, and this information should therefore be disclosed.

The International Secretariat's initial assessment is that Azerbaijan has made meaningful progress in meeting this requirement.

Table 2 - Summary assessment table: Award of contracts and licenses

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Legal framework (#2.1)	The 2014 EITI Report describes the legal framework and fiscal regime governing the extractive industries, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies.	Satisfactory progress.
License allocations (#2.2)	The 2014 EITI Report and	Satisfactory progress.

	conversations with other stakeholders confirm that there were no license awards or transfers in 2014.	
License registers (#2.3)	The 2014 EITI Report discloses information about all active PSAs, including the name of the license holder, the date of application and duration of the license, the coordinates of the license area, and the commodity being produced. One PSA pertaining to a company that is not included in the scope of the EITI Report is omitted from the license register, however implementing countries are only expected and not required to disclose this information.	Satisfactory progress.
Contract disclosures (#2.4)	The 2014 EITI Report discloses the policy and actual practice with regards to contract transparency. Information on how publicly available PSAs can be accessed is included in the report. The report does not comment on any reforms underway with regards to contract transparency, however the International Secretariat understands that there are no such reforms underway.	Satisfactory progress
Beneficial ownership disclosure (#2.5)	The 2014 EITI Report confirms that the concept of beneficial ownership is not recognised by law in Azerbaijan. The MSG has commenced recruitment of a firm to produce a beneficial ownership roadmap by the end of the year.	N/A
State-participation (#2.6)	The 2014 EITI Report discloses information related to the financial relationship between the government and SOEs. Although some information is provided with regards to SOCAR's ownership in oil, gas and mining projects, there is lack of detail about the terms attached to SOCAR's equity stake in PSAs as well as terms related to changes in ownership. Information	Meaningful progress

	about the government's participation in the mining sector is also missing.	
<p>International Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. The MSG is encouraged to consider more timely reporting on license allocation, i.e. when they occur. 2. The MSG is advised to update the license register to include all active contracts, including contracts pertaining to companies not covered in the scope of the EITI Report. 3. Future EITI reports should include commentary confirming whether there are any ongoing reforms related to contract transparency. Given that all PSAs in Azerbaijan are ratified by Parliament, the MSG should consider increasing its efforts to make the remaining PSAs available on the EITI Azerbaijan website. 4. The MSG should ensure that SOCAR discloses all details regarding its equity stake and changes in ownership. The MSG could consider extending this to SOCAR subsidiaries operating in the downstream sector. 5. The MSG should clarify the terms attached to the government's share in the two active mining PSAs. 		

3. Monitoring and production

3.1 Overview

This assesses implementation of the EITI requirements related to exploration, production and exports.

3.2 Assessment

The overview of the extractive sector, including exploration activities (#3.1)

Documentation of progress

The 2014 EITI Report contains an overview of the oil and gas industries, gold and silver mining, and the oil and gas transportation system (p.24-29). A brief explanation of the history of oil and gas production and a recap of mining projects is also available (p.16-17). The report includes commentary on three significant oil and gas exploration activities in 2014 (p.29).

Stakeholder views

The NGO Coalition's review of the 2014 EITI Report recognises that the report "includes information on the volume of oil and gas resources of the country, acting agreements on offshore and onshore oil and gas deposits, the parties of these agreements and their shares, oil and gas pipelines, silver and gold production, as well as exploration works on certain deposit" (p.5). The Coalition laments that their recommendation to include the volume of resources on all deposits and products (oil, gas, condensate, silver, gold, etc.) had not been taken into account.

The Independent Administrator confirmed that all large exploration activities were mentioned in the EITI Report.

Initial assessment

The 2014 EITI Report includes an overview of the extractive industries, including any significant exploration activities. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Production data (#3.2)

Documentation of progress

The 2014 EITI Report provides detailed production data by commodity (p.31-32), and by region (p.35). The report also discloses the value of production by commodity (p.35-36).

Stakeholder views

The Independent Administrator noted that they had not observed any discrepancy between the gold production figures declared by R.V. Investment Group and the official gold production figures. Therefore, it was reasonable to assume that AIMROCK had not had any commercial production in 2014.

Representatives from the Ministry of Ecology and Natural Resources confirmed that according to what they knew, AIMROCK had not had any commercial production in 2014. However, ministry officials pointed out broader challenges with the regulation of the mining sector in that all production reports were based on self-declarations by the companies without any oversight or auditing by the government.

Initial assessment

The 2014 EITI Report includes information on production volumes and values, disaggregated by commodity and region. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Export data (#3.3)

Documentation of progress

The report shows total export volumes as well as export volumes by commodity, and export value by commodity (p.32). The information is not disaggregated by region.

Stakeholder views

The Independent Administrator explained that export data is not disaggregated by region because all of the exports originate from Baku. No other stakeholders commented on this issue.

Initial assessment

The 2014 EITI Report includes information on export volumes and values, disaggregated by commodity but not by region. However, given the explanation provided by the Independent Administrator, the International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Table 3 - Summary assessment table: Monitoring and production

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for
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		'required' provisions)
Overview of the extractive sector, including exploration activities (#3.1)	The 2014 EITI Report includes an overview of the extractive industries, including any significant exploration activities.	Satisfactory progress.
Production data (#3.2)	The 2014 EITI Report includes information on production volumes and values, disaggregated by commodity and region.	Satisfactory progress.
Export data (#3.3)	The 2014 EITI Report includes information on export volumes and values, disaggregated by commodity but not by region. However, the International Secretariat understands that all exports originate from Baku.	Satisfactory progress.
International Secretariat's recommendations:		
N/A		

4. Revenue collection

4.1 Overview

This section assesses implementation of the EITI requirements related to revenue transparency, including the comprehensiveness, quality and level of detail disclosed. It also considers compliance with the EITI Requirements related to procedures for producing EITI Reports.

4.2 Assessment

Comprehensiveness (#4.1)

Documentation of progress

Materiality and revenue streams

The 2014 EITI report includes the following definition of materiality: "Transfers to the Government of Azerbaijan from the defined revenue sources are considered material if their sum/volume exceeds zero" (p.12). This means that any revenue stream related to the extractive sector is material for the purpose of the EITI Report. No further information is provided in the report in terms of when the MSG agreed this definition, nor the rationale for establishing the threshold at this level. However, MSG meeting minutes from 20 January 2013 record this decision. The minutes note that "important payments be approved once and for all, but on the condition that this matter can be raised at any time, not on an annual basis, by any party" (MSG meeting minutes, 20 January 2013, p.4).

The 2014 EITI Report lists and describes the 10 revenue streams that were included in the reconciliation scope as agreed by the MSG (p.12; p.19). The report explains that due to the absence of dividend

payments starting from the year 2013, the dividend column was excluded from the reporting template as per the decision of the MSG. The MSG meeting minutes state that “since dividends are not specified in the EITI reports in Azerbaijan, it would be appropriate to remove the dividend paragraph from the important payments section” (MSG meeting minutes, 20 January 2013, p.4).

Reporting entities

The 2014 EITI Report lists four government entities involved in the reconciliation exercise, namely the State Oil Fund of Azerbaijan Republic, the State Oil Company of the Azerbaijan Republic, the Ministry of Taxes of Azerbaijan Republic, and the Ministry of Ecology and Natural Resources of the Azerbaijan Republic. All government entities reported, and there is no suggestion that any of the reporting entities did not comprehensively fill in the reporting templates. The government has fully disclosed all revenue from the sector.

The report states that “According to the materiality threshold, which has been set at zero, it is mandatory for all the Companies within the extractive industry to participate in the process of reconciliation for... 2014.” (p.49). Accordingly, thirty nine companies were selected to be included in the scope of the 2014 EITI report (Annex 2). The International Secretariat understands that these 39 companies represent the total universe of companies active in Azerbaijan in 2014. All companies reported, and there is no suggestion that any of the reporting companies did not comprehensively fill in the reporting templates. There are no discrepancies in the report.

The NGO Coalition’s review of the 2014 EITI Report states that:

“There is difference of USD 8.8 million between the amount of Shahdeniz PSA payments to the government stated in EITI report and 2014 State Oil Company (SOCAR) report. Hence, 2014 annual report of SOCAR (page 28) states that the amount of payments from Shahdeniz PSA gas sale to the Fund was USD 532.0 million during the given year³⁰. Page 10 of 2014 EITI Report states the schedule of cash payments to the government by extractive companies. That very schedule states total of USD 523.2 million paid by Shahdeniz PSA companies to the government from the sale of gas. Information in the sample reports on extractive companies attached to this Report too confirms this amount. Therefore, we consider that the government should provide additional explanation regarding the difference of USD 8.8 million of cash payment to the government from the sale of gas on Shahdeniz PSA stated in 2014 SOCAR and EITI reports” (p.10).

The minutes from the MSG meeting on 16 April record some discussion of this issue where the government explained that this was a technical mistake, and with the NGOs responding that a letter from SOFAZ explaining this matter would be desirable (MSG meeting minutes, 15 April 2016, p.6). Such a letter was provided to the Coalition on 2 May 2016, confirming the technical mistake (Letter from SOFAZ, 2 May 2016).

Stakeholder views

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. The templates were not reaffirmed ahead of the 2014 EITI Report as it was the MSG’s understanding that the same revenue streams would be covered, and the same templates would be used. The Independent Administrator confirmed that the template had been approved by the MSG

³⁰ http://www.oilfund.az/uploads/annual_2014az.pdf

and that the Independent Administrator had provided input when developing the template. The Independent Administrator also confirmed that dividend payments did not exist, and that the MSG had therefore removed dividends from the reporting template based on the Independent Administrator's recommendation. The NGO Coalition's review of the 2014 EITI Report recommends that "The MSG Group shall review and approve the revenue types to be included into the following report upon start of the preparatory activities for each following report" (p.14).

With regards to the reporting entities, the secretariat, industry and the Independent Administrator all confirmed that the 39 companies included in the EITI Report represented the total universe of companies active in the country. According to the Independent Administrator, the Ministry of Taxes would each year present a list of tax paying extractive companies and this was used to ascertain that no companies were omitted.

Conversations with the Ministry of Ecology and Natural Resources revealed that there are mining companies operating in Azerbaijan that are not mentioned in the EITI Report. Firstly, in addition to the PSA with R.V. Investment Group, the government has signed one more PSA with a company called AIMROCK for production of gold at the Chovdar gold field. Despite the contract being awarded in 2007, the company has not participated in EITI reporting to date. Government officials from the Ministry of Ecology and Natural Resources explained that the company had never reached commercial production and had faced significant losses due to the cost of investments. Thus, the company had not made any tax or other payments to the government and did therefore not appear on the lists provided by the Ministry of Taxes for the purposes of EITI reporting. The company had stopped operations in September 2014 and although the PSA was still active, it was currently being restructured. Secondly, the Ministry explained that there were "approximately 500-600" private companies mining in Azerbaijan who had been issued rights to mine by the local executive committees ("Rayons"). However, this production was not considered substantial and it was estimated that more than 90 % of the activity was related to construction materials such as gravel and sand. Moreover, the Ministry did not have any overview of these companies as the rights were given by the local executive committees only and there was no information sharing between local and central levels. The Ministry officials consulted were not sure about what type of mining permits were used to confirm these rights, but they expressed certainty that they were not PSAs. Any payments by these companies would be paid to the central Tax Office and would be picked up by the Ministry of Taxes.

Initial assessment

The MSG has agreed a definition of materiality, revenue streams and reporting entities to be included in the EITI Report. The Independent Administrator has, in accordance with the EITI's requirements set out in the Standard Terms of Reference for Independent Administrator services, reviewed the approach proposed by the MSG. Although some mining companies appear to be excluded from the EITI report, it is unlikely that any of these companies are making payments to the government. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

In-kind revenues (#4.2)

Documentation of progress

The 2014 EITI Report reconciles the revenues received in-kind by SOCAR from private companies in

volumes of crude oil, natural gas and associated gas. The report also discloses the revenues received by SOCAR from the sale of the government's share of production from the ACG and Shahdeniz fields (2014 EITI Report, p.50). This includes the total volumes sold, and the revenues received from the sales disaggregated by buying company. The Report describes that revenues collected by SOCAR from the sales are transferred to SOFAZ. The International Secretariat understands that 98% of oil production in Azerbaijan is from ACG and Shahdeniz and that sales from other oil and gas fields do not yet take place. The associate gas collected in-kind remains with SOCAR and is distributed according to domestic needs.

With regards to other commodities such as gold, silver and copper, the 2014 EITI Report discloses the in-kind contribution by R.V. Investment Group Services (p.101), but does not specify whether the government sold these in-kind revenues.

Stakeholder views

According to the Independent Administrator, R.V. Investment Group transfers the government's share of gold and silver to Central Bank but it is the Ministry of Natural Resources and Ecology that provides the data for the EITI Report. The Independent Administrator also explained that the government does not sell the gold and silver, but keeps it in the Central Bank accounts either in Azerbaijan or in Switzerland.

Other stakeholders did not comment on this issue.

Initial assessment

The 2014 EITI Report discloses the revenues collected in-kind, as well as the volumes sold and the revenues received from the sales of the commodities. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Barter and infrastructure transactions (#4.3)

Documentation of progress

According to the 2014 EITI Report, information regarding infrastructure provisions and barter arrangements was not included in the EITI Report due to the decision made by EITI MSG at its 34th meeting on 10 December 2014 to exclude information which is not relevant in Azerbaijan (p.49). The MSG meeting minutes from 10 December 2014 simply state that "It was noted that the infrastructure provisions and barter arrangements were not realized in Azerbaijan" (p.4). The decision recorded in the MSG meeting minutes is that "The following information shall not be included into the EITI report and the reasons for this shall be explained in the 2013 EITI report: - Infrastructure provisions and barter arrangements.." (p.5). There is no further explanation or rationale provided in the 2013 or the 2014 EITI Report documenting that infrastructure and barter arrangements are not applicable.

Stakeholder views

The Independent Administrator confirmed that no barter or infrastructure arrangements exist in Azerbaijan. No other stakeholders expressed any views or concerns about this issue.

Initial assessment

Disclosure of barter and infrastructure arrangement is not relevant in Azerbaijan. The International Secretariat's initial assessment is that this requirement is not applicable to Azerbaijan.

Transport revenues (#4.4)

Documentation of progress

The 2014 EITI Report states that transit fees is one of the revenue streams that the MSG has identified as material for the purpose of EITI reporting (2014 EITI Report, p.12). It explains that the definition of transit fees and transportation tariffs are similar; and both are referred to as transportation tariffs in the report (p.12). A brief explanation of the transportation and pipeline system is provided (p.19 and p.27). There are four oil and gas pipelines in Azerbaijan, each with its own transportation tariff system. The report explains that:

“Each pipeline has its own transportation tariff set. The source of formation of the tariff depends on the ownership structure of a pipeline. Transit revenues are formed as the result of payments of transportation tariffs for each pipeline. The companies that transport oil through a pipeline make tariff payments based on transportation expenses incurred.” (2014 EITI Report, p.19).

Details about tariffs are not disclosed. Pipeline capacity is provided for the Baku-Novorossisysk Pipeline and the SCP pipeline, but not for the BTC or Baku-Supsa pipelines. Actual transportation volumes in 2014 are disclosed for BTC, but not for the other pipelines.

The report reconciles transportation payments made by companies in the ACG consortium to SOFAZ, and explains that SOFAZ then pays monthly transit fees to Azerbaijan International Operating Company (AIOC), which is the operating company of Baku-Supsa pipeline.

As for the other PSAs and pipelines, the International Secretariat’s understanding is that the operators pay directly to the private owners of the pipelines and that there are no government revenues from the operation of these pipelines.

Stakeholder views

The NGO Coalition’s review of the 2014 EITI Report states:

“As in 2013 Report, the current report too has some messy information on transportation and transit costs. “Transportation” and “Transit” terms, as well as the issues on transportation of the produced oil of the country through pipelines or railway and the transportation of the oil produced by other countries shall be clarified. In accordance with subsection 4.1.f of the Standard information on transportation tariffs, tariff rates and other transportation indicators shall be revealed” (p.10).

“We recommend to include more detailed information on pipelines – their transmission capacity and statistics on the products exported – into the reports for the following years”(NGO Coalition’s review of the 2014 EITI Report, p.5).

The minutes from the MSG meeting on 26 January 2016 also confirms this view noting that “this issues had been included in the opinion of the Coalition in order to be considered in the following reports and its resolution was impossible in a short time” (MSG meeting minutes, 26 January 2016, p.2).

The Independent Administrator confirmed that companies that are part of the AIOC consortium pay transit fees for the use of the Baku-Supsa pipeline.

The companies confirmed that each pipeline has its own payment mechanism. Each pipeline owner has a tariff. The only payment by companies to government for transportation is related to the Baku-Supsa

pipeline.

Initial assessment

The EITI Standard states that “Where revenues from the transportation of oil, gas and minerals are material, the government and state-owned enterprises (SOEs) are expected to disclose the revenues received”. As noted previously, the use of the term ‘expected’ in the EITI Standard indicates that the multi-stakeholder group should consider the issue, and document their discussions, rationale for disclosure/non-disclosure and any barriers to disclosure.

Payments to government related to transportation have been disclosed in the 2014 EITI Report, amounting to AZN 8.9 m, or 0.04 % of total government revenues from the extractive sector (2014 EITI Report, p.31) . Although inconsistent, some other information has been reported related to the four pipelines including transportation capacity and actual volumes transported. As noted above, disclosure of material transportation revenues is expected, but not required for compliance with the EITI provisions. The MSG has had some discussions about this issue, and is encouraged to consider opportunities for including further information about transportation in future reports, including details on tariffs and more consistent information about all pipelines. The International Secretariat’s initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Transactions between SOEs and government (#4.5)

Documentation of progress

The main transaction between SOCAR and the government relate to the revenues from the sale of the government’s share of production. SOCAR collects in kind oil and gas on behalf of the state. These in-kind receipts are reconciled with the amounts reported by the private companies. SOCAR then sells the oil on behalf of the government and transfers the proceeds from the sale of the government’s share collected in-kind to SOFAZ. SOCAR’s tax payments to the government are also disclosed and reconciled (p.39).

Other transactions disclosed in the 2014 EITI Report include direct cash transfers from SOCAR to the government amounting to AZN 476 m (p.38). According to SOCAR’s 2014 financial statement, such transfers were related to payments to sub-contractors for repair and reconstruction of new recreational, transport, educational and medical infrastructure. Finally, the report notes that the government contributed to the charter capital of SOCAR in 2014, amounting to AZN 178 m (p.38).

Stakeholder views

No stakeholders expressed any views or concerns about this issue.

Initial assessment

There is no evidence to suggest that the transactions between SOCAR and the government have not been comprehensively disclosed. Therefore, the International Secretariat’s initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Subnational direct payments (#4.6)

Documentation of progress

Information regarding sub-national payments was not included in the 2014 EITI Report due to the

decision made by the MSG at its 34th meeting on 10 December 2014 to exclude information which is not relevant in Azerbaijan (2014 EITI Report, p.49). The minutes from the MSG meeting on 10 December 2014 state that “The MSG members noted that Azerbaijan being a unitary state according to its territorial structure, no sub-national payments and sub-national transfers were made in the country” (p.4). The 2014 EITI Report explains the taxes levied at local level (p.21).

Stakeholder views

The Independent Administrator confirmed that there were no direct subnational payments to local governments. Local government may collect some small revenues from production of gravel, sand and cement, but not from minerals.

Initial assessment

The International Secretariat’s initial assessment is that disclosure of subnational payments is not applicable in Azerbaijan.

Level of disaggregation (#4.7)

Documentation of progress

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. There is no easily accessible overview in the report showing which government entity collects which revenue streams, including those collected by the two other government agencies: the Ministry of Ecology and Natural Resources and SOCAR. However, given that the data is disaggregated by revenue stream it is implicitly also disaggregated by the collecting government agency.

Stakeholder views

No stakeholders expressed any views or concerns about this issue.

Initial assessment

Although the report could better present the government data by naming the collecting agency, the revenue data is disaggregated to the levels required by the EITI Standard. The International Secretariat’s initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Data timeliness (#4.8)

Documentation of progress

The MSG “conditionally approved” the 2014 EITI Report on 26 January 2016 (MSG meeting minutes, 26 January 2016, p.3) and it was published in February 2016. The 2013 EITI Report was approved by the MSG in July 2015 (MSG meeting minutes, 16 July 2015) and published shortly thereafter. All previous EITI Reports have been published well within the deadlines.

Stakeholder views

The government representatives said that the MSG had agreed that the EITI Report should not come out later than within 12 months of the end of the financial year covered in the report. No other stakeholders expressed any views or concerns about this issue.

Initial assessment

Azerbaijan is publishing timely EITI Reports. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Data quality (#4.9)

The EITI Standard states that “the multi-stakeholder group and the Independent Administrator are required to agree a Terms of Reference for the EITI Report based on the standard Terms of Reference and the ‘agreed upon procedure for EITI Reports’ endorsed by the EITI Board³¹”. The assessment below addresses the requirements outlined in requirement 4.9, and adherence to the key features of the agreed upon procedure for EITI Reports.

Documentation of progress

1. *Appointment of the Independent Administrator*

On 13 February 2013, the MSG agreed to appoint Moore Stephens as the Independent Administrator for Azerbaijan's 2012, 2013 and 2014 EITI Reports. The appointment followed the announcement of the tender by SOFAZ and the MSG's evaluation of the bids submitted by five firms (MSG meeting minutes, 13 February 2013, p.2).

At the meeting on 15 April 2016, the MSG discussed the appointment of the Independent Administrator for the next three years, i.e. for the EITI Reports covering 2015-2017. The minutes record some reflections on the work of the Independent Administrator. Specifically, the NGO Coalition proposed that the Independent Administrator should be hired annually. The minutes note that “The reason was that current auditor company Moore Stephens does not fully take into consideration all recommendations. This points to carelessness emerged in this auditor company” (MSG meeting minutes, 15 April 2016, p.3). It was also considered important by the NGOs that the NGO Coalition's recommendations be addressed in subsequent reports. Other MSG members stated that it would not be efficient to procure a new Independent Administrator every year, noting that it takes time for the Independent Administrator to get familiar with the EITI process. The MSG agreed to continue the practice of appointing an Independent Administrator for three years, noting in the contract that, under instruction by the MSG, SOFAZ retains the right to terminate the contract earlier if the firm does not perform in accordance with the obligations (MSG meeting minutes, 15 April 2016, p.3).

The TOR for the Independent Administrator for the 2014 EITI Report was agreed by the MSG on 10 June 2014.

2. *Terms of Reference for the Independent Administrator*

The below section includes an assessment of compliance with the various provisions contained in the Standard Terms of Reference for Independent Administrators.

(i) Use of the Standard Terms of Reference for Independent Administrators

The TOR for the Independent Administrator agreed by the MSG for the purpose of the 2014 EITI Report is based on the Standard TOR agreed by the EITI Board, but there are some deviations. The major deviation is that the tasks outlined in phase one (preliminary analysis and inception phase) and phase three (initial reconciliation and initial reconciliation report) of the Standard TOR related to the Independent

³¹ <https://eiti.org/TOR-IA>

Administrator's review of the proposed scope of the EITI Report, review of auditing and assurance practices, and initial reconciliation are omitted from the TOR used for the 2014 EITI Report. This includes lack of an inception report confirming the MSG and the Independent Administrator's understanding of the coverage and methodology for the report. Furthermore, parts of phase two on data collection have been modified.

(ii) Agreement on reporting templates

The MSG meeting minutes from 15 April 2014 notes some discussion of the reporting templates, concluding that the templates should be approved alongside the TOR for the Independent Administrator. There is no minute that confirms MSG approval of the reporting templates that were used for the report. Based on a comparison of the reporting templates in the annex of the 2013 EITI Report and the reporting template in the annex of the 2014 EITI Report, it appears that the same reporting template was used for both financial years without any amendments.

The MSG meeting minutes of 15 April 2016 notes a comment by the national secretariat that "the current report format does not reflect information to which entities company payments are made" (p.4). The minutes then record that the MSG decided that the model reporting templates should not be changed.

(iii) Agreement on assurances to be provided to the Independent Administrator

The 2014 EITI Report includes a summary of the prevailing audit and assurance practices in Azerbaijan for both companies and government (p.14-15).

With regards to the assurances to be provided by the companies for the 2014 EITI Report, the report explains that "Companies were requested to have their reporting templates signed by a senior official" (p.14). In addition, "the figures mentioned in the Reporting templates must be referred to the relevant evidence documentation to ensure the reliability of the information provided by the companies" (p.14). The Independent Administrator confirms that all companies had their reporting templates signed by the senior official (p.65).

With regards to the assurances to be provided by the government agencies for the 2014 EITI Report, the report notes that "All government template declarations must be signed by a senior official" (p.14). The report goes on to explain that the data submitted by the government is prepared by the Ministry of Taxes of Azerbaijan Republic, Ministry of Ecology of the Republic of Azerbaijan, State Oil Company of Azerbaijan Republic and State Oil Fund of Azerbaijan Republic and signed by the Chairman of the EITI on behalf of the government (p.15). The Independent Administrator concludes that all government entities had their reporting templates signed by the senior official (p.65).

In addition to these assurances, the Independent Administrator applied a special auditing procedure to six random companies, explaining that: "The special audit procedures involve selection of items for testing from the population of monetary and non-monetary transfers" (p.14). Based on the random testing, the Independent Administrator states: "We have obtained reasonable assurance on the amounts stated by the companies. We vouched the recorded amounts from the reporting templates to original supporting documents including: Profit tax declarations; Profit Tax Return and Independent Auditor's Report; Payment orders; Letters on transfer to relevant government agencies; Reconciliation acts; and Act of acceptance of gas" (p.61).

Minutes from the MSG's discussion of the draft 2014 EITI Report document some discussion of the assurance processes used, including a discussion of whether future reports should include a calculation

of whether the amounts paid by companies are equal to the amount calculated, i.e. what ought to be paid (MSG meeting minutes, 25 December 2016).

(iv) Agreement on provisions for safeguarding confidential information

The TOR contains provisions related to safeguarding confidential information, noting that this is the responsibility of the Independent Administrator (2014 TOR for Independent Administrator, p.3).

(v) Financial statements

The 2014 EITI Report notes that: “According to PSAs accounting procedure, all the companies have to be audited by internationally-recognised independent auditors no later than 7 months of the calendar year” (p.14). However, the EITI Report does not confirm which companies had been audited in accordance with the PSA accounting procedures, and whether these audit reports are publicly available.

According to the 2014 EITI Report, the financial statements of SOCAR are audited annually in accordance with the International Standards on Auditing and published on the official website (p.15). The report confirms that audited financial statements of other government agencies (beyond SOCAR) are also available online (p.15).

(vi) Assessment of data reliability

The Independent Administrator provides the following assessment of data reliability:

“... Our work did not extend to reviewing all payments/allocations received by the Government nor all payments/allocations made by the Companies. If payments/allocations were made by the Companies but omitted from both the Companies’ and Government’s submissions, our work would be insufficient to detect them.

...In our opinion, the accompanying Statement of the EITI Committee of the Republic of Azerbaijan is prepared in accordance with the aforementioned requirements and is fairly stated in all material respects, based on the work described in this report and except for adjustments, if any, which may have been required had we tested all payments/allocations made by the Companies and all payments/allocations received by the Government during the year ended 31 December 2014” (p.6-7).

“According to the requirement outlined by 5.3. c) clause of EITI standard, the reports submitted by the companies and the government have been reconciled and assessed on the comprehensiveness, reliability and accuracy of data included in reports for the year ended 2014. The figures indicated in the reports submitted by the extractive companies and the Government during the reconciliation process were fully reconciled, relevant adjustments were made and outlined in this report. According to the results of the reconciliation process, all discrepancies were fixed.(...)”

According to the requirement outlined by 5.3. e) clause of EITI standard, the financial statements of government entities prepared in accordance with international reporting standards and audited in accordance with the International Standards of Auditing are published on the official website.⁴ The Government agencies are audited annually by the Chamber of Accountants of Azerbaijan Republic. The revenue and expenditure streams are a part of the state budget approved in the form of law by the President of the Republic of Azerbaijan. The financial statements of the State Oil Company of Azerbaijan Republic are audited annually in accordance with the International Standards on Auditing and published on the official website” (p.15).

(vii) Sourcing of contextual data

All contextual information is sourced, with links to further information provided.

(viii) Electronic data files

Azerbaijan has submitted the summary data templates for 2014.

Stakeholder views

According to the national secretariat, the ToR for the Independent Administrator for the 2012-2014 EITI Report was widely disseminated and discussed by the MSG. Although this ToR was based on the standard ToR for Independent Administrators issued by the EITI Board, it had not been possible to take into account major new aspects of the standard ToR such as the production of an inception report, given that the contract with the Independent Administrator had been signed in February 2013, prior to the requirement to use a standard ToR. The national secretariat confirmed that the standard ToR for Independent Administrators was used in the recent recruitment of the Independent Administrator for the 2015-2017 EITI Reports.

With regards to the appointment of the Independent Administrator, the national secretariat confirmed that the technical and financial evaluation was done by the MSG. Although they had expected more proposals for the 2015-2017 EITI Reports, only three companies participated in the tender.

The Independent Administrator stated that in general the EITI reporting process works well. In terms of the contextual information, most was collected from open sources in consultation with the MSG working group on reporting. The report mainly included information from official sources, and the Independent Administrator had not received any questions about the sources used in the report.

With regards to data assurance, the Independent Administrator explained that they had suggested to the MSG to undertake random spot checks of company transactions to increase data reliability. This included checking the figures in the reporting templates against the audited financial statements provided by the companies, and reconciling these figures. The Independent Administrator confirmed that they had not detected any irregularities in conducting this work. They picked different companies every year for these spot checks, and using a risk-based approach they normally targeted smaller companies.

The Independent Administrator also confirmed that they had checked that all the 39 companies in the report had audited financial statements for 2014. The said that: "It is a requirement of the PSA that such audits are fulfilled within the first quarter of the following year. Companies such as BP and SOCAR publish their audited financial statements online, but most other companies do not". The Independent Administrator also explained the process for auditing of government agencies. Apart from SOFAZ and SOCAR, who have their own external auditor, all other government agencies are audited by the chamber of accounts and the figures are subsequently approved by presidential decree and published online. The Independent Administrator confirmed that they checked the figures in the government reporting templates against the chamber of accounts data.

The NGO Coalition's review of the 2014 EITI Report makes some observations on the follow up on discrepancies noting that: "Explanations on the deviations (amendments) revealed during the reconciliation process are not sufficient and clear. These explanations shall be more detailed and comprehensive" (p.10). The review also comments on that the outcomes of the random sampling, noting that: "The Paragraph on Assurance Stage states nothing about the method applied for the selection. The criteria for the selection of companies is not stated. Questions on how cooperation with these

companies is built and also on the types of documents reviewed, the way and purpose of these reviews and the way of including the outcomes of the work implemented into the report are still open. This section should also include the reasons why procedures on assurance of information of state companies are not carried out. In other words we consider this section should be improved” (p.12).

Initial assessment

The MSG has appointed an Independent Administrator perceived as trustworthy and technically competent. Although there were some deviations in the ToR used by the Independent Administrator, this was mainly due to the Independent Administrator being appointed prior to the requirement for utilisation of the standard ToR coming into force. The deviations do not appear to have materially affected the reporting process. The TOR for the 2015-2017 EITI Report is consistent with the standard TOR issued by the EITI Board. The MSG has agreed reporting templates and an assurance process in consultation with the Independent Administrator, and the Independent Administrator has confirmed that there were no concerns regarding the reliability of the data. Contextual information in the report is sourced and electronic data files have been provided. The International Secretariat’s initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Table 4 - Summary assessment table: Revenue collection

EITI provisions	Summary of main findings	International Secretariat’s initial assessment of progress with the EITI provisions (to be completed for ‘required’ provisions)
Comprehensiveness (#4.1)	The 2014 EITI Report comprehensively discloses all material revenues.	Satisfactory progress
In-kind revenues (#4.2)	The 2014 EITI Report discloses the volumes sold and the revenue received from the 2014 sales of the State’s share of production.	Satisfactory progress
Barter and infrastructure transactions (#4.3)	It has been confirmed that barter and infrastructure transactions are not applicable in Azerbaijan.	Not applicable
Transport revenues (#4.4)	The 2014 EITI Report discloses government revenues from transportation, and some additional contextual information about the pipeline systems in Azerbaijan.	Satisfactory progress
Transactions between SOEs and government (#4.5)	The 2014 EITI Report discloses the transactions between the government and SOCAR.	Satisfactory progress

Subnational direct payments (#4.6)	It has been confirmed that barter and infrastructure transactions are not applicable in Azerbaijan.	Not applicable
Level of disaggregation (#4.7)	The 2014 EITI Report is disaggregated to the levels required by the EITI Standard, although the presentation of the government data could be improved.	Satisfactory progress
Data timeliness (#4.8)	The 2014 EITI Report was published in February 2016.	Satisfactory progress
Data quality (#4.9)	The MSG has agreed and followed a credible process for assuring the quality of the EITI data.	Satisfactory progress
<p>International Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. It is recommended that the MSG includes further contextual data on the mining sector in the next EITI Report, in particular with regards to rights issued at local levels. 2. The MSG is encouraged to consider expanding the reporting on sales of in-kind revenue to include additional information such as the type of product, price, market and sale volume. 3. The MSG is encouraged to expand the reporting on transportation to include a full description of the transportation arrangements including the products transported, transportation route(s), disclosure of tariff rates and the methodologies used to calculate them, and disclosure of volume of the transported commodities. 4. The MSG should consider improving the presentation of which government agency collects which revenues. 5. The Independent Administrator should consider including an overview of which companies and government agencies have published their audited financial statements online, and how these can be accessed. 		

5. Revenue management and distribution

5.1 Overview

This section assesses implementation of the EITI requirements related to revenue management and distribution.

5.2 Assessment

Distribution of revenues (#5.1)

Documentation of progress

The 2014 EITI Report provides some information on how revenues are allocated. It states that AZN 252.8 million in income tax from extractive activities was transferred to the State budget from the Ministry of Taxes, alongside a AZN 9 billion transfer from SOFAZ. The International Secretariat understands that this

constitutes the totality of extractive industry transfers to the State budget.

Stakeholder views

The NGO coalition's review of the 2014 EITI Report states that: "the description of the state budget and consolidated budget in the report is not quite clear. Neither is the mechanism on extractive revenues entering into the state and consolidated budgets, and hierarchy distinct" (p.5). It goes on to state that: "introducing the dynamics of the past three years at least in the form of graphs in the Report would increase the importance and clearness of this information" (p.8).

The Independent Administrator explained that, every year, the parliament decrees the amount that SOFAZ should transfer to the State budget. The remaining revenue is retained by SOFAZ. Extractive industry revenue collected by other ministries, such as income tax, is transferred directly to the budget.

Initial assessment

The 2014 EITI Report discloses which revenues are allocated to the state budget, as well as revenues retained by the Oil Fund. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

Sub-national transfers (#5.2)

Documentation of progress

Information regarding sub-national transfers was not included in the 2014 EITI Report due to the decision made by the MSG at its 34th meeting on 10 December 2014 to exclude information which is not relevant in Azerbaijan (2014 EITI Report, p.49). The minutes from the MSG meeting on 10 December 2014 state that: "The MSG members noted that Azerbaijan being a unitary state according to its territorial structure, no sub-national payments and sub-national transfers were made in the country" (p.4).

Stakeholder views

No stakeholders commented on this issue.

Initial assessment

The 2014 EITI Report and MSG meeting minutes confirm that sub-national transfers are not relevant in Azerbaijan. The International Secretariat's initial assessment is that this requirement is not applicable.

Additional information on revenue management and expenditures (#5.3)

Documentation of progress

The report includes a brief description of the country's budget and audit processes (p.20), including links to further details on the total State budget revenues and expenditures in 2012-2014.

Stakeholder views

The NGO Coalition's review of the 2014 EITI Report states: "as in 2013 EITI Report the one for 2014 too lack this information. NGO Coalition Council thinks it is important to include either this information (is available in open sources) or references to the open sources for this information into future reports in order to improve the transparency image of the country" (p.8).

Initial assessment

The MSG does not appear to have held any substantive discussions about including information related to revenue management and expenditures in EITI Reporting. Disclosure of such information is encouraged and not required, and is thus not taken into account in the overall assessment of compliance with the EITI Standard.

Table 5 - Summary assessment table: Revenue management and distribution

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Distribution of revenues (#5.1)	The 2014 EITI Report discloses how revenues are allocated in the national budget as well as information about revenues retained by SOFAZ.	Satisfactory progress.
Subnational transfers (#5.2)	The 2014 EITI Report confirms that subnational transfers are not applicable in Azerbaijan.	Not applicable.
Information on revenue management and expenditures (#5.3)	The MSG does not appear to have had any discussion about reporting on revenue management and expenditures.	
<p>International Secretariat's recommendations:</p> <p>1. The MSG might wish to consider extending EITI Reporting to include information on revenue management and expenditures.</p>		

6. Social and economic spending

6.1 Overview

This section assesses implementation of the EITI requirements related to social and economic spending (SOE quasi-fiscal expenditures, social expenditures and contribution of the extractive sector to the economy).

6.2 Assessment

Social expenditures (#6.1)

Documentation of progress

Information regarding social expenditures was not included in the 2014 EITI Report due to the decision made by the MSG at its 34th meeting on 10 December 2014 to exclude information which is not relevant in Azerbaijan (2014 EITI Report, p.49). The minutes from the MSG meeting on 10 December 2014 lists "social costs" as one of the irrelevant benefit streams in Azerbaijan, but does not provide any explanation or rationale. The 2015 Annual Progress Report states that: "material social expenditures are not mandated by law or contract in Azerbaijan. Thus it is not applicable" (2015 Annual Progress Report, p.28).

The 2014 EITI report includes aggregate data on payments by companies to the State Social Protection

Fund (2014 EITI Report, p.34) for social insurance for the first time. Companies make voluntary, CSR-like, social expenditures but the MSG has so far decided that these should not be included in the EITI Report. The MSG has decided that the materiality of these flows is evaluated at the beginning of each reporting cycle in order to discuss their potential inclusion (MSG meeting minutes, 25 December 2015, p.7).

Stakeholder views

The NGO Coalition's review of the 2014 EITI Report states that:

“the Coalition thinks that the MSG shall discuss the inclusion of information on social expenses into the future report.... Though information on the social expenses of the companies cannot be reconciled, it can be unilaterally revealed by the company... For instance, though concisely, SOCAR has revealed general information on its 2014 social expenses in “State Participation in Extractive Industry” section of this Report. Despite the fact that information on social expenses of the companies can be found in the reports of BP, SOCAR and other companies (Corporate Social Responsibility reports) and it is possible to refer to open sources in this regard, stating that this type of information is not applicable for Azerbaijan and not including it into the Report, damages the transparency image of the country” (p.9-10).

Some companies confirmed that details of their voluntary social contributions could be found in their sustainability reports.

Initial assessment

Stakeholders have confirmed that mandatory social expenditures do not exist in Azerbaijan. The MSG continues to have discussions about inclusion of discretionary social expenditures in EITI Reporting. The International Secretariat's initial assessment is that Azerbaijan has made satisfactory progress in meeting this requirement.

SOE quasi fiscal expenditures (#6.2)

Documentation of progress

The 2014 EITI Report lists two types of transactions considered quasi-fiscal expenditures:

1. A type of a subsidy payment by SOCAR to the government to cover for the price difference between domestic products sold at below market price, compared to world market prices. According to the 2014 EITI Report, this amounted to AZN 311 million in 2014 (p.43).
2. CSR type expenditures such as social assistance and protection, support to education, culture and sports initiatives, support to healthcare, support to other state social programs etc., amounting to AZN 11 002 thousand (p.43). A breakdown of these expenditures is provided in SOCAR's 2014 sustainability report³².

The EITI Report does not explain the legal basis for these expenditures, nor whether the spending is at the discretion of SOCAR or whether it is subject to e.g. approval through annual budget processes.

The 2014 EITI Report also explains that SOCAR contributes to the financing of other government projects “mainly for repair and reconstruction of existing, as well as construction of new recreational, transport,

³² <http://socar.az/socar/assets/documents/en/socar-annual-reports/sus.dev.rep-2014.pdf>, p.61.

educational and medical infrastructure in Azerbaijan” (EITI Report, p.38; SOCAR 2014 financial statement, p.63)³³. The amount – AZN 476 m - is disclosed in the EITI Report and in SOCAR’s 2014 financial statement, but is not classified as a quasi-fiscal expenditure according to the EITI Report. It is not clear if this is an off-budget payment.

The minutes from the MSG meeting on 8 October and 25 December 2015 point to some discussion of quasi-fiscal expenditures. At the 8 October meeting, an NGO representative highlighted the need for comprehensive investigation of SOCAR’s quasi-fiscal expenditures (MSG meeting minutes, 8 October 2015, p.5). At the 25 December meeting, the NGO Coalition presented a research paper on quasi-fiscal expenditures and pointed out that it was difficult to ascertain from open sources whether all information regarding SOCAR’s quasi-fiscal activity was available³⁴. SOCAR committed to review and respond to the Coalition’s research. The MSG decided to revisit this conversation once SOCAR had responded to the findings. The Working Group on reporting would also consider including further information from the Coalition’s research in the contextual part of the 2014 EITI Report (MSG meeting minutes, 25 December 2015, p. 6). According to a response by SOCAR, “most of the information that you mentioned in your research has already been reflected in the financial sustainability report of SOCAR. We will aim to providing a wider range of information data in [SOCAR] future reports.” (Letter from SOCAR, 2 February 2016).

Stakeholder views

The NGO Coalition’s review of the 2014 EITI Report welcomes the information provided by SOCAR related to quasi-fiscal expenditures in the 2014 EITI Report. However, the review also states that:

“as states in Coalition Opinion on 2013 EITI Report the coalition’s studies revealed that SOCAR’s activities probably include 3 quasi-fiscal operations out of 4 determined by IMF [according to the IMF definition] for the energy sector. Following the discussion of the study at the MSG meeting, it was submitted to SOCAR and the company was requested to provide necessary information to be included into EITI Report. However, no additional information was received from the Company in this regard during the reporting period” (p.7).

SOCAR explained that they had responded to the Coalition’s concerns and that further information could be included in future EITI Reports.

Initial assessment

The 2014 EITI Report appears to disclose some quasi-fiscal expenditures by SOCAR. However, in the absence of a documented MSG discussion and agreed definition of quasi-fiscal expenditures, it is difficult to determine whether these expenditures have been comprehensively disclosed. There is also limited explanation of the legal basis for the expenditures that have been disclosed, and whether the funding for these activities is left at the discretion of SOCAR, or whether they are subject to budget approvals. The International Secretariat’s initial assessment is that Azerbaijan has made meaningful progress in meeting this requirement. It is recommended that the MSG agrees a definition of quasi-fiscal expenditures, the scope of these disclosures and a disclosure mechanisms for ensuring full transparency of quasi-fiscal expenditures in the future.

³³ As of mid-August 2016, SOCAR had not provided further clarification on this issue.

³⁴ Aghayev, R. and A Mehtiyev (2015) Research on quasi-fiscal operations of the State Oil Company of Azerbaijan Republic in 2013 (not published)

Contribution of the extractive sector to the economy (#6.3)

Documentation of progress

The 2014 EITI Report provides an overview of the contribution of the extractive industry to the economy:

- According to the 2014 EITI Report, the size of the extractive industries in absolute terms is AZN 20.4 billion or 34.6% of GDP (p.31). The report attempts to estimate the size of the informal sector and links to an article by the Statistical News which gives an estimation of total “grey economy” (p.30). However, this research does not show a separate figure for the extractive industries.
- The 2014 EITI Report states that the percentage of total government revenues generated from extractive industries is 61.7%, or AZN 14.2 billion in absolute terms (p.31).
- The value of exports from the extractive industries in absolute terms is AZN 18.7 million, constituting 85.7% of total exports (2014 EITI Report, p.32).
- The 2014 EITI Report notes that 41500 people are employed in the extractive sector, representing 0.9% of total employment (p.33).
- The 2014 EITI report notes key regions and areas where production is concentrated (p.31).

Stakeholder views:

Stakeholders did not express any views or concerns about this issue.

Initial assessment

The 2014 EITI Report discloses information about the contribution of the extractive sector to the economy. The requirement is considered met.

Table 6 - Summary assessment table: Social and economic spending

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Social expenditures (#6.1)	Mandatory social expenditures do not exist in Azerbaijan.	Satisfactory progress
SOE quasi fiscal expenditures (#6.2)		Meaningful progress
Contribution of the extractive sector to the economy (#6.3)	The 2014 EITI Report discloses all information related to the contribution of the extractive sector to the economy.	Satisfactory progress
International Secretariat's recommendations: <ol style="list-style-type: none"> 1. The MSG may wish to explore reporting on discretionary social expenditures in future EITI reports. 2. The government should ensure that SOCAR discloses all quasi-fiscal expenditures. 		

Part III – Outcomes and Impact

7. Outcomes and Impact

This section assesses implementation of the EITI Requirements related to the outcomes and impact of the EITI process.

7.1 Public debate (#7.1)

In reviewing the 2015 Validation of Azerbaijan, the EITI Board noted that: “the Validator confirms that the EITI Reports are comprehensible, accessible and have been promoted. However, the Validator concludes that: ‘there is little substantial evidence that EITI has contributed significantly to public debate on the extractive sector in Azerbaijan’. The Validation Report provides limited detail and evidence of public debate. The International Secretariat concludes that the provision is unmet with meaningful progress.” (EITI Board paper 29-5-A, p.22).

Accordingly, the EITI Board agreed the following corrective action for Azerbaijan: “In accordance with Requirement 6.1, the MSG must ensure that the 2013 EITI Report contributes to public debate” (Minutes from the 29th EITI Board meeting, p.28).

Documentation of progress

(i) Making the EITI Report comprehensible and publicly accessible

The MSG has made some efforts to ensure that EITI Reports are comprehensible and publicly accessible. For example:

- The EITI Report 2014 was published in February 2016 on the Azerbaijan EITI website in two languages, Azerbaijani and English. The NGO Coalition has also published a link to the EITI Report, alongside the Coalition’s Opinion on the report on their website³⁵. Some companies have also published the EITI reporting template on their webpages³⁶.
- At the time of Validation, the 2014 EITI Report was not yet available in print version. The International Secretariat understands that approximately 400 printed copies should be available by the end of July 2016 for distribution to stakeholders including all extractive companies, embassies and international organizations, government authorities, as well as to universities, libraries, and NGOs.
- The public was informed about the publication of EITI reports through the state newspaper *Halig*. The newspaper published aggregated information about the report including a link to the website where the full EITI Report could be accessed, alongside the press releases issued by EITI Azerbaijan³⁷.
- A summary report has been published and printed in February 2016, presenting the findings of the 2014 EITI Report in the form of infographics.
- A short interactive version of the EITI Report has been prepared by the NGO Coalition with support from the Natural Resource Governance Institute (NRGI), and presented to the MSG meeting on 15

³⁵ www.eiti-ngo-azerbaijan.org

³⁶ http://www.bp.com/en_az/caspian/sustainability/Society.html

³⁷ <http://www.xalqgazeti.com/az/news/ads/60687>; <http://www.eiti.az/index.php/en/2015-2/581-mhst-iclas-2072019>

April 2016 (see the website <http://azeitireport.org>).

Minutes from MSG meetings also point to some discussion of the need to ensure the EITI Report is comprehensible. On 16 July 2015, the MSG discussed the necessity to prepare well- designed short versions of the key EITI documents, notably the 2013 Annual Progress Report, the 2013 EITI Report and the NGO Coalition’s opinion on the 2013 EITI Report, as well as summary reports presenting the data in the form of intelligible infographics. The discussion continued at the 26 December 2015 meeting, where the first draft of the summary report, developed by the Working Group, was presented and approved by the MSG (MSG meeting minutes, 16 July 2015 and 26 December 2015).

The MSG has also had some discussion of the need to make EITI data more accessible and improve the efficiency of data collection. Possibilities for submitting and publishing EITI data in more interactive formats was discussed by the MSG 15 April 2016. The website is currently being updated to this effect and the EITI Secretariat will be responsible for its functioning.

(ii) Dissemination and other activities aimed at public debate

Minutes from MSG meetings show that the MSG has discussed the necessity to widely present the EITI Report to the public including via TV and press conference. On 26 December 2015, the MSG agreed to hold the press conference for both EITI Reports covering 2013 and 2014 in early 2016.

At the time of Validation, the press conference had not yet taken place, nor had the MSG managed to arrange a debate on national TV.

The NGO Coalition has conducted several activities aimed at disseminating information about the EITI and findings of the EITI Reports:

- On 10 April 2015, the Coalition held an event in Shirvan region, aimed at raising public awareness of EITI implementation. It was attended by more than 80 representatives from local government, civil society, media and local companies³⁸. On 17 April 2015, the Coalition held a similar roundtable in the Neftchala region, with the participation of some 70 local stakeholders³⁹. A third such regional event took place on 24 April 2015 in Gadabay⁴⁰. The events were supported by SOFAZ and the World Bank.
- On 29-30 September 2015, the Coalition held public debates in the regions of Siyazan and Salyan on “the EITI aim, implementation and the use of outcomes”, with support from the Council on State Support to NGOs (CSSN)⁴¹.
- On 20 October 2015, the Coalition held the workshop on “the EITI aim, implementation and use of outcomes” at the Azerbaijan State University of Economics. The purpose of the workshop was to engage youth on EITI process⁴². The workshop was financed by the CSSN.
- In October and November 2015, the Coalition produced a series of YouTube video debates on different topics such as “2013 EITI Report: achievements and challenges”⁴³, “EITI and Azerbaijan”⁴⁴,

³⁸ <http://eiti-ngo-azerbaijan.org/?p=942>

³⁹ <http://eiti-ngo-azerbaijan.org/?p=953>

⁴⁰ <http://eiti-ngo-azerbaijan.org/?p=966>

⁴¹ <http://eiti-ngo-azerbaijan.org/az/mssa-koalisiyasi-siyazan-ictimai-muzakir-kecirib/>

⁴² <http://eiti-ngo-azerbaijan.org/az/mssa-gh-t-koalisiyasi-iqtisad-universitetind-seminar-kecirib/>

⁴³ <http://eiti-ngo-azerbaijan.org/az/m%99d%99n-s%99naysind%99-s%99ffafligin-artirilmasina-ictimai-d%99st%99k-layih%99si-davam-edir/>

⁴⁴ <http://eiti-ngo-azerbaijan.org/az/m%99d%99n-s%99naysind%99-s%99ffaflig-t%99s%99bbusu-msst-v%99-az%99rbaycanin-istiraki/>

“The role of civil society in EITI implementation”⁴⁵, and “State Oil Fund”⁴⁶⁴⁷. These YouTube videos have had 424 views.

- In October and November 2015, TV programmes on EITI were broadcast in regional TV channels of Sumgayit, Ganja and Guba (2015 Annual Progress Report, p.8).
- On 23 November 2015, the Coalition’s opinion on the 2013 EITI Report was presented at a roundtable held by the Coalition with the support of the CSSN⁴⁸. The event was attended by government representatives, international organizations, embassies, civil society organisations and the mass media. It has not been possible for the NGO Coalition to organise any programmes on public national TV due to financial constraints.
- In February 2016, the NGO Coalition launched its opinion on the 2014 EITI Report⁴⁹.
- On 6 June 2016, the NGO Coalition organised seminars on EITI implementation in Mingachevir and on 7 June in Tartar⁵⁰. On 21 June and 1 July, similar seminars were held in Naftalan and Goygol. These events were implemented by the Coalition member Regional Human Rights and Media Centre⁵¹ with funding from CSSN.
- According to the Annual Progress Report, 53 articles about the EITI were published in online media throughout 2015 (p.22).

Stakeholder views

Some civil society representatives noted that public awareness activity remains one of the most important EITI activities. These activities are not only relevant in extractive industry-affected areas, but also in e.g. Baku. It was pointed out that, for example, the discussion at the Economics University was well attended by students who had many questions about how the oil sector was managed. In terms of the four regional events in 2016, civil society had targeted areas not previously not covered by EITI raising awareness events. The workshop in Tartar had attracted considerable interest from the local communities, with 132 attendees. People were interested in discussing how oil revenues were spent, including for example to compensate for houses destroyed due to fires and flood. According to one Coalition member, about 60 articles were published about these four events. During the events, a small booklet with links to EITI reports was distributed to the participants.

Civil society representatives lamented that it had not been possible to organize a programme on national state TV, and argued that despite multiple appeals to the MSG the government and companies had done nothing to make this happen. One civil society representative explained that they had reached out several times, and that each time the TV station had asked questions about what the discussion would be about and asked them to wait.

⁴⁵ <http://eiti-ngo-azerbaijan.org/az/m%20c%20d%20n-s%20navesind%20-s%20ffafligin-artirilmasina-ictimaid%20st%20k-layih%20si-c%20rciv%20sind%20-novb%20ti-verilis/>

⁴⁶ <http://eiti-ngo-azerbaijan.org/az/igtisadi-forum-verlisinin-novb%20ti-buraxilisi-neft-fonduna-h%20sr-edilmisdir/>

⁴⁷ <http://eiti-ngo-azerbaijan.org/az/igtisadi-forum-verlisind%20-veni-movzu-suveren-rifah-fondlari/>

⁴⁸ <http://eiti-ngo-azerbaijan.org/az/m%20c%20d%20n-s%20navesind%20-s%20ffafligin-artirilmasi-qht-koalisiyasi-az%20rbaycan-respublikasinin-2013-cu-il-uzr%20mhst-hesabatina-dair-hazirladigi-r%20yi-ictimaiyy%20t/>

⁴⁹ <http://eiti-ngo-azerbaijan.org/wp-content/uploads/2012/10/Coalition-Review-to-2014-Report-EITI.pdf>

⁵⁰ <http://eiti-ngo-azerbaijan.org/az/m%20c%20d%20n-hasilatinda-s%20ffaflig-t%20s%20busu-il%20-bagliming%20cevir-v%20t%20rt%20rd%20-seminar-kecirilib/>

⁵¹ <http://regionalhumanrights.org/az/>

The national secretariat and the companies said that communication around the EITI was primarily considered the responsibility of the NGO Coalition and therefore other stakeholders were not engaged in public awareness activities. One company said that while they used to include EITI information in their sustainability reports they had not done so in the last couple of years because the EITI data was only released after the sustainability report had been published. Another company representative said that the NGOs were already doing this work and therefore there was no point in having the companies present the same information. Besides, the companies were too busy to undertake this work.

In terms of the impact of these events on public debate, the civil society representatives who had participated in the events confirmed that the events had led to public discussion. Participants had raised issues such as environmental degradation, lack of economic return from mining activities to the communities, resettlement and land compensation issues, lack of information about the oil revenue and how it was being spent, concerns about removal of large amounts of sand and gravel from the river bed, the heightened risk of flooding, and lack of local employment opportunities.

A government representative noted that it was thanks to the EITI that there was any public discussion of the oil and gas sector at all.

Initial assessment

The corrective action requested by the EITI Board states that: “the MSG must ensure that the 2013 EITI Report contributes to public debate”. In response to this, the MSG has taken steps to ensure that the EITI Report is comprehensible, publicly accessible and actively promoted. Based on stakeholder consultations, it also seems that the events organised to discuss the EITI Report have created some public debate. It is notable that despite the financial and other difficulties of the NGO Coalition, the events aimed at promoting public debate were almost solely organised by the Coalition. There is a need to ensure that other stakeholders also take their share of the responsibility in promoting the findings of the EITI report and contribute to multi-stakeholder events. 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.

7.2 Data Accessibility (#7.2)

The EITI Board considered this requirement when Azerbaijan was Validated in 2015. Accordingly, this requirement has not been re-assessed.

7.3 Lessons Learned and follow-up on recommendations (#7.3)

The EITI Board considered this requirement to be met when Azerbaijan was Validated in 2015. Accordingly, this requirement has not been re-assessed.

7.4 Outcomes and impact of implementation (#7.4)

In reviewing the 2015 Validation of Azerbaijan, the EITI Board noted that: “the Validator notes that annual activity reports have been produced but these do not include an assessment of impact and outcomes of work plan objectives. The International Secretariat disagrees with the Validator’s assessment and concludes that this provision is unmet with meaningful progress.” (EITI Board paper 29-5-A, p.22).

Accordingly, the EITI Board agreed the following corrective action: “In accordance with Requirement

7.2.a, future annual activity reports must include an assessment of progress with achieving objectives set out in the work plan, including the impact and outcomes of the stated objectives” (Minutes from the 29th EITI Board meeting, p.28).

Documentation of progress

The MSG has produced an annual progress report covering 2015, which is available from the Azerbaijan EITI website⁵². The report gives a detailed overview of activities undertaken by the MSG and these activities are linked to the 2015 work plan objectives (2015 Annual Progress Report, p.4-9). This includes outreach activities, update on companies’ participation in EITI and international engagements.

The annual progress report contains an assessment on the achievement and accomplishments against the 2015 work plan objectives and activities, notably on: (1) EITI reporting; (2) Validation; (3) Training; (4) EITI data simplification; (5) Awareness raising; and (6) Improving MSG effectiveness (pp.10-15). The progress report documents “uncompleted action steps” for each area and the rationale for the delay or lack of fulfilment of work plan objectives. However, the annual progress report does not provide an assessment of the impact and outcomes of implementing the work plan activities.

The annual progress report contains an assessment of progress with implementing the recommendations from Validation (March 2015) and EITI reporting (pp.25-29). The assessment is generally positive, noting the need to consider recommendations from the Coalition in addition to those of the Independent Administrator. The assessment lists progress against each recommendation, actions undertaken where applicable, and the response of the MSG to some recommendations. The annual progress report also includes an assessment of progress with meeting EITI requirements (pp. 16-24).

The annual progress report does not provide a separate narrative on efforts to strengthen implementation or extending the scope of reporting and stakeholder engagement. However, it includes some reflections aimed at improving implementation, notably that:

- The MSG is committed to take steps to improve the quality of the report by also considering comments and recommendations of the Coalition (2015 Annual Progress Report, p.13).
- The MSG has decided to mainstream EITI (2015 Annual Progress Report, p.13).
- The MSG has decided that after compliance has been achieved it will consider implementation of voluntary aspects of the EITI Standard (2015 Annual Progress Report, p.27).

The annual progress report also includes a section identifying strengths, weaknesses, opportunities and threats (SWOT analysis) of implementation.

Annex 3 of the annual progress report contains an overview of the implementation status of the corrective actions set by the EITI Board in 2015.

MSG meeting minutes confirm that the MSG started preparations for the annual progress report in April 2016, when it was agreed that it was agreed that all stakeholders should send materials to the secretariat for inclusion in the report (MSG meeting minutes, 15 April 2016, p.12). The final draft was submitted by the secretariat to the MSG for approval on 29 June, in English only. There seems to have been limited discussion of the report by the MSG.

Stakeholder views

Civil society representatives, as well as companies confirmed that there had been limited discussion and

⁵² <http://www.eiti.az/index.php/en/>

consultation on the 2015 annual progress report, as well as on outcomes and impact. Civil society representatives explained that the report had been presented to the MSG on 29 June in English only, and MSG members representing civil society had not been in a position to endorse the report due to lack of opportunity to discuss it with their wider constituency. The secretariat had attended the Coalition Council meeting the following day, on 30 June, to present the report. Civil society expressed discontent about a process that they had found rushed, and the fact that the report was available in English only had limited coalition members' input. In the end, two English-speaking Coalition members on the MSG had been able to provide comments on behalf of the MSG, but the process was not considered good practice.

The national secretariat commented that very few MSG members had responded to the request from input. Most information had been provided by the NGO Coalition Coordinator. The companies had sent a short email highlighting their participation in events. The government representatives had endorsed the report but did not have any inputs or comments. None of the stakeholders had commented on the impact of the EITI, even if the secretariat had asked some questions about this. It was noted that assessing impact was challenging and it was difficult to have a common understanding of what was meant by impact.

During the meetings with NGOs stakeholders, many mentioned that in general there was limited discussion of the outcomes and impact of the EITI process. Some pointed out that the NGO Coalition had been facing many difficulties, and there had been other priorities for discussion during that period.

Both CSOs and government representatives stated the main impact of the EITI so far was the platform it provided in terms of multi-stakeholder cooperation. The EITI was regarded as the only platform where representatives of different constituencies meet and have an opportunity to discuss issues of concern. Some CSOs stakeholders noted that EITI implementation had helped increase the maturity of CSOs, promoting values and a wider culture of transparency, help balance interests, ensure professional growth and facilitate international cooperation.

Company representatives noted that "EITI had a very positive impact on companies' accountability". One company representative commented that: "the EITI is very useful for the country because the country wants to become the leading in oil and gas producer in the region and expand its business with Europe. Being part of the international EITI community and complying with the EITI requirements, is a major part of this plan". It was also commented that the companies benefit from working in societies that are open and transparent, and that the EITI helps the wider society gains access to transparency and accountability of the government.

The discussions taking place around extractive revenues were also considered an important outcome. One government representative commented that: "When EITI was launched 10 years ago, the idea was that the government and companies would be accountable for every dollar received from the extractive sector, and now everybody knows. This enables a discussion of much broader issues and new agendas such as where to invest, how to spend etc." It was also considered important to continue public debates in local level to enhance dialogue and trust.

Some stakeholders outside the MSG and the Coalition admitted that there is still very low awareness on EITI in general public and there is a need to explore new communication tools to ensure that awareness is spread. Some commented that the extractive companies should be more active in promoting EITI. Others said that in order to increase the impact of the EITI, it should probably be more focused on the spending of the oil revenues.

Initial assessment

The MSG has reviewed progress with implementation on a regular basis, including by publishing annual progress reports over the past three years. While the annual progress report contains most of the information required by the EITI Standard, it contains no reflection about the impact of implementation. It is therefore difficult to conclude that the corrective action requested by the EITI Board, notably that “future annual activity reports must include an assessment of progress with achieving objectives set out in the work plan, including the impact and outcomes of the stated objectives”. Stakeholder consultations reveal that some further consultations could have yielded responses to the question of impact of implementation. In light of this and the rather rushed process of putting together the annual progress report, the International Secretariat’s initial assessment is that Azerbaijan has made meaningful progress in meeting this requirement.

Table 7 - Summary assessment table: Outcomes and impact

EITI provisions	Summary of main findings	International Secretariat’s initial assessment of progress with the EITI provisions (to be completed for ‘required’ provisions)
Public debate (#7.1)	The MSG has taken steps to ensure that the EITI Report is comprehensible and accessible, and promoted in a way that has contributed to public debate. It is notable that almost all dissemination activities have been conducted by the Coalition and other stakeholders need to increase their engagement in this work.	Satisfactory progress.
Data accessibility (#7.2)	The EITI Board considered this requirement to be met when Azerbaijan was Validated in 2015. Accordingly, this requirement has not been re-assessed.	
Lessons learned and follow up on recommendations (7.3)	The EITI Board considered this requirement to be met when Azerbaijan was Validated in 2015. Accordingly, this requirement has not been re-assessed.	Satisfactory progress.
Outcomes and impact of implementation (#7.4)	The MSG has produced a 2015 annual activity report that addresses most of the requirements of the EITI Standard. However, the report does not contain an analysis of impact. In light of this, as well as the rushed process for putting together the report, it is difficult to conclude that the corrective action requested by the EITI Board has been completed.	Meaningful progress
International Secretariat’s recommendations:		

1. It is recommended that the MSG undertakes an analysis of the impact of EITI implementation with a view to identify weaknesses and opportunities for increasing impact. It is recommended that wider stakeholders have an opportunity to contribute to such an analysis.

7.5 Impact analysis (not to be considered in assessing compliance with the EITI provisions)

The EITI Board did not task the International Secretariat with conducting an impact analysis as part of Azerbaijan's 2016 Validation. Please refer to the impact analysis provided in the 2015 Validation.

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Annexes

Annex A - List of MSG members and contact details

Name	Organisation	Contact details
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Shahmar Movsumov	SOFAZ	ShMovsumov@oilfund.az ; +99412 498 77 53 (2124, 2122)
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Zaur Fatizadeh	Ministry of Taxes	z.fati-zadeh@taxes.gov.az
Shahmirza Safarov (alternate)	Ministry of Ecology and Natural Resources	
<i>Industry members</i>		
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Rasim Akhundov (alternate)	Total	Rassim.AKHUNDOV@total.com
Vagif Abdullayev (alternate)	Neftechala	Vagif.Abdullayev@noc.az
<i>Civil society members</i>		
Azer Mehttiyev	Public Association for Support to Economic Initiatives	amehtiyev@gmail.com
Alimammad Nuriyev	President of "Constitution" Researches Fund	nuriyevalimammad@gmail.com
Sabit Bagirov	Economic and Political Research Centre	bagirov.sabit@gmail.com
Mehriban Vezir (alternate)	Centre of Political Culture for Azerbaijani Women	mehribanvezir@gmail.com
Rafiq Tamrazov (alternate)	Public Union Centre of Equal Opportunities	rtamrazov@gmail.com
Gubad Ibadoghlu (alternate)	Economic Research Centre	gubad.ibadoglu@gmail.com

Annex B - List of stakeholders consulted

A list of stakeholders consulted is available to the EITI Board.

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Annex C - List of reference documents

MSG Minutes

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Annex D – EITI Board decision on Azerbaijan

Having assessed Azerbaijan's final Validation report dated 6 March 2015, the Board finds that Azerbaijan is not Compliant with the EITI Standard but has made meaningful progress in implementing the EITI. The Board agreed with the Validator that not all requirements were met and has established corrective actions regarding Requirements 1.3.b-e (civil society engagement), 1.4 (workplan), 6.1 (public debate) and 7.2 (impact). In particular, the Board expressed concern that there had not been progress on the three requested remedial actions related to civil society participation. The Board concluded that in the absence of an approved 2013 EITI Report, it was not possible to assess compliance with requirements 2, 3, 4, and 5.

In accordance with Requirement 1.6.b of the EITI Standard, the Board designates Azerbaijan as a Candidate country and tasks the International Secretariat with undertaking a Secretariat Review, assessing compliance with required corrective actions set out below and outstanding requirements within 12 months (i.e., by 15 April 2016). Failure to achieve compliance with these EITI Requirements and outstanding corrective actions by this date will result in suspension or delisting in accordance with the EITI Standard. The Secretariat Review should also update the Validator's assessment of the draft 2013 EITI Report in order to enable the Board to assess requirements 2, 3, 4, and 5.

The Board established the following corrective actions that need to be addressed in order for Azerbaijan to achieve compliance with the EITI Requirements:

1. In accordance with Requirement 1.3.b-e and the protocol on civil society participation in the EITI, the government and the MSG should ensure that civil society representatives who are substantively involved in the EITI process are able to
 - a. engage in public debate related to the EITI process and express opinions about the EITI process without restraint, coercion or reprisal.
 - b. operate freely in relation to the EITI process. This should include ensuring that the civil society MSG members are operationally and in policy terms independent of government and companies. In making this assessment, the Secretariat Review is expected to cite evidence of any civil society constituency discussions or agreed consistency policies related to ensuring policy and operational independence from members of parliament from the ruling party, other political parties aligned with the government, or extractive companies; Evidence that any potential conflict of interests or issues affecting civil society MSG members' independence have been transparently disclosed; and that the details about the articles of association, objectives, work programmes and funding sources of civil society organisations represented on the MSG are transparently disclosed. The government and the MSG should also take steps to ensure that civil society representatives substantively engaged in the EITI process are able to freely access and use funding to carry out their activities, including those of the EITI Coalition. Specifically, the government should ensure that the EITI Coalition and its members and employees are able to access their bank accounts and register new grants for the purpose of activities related to the EITI process and natural resource governance, and any further restrictions on NGO operations in natural resource governance should be avoided.
 - c. communicate and cooperate with each other regarding the EITI process.
 - d. be fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process. The government and the multi-stakeholder group should take steps to ensure that civil society representatives substantively engaged in the EITI process are able to organise training, meetings and events related to the EITI process and natural resource governance.

- e. speak freely on transparency and natural resource governance issues, and ensure that the EITI contributes to public debate. The government and the multi-stakeholder group should take steps to ensure that civil society representatives substantively engaged in the EITI process are able to speak freely about the EITI process and express views on natural resource governance without fear or threat of reprisal or harassment of civil society members substantively involved in the EITI process. Specifically, the government should ensure that the Coalition is able to freely access space for public events related to the EITI and facilitate public awareness campaigns and debates related to the EITI process and natural resource governance.
2. The MSG should agree a fully costed workplan that sets out objectives for implementation linked to national priorities for the extractive sector (Requirement 1.4.a).
3. In accordance with Requirement 6.1, the MSG must ensure that the 2013 EITI Report contributes to public debate.
4. In accordance with Requirement 7.2.a, future annual activity reports must include an assessment of progress with achieving objectives set out in the workplan, including the impact and outcomes of the stated objectives.

The Board also tasked the International Secretariat with updating the Validator's assessment of the draft 2013 EITI Report in order to enable the Board to assess compliance with Requirements 2, 3, 4 and 5.

Annex E – Assessment of civil society engagement (#1.3)

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Summary

At the 29th EITI Board meeting in Brazzaville in April 2015, the EITI Board declared Azerbaijan an EITI candidate country in response to the 2015 Validation carried out in January-March 2015, having previously been compliant with the EITI Rules. The majority of the corrective actions requested by the EITI Board were aimed at improving the environment for civil society to participate in the EITI.

In accordance with the Validation guide, this section assesses the requirements related to civil society engagement and the associated corrective actions requested by the EITI Board, applying the guidance set out in section 2.1 – 2.6 of the civil society protocol. It includes an assessment against the civil society protocol documenting progress since the last validation in 2015, stakeholder views and the International Secretariat's initial assessment of progress with the corrective actions and the EITI Requirements related to civil society engagement.

The following section presents the findings from the document review undertaken by the International Secretariat and the views of stakeholders consulted during the data gathering mission to Baku on 3-9 July 2016. While it provides references to supporting documentation where available, it does not seek to verify the veracity of the views and statements presented by stakeholders. The overall findings are that:

- 1. The general environment for civil society in Azerbaijan remains concerning.** There is a widely shared view among civil society representatives and representatives of the international community that despite some positive developments in 2016, there are few signs of a commitment by the government to improve the environment for civil society. Although the intensity of the clamp down on civil society observed in 2014 and documented in the 2014 EITI fact finding mission report appears to have eased – there are fewer arrests of prominent human rights defenders, journalists and civil society leaders, and fewer reports of new types of restrictions or interrogations of civil society

representatives – the legal environment governing NGO activities has continued to deteriorate with several prohibitive regulations enacted in the period July 2015-February 2016. The implementation of these regulations, in particular related to NGO registration as well as registration of grants by foreign donors and recipient NGOs, has further restricted the operation of civil society resulting in hibernation of much independent civil society activity.

The government continues to justify the new legal requirements and regulations as an attempt to better regulate the sector. The reported intention is to deter alleged illegal practices such as tax fraud, terrorism, abuse of foreign donor money and ensure an equal distribution of donor funds throughout the country.

- 2. Despite these challenges, it is important to acknowledge the steps that the government has taken in order to ease the situation for NGOs involved in the EITI.** Civil society representatives report that the meeting between the EITI Chair Clare Short and President Ilham Aliyev in October 2015 resulted in a noticeable difference in the government's attitude toward NGOs working on the EITI. Border checks of Coalition members came to a halt and have not occurred since March 2016. Some NGOs were successful in securing grants from the Council for State Support to NGOs (CSSN), and others were able to register old grants signed with foreign donors prior to the new Rules for grant registration that came into force in late 2015. Although tax inspections of several Coalition members were ongoing and have resulted in heavy tax penalties that are still pending, all bank accounts of civil society representatives were reportedly unfrozen by March 2016. Furthermore, the Coalition was able to organise several events aimed at promoting public dialogue about the EITI, albeit to varying degrees controlled by the government. More widely, the release of several prominent human rights activists in March and May 2016 was noted by the international community as a positive step although many more and perhaps less prominent journalists and civil society leaders are still in prison.

Although many report that the desire by the government to restore its status in the EITI as compliant and the Open Government Partnership is a key driver behind many of the recent positive developments, economic and geopolitical factors may also serve to explain the government's actions. The sharp decline in oil prices has thrown the Azeri economy into deep recession. With oil and gas accounting for more than 90% of exports, the economy is predicted to contract by 3.3 % this year, GDP per capita has declined by 1/3, and the government's debt grew from 11 % of GDP in 2014, to 28% of GDP in 2015, and is expected to hit more than 30% of GDP by the end of the year. Although the USD 33 billion in the State Oil Fund of Azerbaijan helps alleviate the economic pressure, Azerbaijan is facing significant financial obligations not least related to the USD 45 bn Southern Gas Corridor Project, 51% is owned by the government and 49% by state-owned SOCAR. Several commentators reported that the international finance institutions that are currently considering lending to the Southern Gas Corridor have made it clear that progress on the EITI will be considered in the lending negotiations. Meanwhile, representatives from the international community confirmed that there had been a significant positive shift in the government's attitude towards the West. The ongoing tensions between Russia and Turkey, the renewed clashes over Nagorno-Karabakh, Russia's strategic alliance with Armenia, and the desire to keep Iran and radical Islamism at an arm's length are all factors that appear to be influencing the government's attitude toward civil society and to the West.

- 3. Although ongoing restrictions are not caused by or related to Coalition members' EITI work, civil society representatives participating in the EITI are still being adversely affected.** Many of the civil society representatives substantively engaged in the EITI process are also substantively engaged in

other activities such as involvement in political opposition groups, human rights work, election monitoring, and advocacy around budgets and expenditure, and/or have close connections to organisations and individuals working on these issues. In light of this, it is impossible to look at their participation in the EITI and the restrictions they face in isolation from these wider activities. Although the restrictions observed are for the most part not directly linked to the engagement of civil society representatives in EITI activities, the wider environment is affecting civil society representatives' ability to participate in the EITI process. Examples of how civil society representatives substantively involved in the EITI are being affected include:

- Lack of access to funds or ability to register grants. All NGOs representatives consulted reported that it had become significantly more difficult to access funds since the new Rules on grant registration were issued in late 2015. No Coalition member has been able to secure any new grants from foreign donors since the new Rules came into force. Some have been able to access limited funding from the CSSN and some have been able to register old grants signed prior to the Rules being issued. However, it is widely reported that the government is applying a selective approach to the approval even of these grants. International donors report that both from an administrative and principled point of view, the new Rules are not enabling support to NGO activities.
- Although the bank accounts of CSO representatives have been unfrozen, NGOs report difficulties in accessing the funds in their bank accounts due to lack of obtaining the necessary documents from the government granting them the rights to use the funds. In addition, disputed tax penalties imposed on some Coalition members hamper access to existing funds.
- Several NGOs reported difficulties with NGO registration, or difficulties obtaining the necessary documents confirming the validity of existing registrations. Without such documents, NGOs are not able to access grants in their bank accounts or apply for new grants.
- Despite the relative freedom to express views on EITI issues and improved ability to arrange public debates, civil society representatives reported that most events remain under some form of government control and are subject to government approvals. Although many civil society representatives reported that they openly expressed views on the situation for civil society as well as on natural resource governance issues and rarely faced any repercussions for doing so, it was not without a certain fear of reprisal or intimidation.
- Three Coalition members who used to be substantively engaged in the EITI process still remain in exile for fear of being arrested. Although the reasons for their prosecution is not directly related to their EITI activities, their situation prevents them from participating in the work of the EITI as they have done previously.

It should be noted that despite these challenges, the Coalition has successfully continued its technical work on the EITI within the framework of the MSG. The Coalition's review and opinion on the 2013 and 2014 EITI Reports, their recommendations and other analytical work seems to have improved in the last year and ought to be highlighted as best practice among civil society working on the EITI worldwide. To some extent, it appears that the wider restrictions on civil society has improved the Coalition's voice and ability to push transparency boundaries within the MSG in that other stakeholders on the MSG have been more receptive to the proposals by civil society, and more conscious of that the EITI reports will be scrutinised at Validation. The impact of these efforts on the quality of EITI reporting in Azerbaijan is

clear.

4. The lack of funding and restrictive environment has created a jam in the civil society space that NGOs perceive to be offered by the EITI, affecting the functioning of the Coalition. The size and the wide array of interests and objectives reflected across its membership of the Coalition pose growing challenges in terms of Coalition functioning. There have always been divergent views on the extent of the Coalition's independence from the government both with respect to policy and funding, as well as alignment with other political groups. However, the lack of access to funding from other sources than the government and the Coalition's increasing reputation as a safe heaven for civil society activists, have contributed to escalate tensions among Coalition members. NGOs that have accepted funding from CSSN consider themselves accused of being pro-government. Similarly, NGOs that have affiliations to political groups other than the ruling party find themselves blamed for turning the Coalition into a battleground for political opposition. NGOs that consider themselves non-affiliated with either side and who argue that they are in the Coalition to work on transparency and accountability express frustration that the majority of the Coalition members do not have any knowledge or interest in the extractive sector and are compromising this limited civil society space for wider political objectives. At the time of the data gathering, this tension had escalated to the brink of break-up of the Coalition.

5. In conclusion, the International Secretariat's initial assessment is that although the environment for civil society engagement in the EITI appears somewhat better compared to the last fact finding mission in 2014, several corrective actions have not been completed and requirement 1.3 on civil society engagement remains unmet. In particular, it is the Secretariat's assessment that further work is needed to ensure that civil society is able to operate freely in relation to the EITI process (Requirements 1.3(b) and 1.3(c)). In addition, further work is needed to ensure that civil society can freely express opinions about natural resource governance without fear of reprisal and have the ability to influence public policy and debates related to natural resource governance (Requirements 1.3(d), 1.3(e)(i) and 1.3(e)(iv)).

There also appears to be a need for the Coalition to revisit its own governance and membership structure and agree a policy for ensuring political and operational independence (Requirement 1.4.b.ii). Although civil society views were divergent, ranging from supportive of continued membership but not at all costs to statements of support for restoring Azerbaijan's compliant status, it is worth noting that all NGOs saw value in continued engagement with the EITI.

Assessment of progress against the civil society protocol

2.1 Expression: Civil society representatives are able to engage in public debate related to the EITI process and express opinions about the EITI process without restraint, coercion or reprisal.

Documentation of progress

The NGO Coalition has played a crucial role in disseminating information, undertaking analysis and communicating the findings of the EITI process to the wider public. The Coalition maintains a website dedicated to EITI and extractive industry issues⁵³. The Coalition used to issue newsletters four times a year, and produced additional research and information materials related to the extractive sector and the EITI⁵⁴. These activities have largely come to a halt due to the financial constraints of the Coalition.

⁵³ NGO Coalition for Improving Transparency in the Extractive Industries website: <http://eiti-ngo-azerbaijan.org/>

⁵⁴ http://eiti-ngo-azerbaijan.org/?page_id=404

Despite these financial constraints, Coalition members have been able to participate in a number of public events related to the EITI process in the last year (2015 Annual Progress Report):

- On 10 April 2015, the Coalition held an event in Shirvan region, aimed at raising public awareness of EITI implementation. It was attended by more than 80 representatives from local government, civil society, media and local companies⁵⁵. On 17 April 2015, the Coalition held a similar roundtable in the Neftchala region, with the participation of some 70 local stakeholders⁵⁶. A third such regional event took place on 24 April 2015 in Gadabay⁵⁷. The events were supported by SOFAZ and the WB.
- On 29-30 September 2015, the Coalition held public debates in the regions of Siyazan and Salyan on “the EITI aim, implementation and the use of outcomes”, with support from the CSSN⁵⁸.
- On 20 October 2015, the Coalition held the workshop on “the EITI aim, implementation and use of outcomes” at the Azerbaijan State University of Economics. The purpose of the workshop was to engage youth on EITI process⁵⁹. The workshop was financed by the CSSN.
- In October and November 2015, the Coalition produced a series of youtube video debates on different topics such as “2013 EITI Report: achievements and challenges”⁶⁰, “EITI and Azerbaijan”⁶¹, “The role of civil society in EITI implementation”⁶², and “State Oil Fund”^{63,64}. These youtube videos have had 424 views.
- In October and November 2015, TV programmes on EITI were broadcast in regional TV channels of Sumgayit, Ganja and Guba (2015 Annual Progress Report, p.8).
- On 23 November 2015, the Coalition’s opinion on the 2013 EITI Report was presented at a roundtable held by the Coalition with the support of the CSSN⁶⁵. The event was attended by government representatives, international organizations, embassies, civil society organisations and the mass media. It has not been possible for the Coalition to organise any programmes on public national TV due to financial constraints.
- In February 2016, the Coalition launched its opinion on the 2014 EITI Report⁶⁶.
- On 6 June 2016, the Coalition organised seminars on EITI implementation in Mingachevir and on 7 June in Tartar⁶⁷. On 21 June and 1 July, similar seminars were held in Naftalan and Goygol. These

⁵⁵ <http://eiti-ngo-azerbaijan.org/?p=942>

⁵⁶ <http://eiti-ngo-azerbaijan.org/?p=953>

⁵⁷ <http://eiti-ngo-azerbaijan.org/?p=966>

⁵⁸ <http://eiti-ngo-azerbaijan.org/az/mssa-koalisiyasi-siy-c9%99z-c9%99n-v-c9%99-salyanda-ictimai-muzakir-c9%99-kecirib/>

⁵⁹ <http://eiti-ngo-azerbaijan.org/az/mssa-ght-koalisiyasi-iqtisad-universitetind-c9%99-seminar-kecirib/>

⁶⁰ <http://eiti-ngo-azerbaijan.org/az/m-c9%99d-c9%99n-s-c9%99navesind-c9%99-s-c9%99ffafligin-artirilmagina-ictimai-d-c9%99st-c9%99k-layih-c9%99si-davam-edir/>

⁶¹ <http://eiti-ngo-azerbaijan.org/az/m-c9%99d-c9%99n-s-c9%99navesind-c9%99-s-c9%99ffaflig-t-c9%99s-c9%99bbusu-msst-v-c9%99-az-c9%99rbaycanin-istiraki/>

⁶² <http://eiti-ngo-azerbaijan.org/az/m-c9%99d-c9%99n-s-c9%99navesind-c9%99-s-c9%99ffafligin-artirilmagina-ictimai-d-c9%99st-c9%99k-layih-c9%99si-c-c9%99rciv-c9%99sind-c9%99-novb-c9%99ti-verilis/>

⁶³ <http://eiti-ngo-azerbaijan.org/az/iqtisadi-forum-verlisinin-novb-c9%99ti-buraxilisi-neft-fonduna-h-c9%99sr-edilmisdir/>

⁶⁴ <http://eiti-ngo-azerbaijan.org/az/iqtisadi-forum-verlisind-c9%99-yeni-movzu-suveren-rifah-fondlari/>

⁶⁵ <http://eiti-ngo-azerbaijan.org/az/m-c9%99d-c9%99n-s-c9%99navesind-c9%99-s-c9%99ffafligin-artirilmasi-ght-koalisiyasi-az-c9%99rbaycan-respublikasinin-2013-cu-il-uzr-c9%99-mhst-hesabatina-dair-hazirladigi-r-c9%99yi-ictimaiyy-c9%99t/>

⁶⁶ <http://eiti-ngo-azerbaijan.org/wp-content/uploads/2012/10/Coalition-Review-to-2014-Report-EITI.pdf>

⁶⁷ <http://eiti-ngo-azerbaijan.org/az/m-c9%99d-c9%99n-hasilatinda-s-c9%99ffaflig-t-c9%99s-c9%99bbusu-il-c9%99-bagli->

events were implemented by the Coalition member Regional Human Rights and Media Centre⁶⁸ with funding from CSSN.

MSG meeting minutes document that CSO MSG representatives are able to freely express views on the environment and challenges for civil society in Azerbaijan. For example, minutes show that the MSG discussed challenges with the civil society environment at its meetings on 5 April 2016, 25 December 2015, 3 October 2015, 15 July 2015 and 5 May 2015. The minutes also confirm that civil society representatives are able to speak critically about the EITI Report and bring transparency and other technical issues of concern to the table. For example, in the last quarter of 2015, the Coalition undertook extensive research on the quasi-fiscal expenditures of SOCAR and presented its findings on this issue⁶⁹.

During the past year, some members of the Coalition have also talked about the EITI process and the challenges that civil society is facing in the media, either in response to media enquiries or on their own initiative⁷⁰. There is no evidence that any of the Coalition members have faced difficulties as a result of these activities.

However, in the aftermath of the EITI Board decision on Azerbaijan in April 2015, an alternate CSO MSG member who is also a member of the EITI Board was portrayed in local media of being responsible for the downgrading of Azerbaijan and was accused of betrayal against the state⁷¹.

Stakeholder views

One Coalition member reported the following on the regional events:

"I took part in the workshop in Gadabay, which is a mining area so people are really interested in EITI matters. We had quite a big gathering there. I thought that it was going to be a managed event and that we would not have any interaction with the audience. Of course quite a few people were pre-selected, but there was also some people who were asking questions, raising complaints, and approaching us to discuss also after the meeting. Even some people from the executive office were asking some questions. People raised issues around environmental degradation, complaints that the mining activities don't return

<http://www.regionalhumanrights.org/az/>

⁶⁸ <http://www.regionalhumanrights.org/az/>

⁶⁹ Aghayev, R. and A Mehtiyev (2015) Research on quasi-fiscal operations of the State Oil Company of Azerbaijan Republic in 2013 (not published)

⁷⁰ <http://www.azadliq.mobi/a/26957857.html>

<http://caspianbarrel.org/?p=35236>

<http://news.milli.az/politics/376512.html>

<http://www.axtar.az/az/xeberaxtar?query=%C5%9Eahmar+M%C3%B6vs%C3%BCmov>

<http://www.aznews.az/index.php?c=news&id=101401>

<http://telegraf.com/news/91657>

<https://peopleandnature.wordpress.com/2016/08/04/its-oil-first-people-second-just-like-in-soviet-times/>

<https://peopleandnature.wordpress.com/2016/08/04/break-the-silence-on-azerbaijan-oil-workers-deaths/>

http://musavat.com/news/iqtisadiyyat/azerbaycan-mssht-ye-uzvlukden-chixarila-biler_327393.html

<https://www.youtube.com/watch?v=clffAQww0jw>

<https://www.youtube.com/watch?v=QblcpZn68xQ&feature=share>

<https://www.youtube.com/watch?v=U2MoipTwZIE>

<https://www.youtube.com/watch?v=DfoJJPuiwel>

<https://www.youtube.com/watch?v=IBfgJQWIX8>

<https://www.youtube.com/watch?v=26YxplXJbqo>

https://www.youtube.com/watch?list=PLk5558GGDuW88vTrkkPuirm4ed3aj_FvX&v=nwoFJnO2RY

⁷¹ http://www.azerfax.az/news_5589.html

anything to their communities, and resettlement and land compensation issues.”

Another Coalition member explained that when attending one of the regional events, he had provoked the audience with a question:

“I asked the audience whether anyone was getting anything from the oil. When I looked at the local executive officer, he was pale. After my question, I explained that we should all be interested in exercising control over the oil revenues because it is our money. One of my objectives is to provoke common interest in the EITI and oil revenues to make people understand that they have a say too. If people feel that they benefit directly then they start to care about how oil revenue is accumulated and spent. Today, the public discussion is more managed by the government. The self-censorship by the media, NGO and the common public has increased. In the 1990s and early 2000, we had independent media. It is not like we have a list of no-go topics, but it is not advisable to criticize the highest political leadership. It is ok to criticize ministers. Either way, I don’t think this situation is affecting the EITI and the discussions about transparency in oil revenues”.

Some other Coalition members expressed scepticism regarding the effectiveness of these regional events. “Some of these events are taking place at the headquarters of the ruling party. Most attendees are teachers and other people who have been told by the authorities to attend.”

With regard to freedom of expression in the media, a journalist said that although the situation for media is not good, it is slightly better than in 2014, noting that journalists and media continue to work despite the restrictions that they are facing. There had been critical reporting about President Ilham Aliyev, including an online TV programme on the Panama Papers and corruption in Azerbaijan. It was noted that although some journalists were pressured and got phone calls after publishing such articles, this did not prevent them from continuing work in this area:

“We currently indirectly criticize the President. For example we make programs about the holding companies that he owns. We can criticise the President himself, but we cannot name his father or his wife and say that they did so and so. Then our organizations would be closed tomorrow. I believe that a real journalist will always try to broaden this border, always”.

Another journalist said that there was hardly any independent media left in Azerbaijan.

One Coalition member gave examples of how any topic could become sensitive if linked to the President’s family. With regards to the extractive sector, for example, it was noted that Khadija Ismayilova had been arrested because of the article she wrote about the involvement of the President’s family in the Chovdar gold operations⁷². Another example was how some NGOs – the Kura civil society - had faced pressures after investigating corruption allegations related to spending on assistance to the areas affected by the floods in 2010, including construction of new houses⁷³.

CSO MSG representatives confirmed that they had no restrictions when raising issues with the MSG. They pointed out that they were now able to raise topics that had previously been regarded as sensitive, such as for example SOCAR’s quasi-fiscal expenditures. One alternate CSO MSG member also commented that civil society had raised the issue of AIMROC, the company operating the Chovdar gold, but that “every time we ask, we are being told that the company is not profiting and therefore not paying taxes.” One Coalition member also said that he was frequently voicing critical views on Facebook, and through articles

⁷² <https://www.occrp.org/en/panamapapers/aliyev-mining-empire/>

⁷³ <http://www.contact.az/docs/2012/Social/112300019202en.htm>

and interviews in Radio Liberty, Azadliq, Meydan TV etc.

It was also noted that to some extent the issue of self-censorship practiced today in Azerbaijan should also be regarded as a heritage from the soviet times. During soviet rule, people became accustomed not to question or criticise authorities openly. Rather such conversations were considered “kitchen talks”. For many people this was still a norm that existed in society, and was not questioned or necessarily regarded as restrictive.

Initial assessment

As part of the corrective actions, the EITI Board requested that “The government and the MSG should ensure that civil society representatives who are substantively involved in the EITI process are able to engage in public debate related to the EITI process and freely express opinions.” Evidence provided during the information gathering process shows that civil society representatives seem able to speak freely in public about the EITI process including for example during MSG meetings, EITI events including for the promulgation of EITI Reports, public events, in the media, etc. In some ways, civil society continues to push the boundaries in terms of commentary on what was previously considered sensitive issues.

Although it is clear that there is a certain degree of self-censorship in Azerbaijan and that there are clearly several “no-go topics”, none of the stakeholders consulted provided any practical examples of self-censorship in relation to the EITI process or voiced concern that self-censorship was having an impact on the dissemination of information related to the EITI process. Some journalists and civil society activists, including Khadija Ismayilova and Ogtay Gulaliyev, have been prosecuted for exposing corruption in the extractive industries. At the same time, these people have also exposed corruption in other sectors and/or are engaged in political opposition activities. It is therefore difficult to ascertain that their prosecution is linked to their work on transparency and accountability in the extractive sector only.

The civil society representatives consulted said that apart from one alternate CSO MSG member who is also a member of the international EITI Board, no civil society representative substantively involved in the EITI process had faced restrictions as a result of expressing views on the EITI process.

Civil society appears relatively free to express opinions on natural resource governance, although this cannot be done without a certain fear of reprisal. There have been examples of civil society representative substantively engaged in the EITI process that have faced intimidation because of views expressed in relation to the EITI process. Nevertheless, the International Secretariat’s initial assessment is that the corrective action has been completed. Firstly, even if requirements 1.3(d), 1.3(e)(i) and 1.3(e)(iv) state that civil society should be able to speak freely and express opinions without restraint, it does not appear as if single incidents or a small number of incidents motivate the conclusion that the requirement has not been met. Some kind of overall assessment is required, looking at whether there is a pattern restricting freedom of speech. Secondly, it is clear that civil society representatives continue to put forward views and express opinions despite the fear of intimidation and prosecution. Thirdly, having assumed that some form of overall assessment is required it is necessary to compare the situation in Azerbaijan to other countries. EITI implementation in most countries appear to come into contact with varying degrees of self-censorship.

2.2 Operation: Civil society representatives are able to operate freely in relation to the EITI process.

Documentation of progress

Key laws governing the operation of civil society activities include⁷⁴:

- The *Law on Non-Governmental Organisations* (2000, amended on 3 February 2014, 17 October 2014 and 28 December 2015);
- The *Law on State Registration and State Register of Legal Entities* (2003, amended including latest amendments effective as of 3 February 2014);
- The *Law on Grants and Administrative Code* (1993, amended including latest amendments effective as of 3 February 2014);
- The *Regulations on the Council of State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan* (13 December 2007).

The Law on Non-Governmental Organisations, hereinafter the 'NGO Law', was first introduced in Azerbaijan in 2000. Work on further amendments commenced in 2009. A significant set of amendments to the law were passed by the Parliament on 17 December 2013 and signed into force by the President on 3 February 2014. Since then, there have been further amendments in 2014 and 2015.

In 2015, the government also adopted a set of rules and regulations to give effect to the amendments in the NGO Law. This includes:

- The *Rules on Registration of Grant Agreements/Contracts* (Resolution of the Cabinet of Ministers #216, 5 June 2015);
- The *Decree on registration of contracts on provision of services and works at the expense of foreign financial sources by nongovernmental organizations, as well as branches or representative offices of foreign nongovernmental organizations* (Decree of the Cabinet of Ministers #337, 21 October 2015)⁷⁵;
- The *Rules on obtaining the right to provide grants in the Republic of Azerbaijan by foreign donors* (Cabinet of Ministers # 339, 22 October 2015, in force as of 4 December 2015)⁷⁶;
- The *Rules on Studying the Activities of Non-Governmental Organizations, Branches or Representative Offices of Foreign Non-Governmental Organizations* (Collegium of the Ministry of Justice, 28 December 2015)⁷⁷.

The legal and regulatory framework governing civil society operations in Azerbaijan either have the potential to affect, or have demonstrably affected the ability of civil society representatives to operate freely in relation to the EITI process, notably in three key areas (1) NGO registration; (2) Access to funding; and (3) Monitoring of NGO activities.

1. NGO registration

New requirements for NGO registration were introduced as part of the February 2014 package of amendments of the NGO Law. While NGOs in Azerbaijan are allowed to operate without being registered and several unregistered NGOs exist, it is difficult for unregistered NGOs to function as they cannot

⁷⁴ For additional laws and codes regulating the sector, see [ICNL Azerbaijan webpage](#)⁷⁴.

⁷⁵ <http://e-qanun.az/framework/31456>

⁷⁶ <http://e-qanun.az/framework/31488>

⁷⁷ <http://e-qanun.az/framework/32061>

receive funding, open a bank account or enjoy tax benefits (Ismayil and Remezaite, 2016, p.13). According to the Law, operation of unregistered foreign NGOs is prohibited (ICNL webpage, 2016).

The registry is managed by the Ministry of Justice (MoJ). While previously it was only possible to register in Baku, the amendments to the Law on State Registration now enable NGOs to register with regional departments of the MoJ.

The International Secretariat understands that a registration is not time limited and is confirmed by a registration certificate. NGOs must obtain an extract of such a certificate from the MoJ at least once every two years in order to act as a legal entity. Challenges with the registration process have been widely documented:

“According to the new amendments to the Law on “State Registration and State Registry of Legal Entities” of 17 December 2013²¹, all NGOs in Azerbaijan are required to register all changes to the founding documents or prerequisites with the Ministry of Justice and to obtain an extract of their registration certificate from the in order to be able as legal entity. The law stipulates that any changes such as change of address, change of number of members, change of chairperson, change of phone numbers NGOs shall be presented for registration. NGOs should submit all documentation for registration of changes in their founding documents no later than 40 days of those changes in the founding documents or facts. Registration departments shall register the changes in 5 days if no deficiencies identified. A failure to do so leads to administrative penalty. Furthermore, NGOs are forbidden to operate on the basis of non-registered facts or information. Only upon confirmation of registration of such changes, NGOs can freely enjoy the benefits of its legal entity status, such as the use of bank accounts or signing grant agreements” (Ismayil and Remezaite, 2016, p.13).

The Venice Commission’s opinion on the NGO Law states:

“The registration is still a lengthy and cumbersome process, though this is linked more to the implementation of the legislation than to its content... the applicants are often required by the registering department to submit additional documentation not required under the national legislation; they often receive repeated requests for corrections of the documents, although such requests must be submitted at once (Article 8(3) of the Law on Registration); the deadline for issuing the decision on the registration is not always respected... and the automatic registration, in case the Ministry of Justice does not respond to the applications within the statutory timelimit (Art. 8(5) of the Law on Registration), does not seem to be respected...”. (Venice Commission, 2014, p.11).

According to ICNL, “the Law on Registration sets out the reasons for denial of registration of NGOs, which include when another organisation has been registered under the same name; when documents submitted for registration of an NGO contradict the Constitution, the Registration Law, and other Azerbaijani laws; when the goals, purposes and forms of activities of the NGO contradict legislation; or when an NGO does not correct all deficiencies in its submitted registration documents within 20 days after the Ministry of Justice returns them” (ICNL webpage, 2016).

Of the 138 NGOs that are members of the Coalition, the Coalition claims that 36 are not registered. A list of the 36 organisations has not been provided to the International Secretariat. All six organisations that are currently members of the MSG are registered. Four of the organisations that were recently elected to the Coalition Council are not registered⁷⁸. With regards to those facing challenges with registration, the

⁷⁸ Educational Research Centre Public Union, Institute of Democratic Initiatives, Public Association for Assistance to Legal Initiatives, Public Association for Democratic Reforms.

International Secretariat understands that the majority of these NGOs have attempted to register over a number of years but that the MoJ have not granted the registration. Some of these NGOs have now submitted their cases to the European Court of Human Rights⁷⁹. While it was previously possible for non-registered NGOs to receive grants, the new Rules on grant registration (see below) prohibit non-registered NGOs from receiving any funding (ICNL, 2016).

With regards to the extract confirming the registration, the International Secretariat understands that at least five Coalition members have not been able to obtain this from the MoJ⁸⁰. This does not include any of the registered MSG members, but some other Coalition members who are substantively engaged in the EITI process and who used to be MSG members.

According to the NGO Law, it is not possible for the Coalition itself to register as a legal entity. It may register as an Association. There have been several discussions about the registration of the Coalition in the last year, mainly to facilitate access to funding. At the General Assembly of the Coalition on 30 April 2016, a majority of Coalition members voted against the proposal to register the coalition as an association. Because of this, the Coalition continues with the practice of having one of its member organisation act as a “financial agent” for the purpose of registering and administrating grants on behalf of the Coalition. This responsibility typically rotates among members, and is currently held by the Centre for Economic and Political Research.

2. Access to funding

The legislative amendments and rules adopted in 2015 introduced new requirements for donors and NGOs to register grants. In effect, this is a double registration procedure in that many of the documents that are required of a foreign donor to register a grant are the same documents that subsequently have to be submitted by the recipient NGO.

While foreign donors did not previously have to sign any agreements with the authorities, the amendments to the NGO Law on 17 October 2015 stipulate that local NGOs can receive donations from foreign donors only if the foreign donor has an agreement with the authorities. “The new rules determine that foreign donors must obtain a permission to give a grant in Azerbaijan for each grant agreement individually. To acquire such a right, the opinion of the Ministry of Finance (MoF) on financial and economic reasonability of such a grant is required. The new rules also apply to sub-grants, including any additional agreements or annexes of such grant agreements aimed at modifying grant agreements’ duration, purpose and amount” (Ismayil and Remezaite, 2016, p.17). In order to obtain the opinion from the Ministry of Finance, the donor needs to submit a range of documents including the draft grant agreement with information about its purpose, amount, intended recipient, duration, the project proposal, and the budget; a justification of financial and economic expediency of grant; foreign donor registration certificate; and power of attorney verifying the authority of the signatory to sign the application (ICNL, December 2015; p.3).

The MoF has the right to deny registration of a grant if it considers that there are gaps in the information provided in the application, and if the purpose of the grant and its financial and economic justification is unclear. According to ICNL, “If the government is already addressing the needs covered by a proposed

⁷⁹ Youth club Public Union

⁸⁰ The Public Union for Democratic Institutions and Human Rights; the Public Association for Assistance to Free Economy; Free Person Human Rights Defense Society; Caucasus Media Investigation Centre; and Society for Democratic Reforms.

grant, this will be grounds for considering the grant as financially and economically non-expedient. This provision is rather vague and leaves MoF with broad discretionary power to reject applications from “unwanted” donors, on the basis that the government of Azerbaijan is already providing grants to local NGOs in variety of areas, including human rights, elections monitoring, and other areas” (ICNL, December 2015, p.4).

The MoF has to respond to the application within 15 days, and has the right to extend this period for another 15 days, if it determines that “there is a need for further examination” (ICNL, December 2015, p.3). The MoF then issues an opinion twice a year, which is shared with other key ministries such as the MoJ. Once a grant agreement has been registered with the MoF and the opinion has been issued, the recipient NGO can apply for registration of the grant with the MoJ.

NGOs need to obtain pre-approval from the MoJ to register a grant. According to ICNL, “the procedure for grants registration is extremely burdensome for grants recipients. The Rules also give the government broad authority to decide whether to grant such approval” (ICNL, September 2015, p.1). NGOs need to apply for registration within 15 days of signing the grant, compared to 30 under the old rules. The application needs to include a range of notarised or legalised documents to be reviewed by the MoJ against the relevance of the activities set out in the NGO’s charter as well as other criteria⁸¹.

The MoJ should respond to the grant registration application within 15 days, and has the right to extend this period for another 15 days. Once a grant has been registered with the MoJ, the NGO receives a notification confirming the registration of the grant agreement. NGOs need to present this notification in order to carry out any bank operations related to grants. The MoJ has the right to deny registration of a grant if it considers that there are gaps in the information provided in the application, or in the attached documents, and these gaps are not addressed by the NGO within five days. According to ICNL, “The Rules do not require the Ministry of Justice to provide a justification of a denial of registration. A denial of grant registration cannot be appealed (except for procedural violations)” (ICNL, September 2015, p.4).

In terms of the application of these new Rules, the International Secretariat’s understanding is that only one foreign donor – the Embassy of Japan – has registered a grant with the Ministry of Finance. Other foreign donors have not attempted to register grants, although some are considering registering Service Contracts⁸². Some foreign donors have applied for an exemption from the Rules on the grounds that their bilateral agreements which have the legal status of international obligations should supersede the Rules. The International Secretariat understands that so far only one donor has received a reply from the government to this request, and the response was negative.

Subsequent to the legal amendments, any legal entity in Azerbaijan may now provide a grant to both domestic and foreign individuals and legal entities provided that it is registered with the authorities as a donor. However, in practice, the only source of domestic funding to the Coalition is from the CSSN. According to the MoJ, financial support to NGOs amounted to AZN 35 million in the first half of 2016, 80% of which was from domestic sources. This included grants, service agreements and donations.

The Coalition’s access to funding has been limited since June 2014. While the June 2013-June 2014 budget of the Coalition was USD 154k, of which USD 104k was financed by Open Society Institute

⁸¹ For further information on the types of documents that need to be submitted and the criteria, see Ismayil and Remezait, 2016, p.18-19.

⁸² Service contracts is another means under the NGO Law through which foreign donors can provide financial assistance to NGOs. For NGOs, the procedure for registration of service contracts is similar to that of grants however there is no registration obligation on the donors. In addition, service contracts are subject to 4% tax.

Assistance Foundation and Revenue Watch Institute and USD 50k by the WB, the only funds secured by the Coalition in the period June 2014 to December 2015 was a AZN 17k (USD 11k) grant from the CSSN. So far in 2016, the Coalition itself has received two grants from the CSSN for EITI activities – one AZN 7500 (USD 5k) grant to organise the General Assembly, and one AZN 15k (USD 10k) grant to institutional support and administrative expenses. The International Secretariat understands that there are uncertainties regarding whether the latter grant for institutional support will actually materialise.

The International Secretariat understands that the Coalition also submitted a funding proposal to the EU in mid-2015, and held conversations with the World Bank throughout 2015 about potential support to their EITI work, but was not successful in these efforts.

In addition, several Coalition members have applied to and received funding from the CSSN for their own organisations' activities. In 2015, the CSSN allocated AZN 193k (USD 125k) to 32 projects pertaining to Coalition members. None of these projects were specifically about the EITI. However, towards the end of 2015, the CSNN decided that EITI awareness should be one of the topics for the grant competition announced in December 2015. This information was shared on the Coalition network and the Coalition Council provided support letters to any organisation wishing to apply. Four Coalition members decided to apply and in April 2016, funding for four projects of EITI relevance was allocated to all four Coalition members amounting to a total of AZN 30 000 (USD20k)⁸³.

While no Coalition members have signed any new grants with foreign donors for their own activities, some Coalition members have existing grants with foreign donors that were signed and in some cases disbursed prior to the amendments to the NGO law in February 2015, but that they have not been able to spend because of frozen bank accounts (see below). Some Coalition members also have grant contracts with foreign donors that were signed before the new Rules for grant registration were issued in November 2015, but that it has not been possible to register subsequent to the new Rules being issued. The International Secretariat is not aware that any of these grants are related to EITI activities.

3. *Monitoring of NGO activities*

The Rules on Studying the Activities of Non-governmental Organizations, Branches or Representative Offices of Foreign Non-governmental Organizations were adopted on 28 December 2015, and published on 13 February 2016. Further to the amendments of the NGO Law in February 2014, the Rules establish the implementing procedures for the MoJ to study the activity of NGOs. According to a review of the Rules undertaken by ICNL, this includes investigating compliance of the NGO's activities with the NGO's charter, compliance of the NGO with the requirements of the various legislations pertaining to NGOs, and compliance with requirements for submission of annual financial reports, accounting, etc. (ICNL, 2016; p.2). The studies will be conducted on a regular basis and at the end of each calendar year, and the MoJ will approve a list of NGOs to be studied in the following year. In addition, the MoJ retains the right to conduct extraordinary studies. The International Secretariat understands that so far, one Coalition member - Umid Support to Social Development Public Union – is being subjected to such as study. This organisation is not substantively engaged in EITI work.

Further to the legal and regulatory framework, other practical obstacles have affected the ability of civil society to operate freely over the last couple of years, notably (1) lack of freedom of movement; and (2) tax inspections and the opening of criminal cases resulting in frozen bank accounts and tax fines.

⁸³ Awarded to Khalid Kazimov, Shaban Nasirov, Rafiq Tamrazov (alternate MSG member) and Ilgar Huseinly.

1. Lack of freedom of movement

Over the last two years, at least 22 Coalition members including MSG members and Coalition Council members have been exposed to special checks and interrogations when crossing borders. In some cases, this included review of documents, laptops, USB sticks, cameras, credit cards and inspection of other personal belongings. The International Secretariat understands that as of November 2015, the frequency and extent of these border checks were reduced and that since 18 March 2016 no Coalition member has experienced any border checks. It should be noted that one Coalition Council member is currently experiencing a travel ban related to a criminal case against him that is still ongoing.

2. Frozen bank accounts

Since April 2014, several Coalition members have experienced having their organisations' bank accounts as well as their personal accounts and the accounts of their staff either being frozen by the Bank or arrested by Court order. In some cases, this resulted in charges of tax fraud and abuse of power. On 27 June 2014, the Coalition's bank account was frozen by the bank. At that time, the Coalition Coordinator's organisation – the Economic Research Centre - was serving as a financial agent for the Coalition and while the Coalition account is separate from that of the Economic Research Centre, it is registered in the organisation's name. The account was arrested by Court order on 27 August 2014 and as a result, the Coalition was not in a position to access Coalition funds or to register new grant agreements⁸⁴. The Coalition Council discussed whether any of the other member organisations might serve as a financial agent whilst the account was under arrest in order. While several of the other member organisations either had their own bank accounts frozen or were uncomfortable taking on this responsibility given the circumstances, it was decided that the Centre for Economic and Political Research would act as financial agent for the Coalition.

For many of the organisations, the arrest of the bank accounts were related to a larger criminal case (no 1420006023) against a number of NGOs accused of tax fraud or abuse of power (see below). Several Coalition members were among those affected⁸⁵.

The International Secretariat understands that as of 30 March 2016, there is a Court order annulling the arrest of these bank accounts and that currently no Coalition member has bank accounts that are frozen or arrested. Although bank accounts are now available to Coalition members, the International Secretariat understands that not all Coalition members are able to use the money in their accounts (see below).

3. Tax penalties

Some members of Coalition have been involved in the investigations related to criminal case No 142006023 conducted by Chief Investigation Department on Grave Crimes under General Prosecutor's

⁸⁴ Some stakeholders have commented that the freezing and arrest of the Coalition's bank account on 27 June and 27 August 2014, managed by EITI Board member Gubad Ibadoghlu's organisation (the Economic Research Centre) coincided with the 2 July 2014 decision of the EITI Board to conduct a fact-finding mission to Azerbaijan to investigate the reported challenges related to civil society.

⁸⁵ Economic Research Centre, Public Association of Assistance to Free Economy, Caucasus Media Investigations Centre, Centre for Economic and Social Development, Democratic Institutions and Human Right Union, Protection of Oil Workers Right's Organisation and Free Person Human Rights Defense Society.

Office since April 2014⁸⁶. This case is related to a larger criminal case against a number of NGOs accused of tax fraud or abuse of power. The International Secretariat understands that the Coalition members involved in this case were firstly interrogated as witnesses in a criminal investigation against Oxfam, and that it was mainly organisations associated with Oxfam, including Oxfam grantees, that were targeted. The interrogation by the Prosecutor General's Office and freezing of bank accounts mainly took place in the period June-October 2014. On 3 October 2014, the Nasimi District Court instructed the Grave Crimes Investigation Department of the General Prosecutor's Office to carry out the investigation and tax inspections against several organisations, including some Coalition members⁸⁷.

As documented in the 2014 EITI fact finding mission report (p.11):

"A criminal justice lawyer told us that: "Since January 2014, prosecution has intensified across the board, targeting political activities, human rights defenders, social networks and NGOs. As far as I know, all bank accounts that have been arrested have been arrested in relation to this criminal case in order to preserve evidence. This is allowed by Court order. No notice is given to those affected to attend the Court hearing. Decisions are taken without those affected being present. Those affected are not informed of the Court's decision. Some only notice when they try to withdraw money and discover that the account has been blocked. This is unlawful. Provisions in the Code of Criminal Procedure set out rights on access to Courts and information about decisions and right of appeal. Appeals must be registered with the Court of Appeals within three days. As people are not informed, they often discover that their accounts have been blocked when it is too late to appeal. All but one appeal has been refused. This practice is an impediment to effective justice. According to Criminal procedure, freezing or arrest of assets and property is only allowed (i) in cases where there is evidence that the assets are the object of a crime or constitute important evidence for the Court; or (ii) if there is evidence that the assets will be removed beyond the reach of the state. Freezing or arrests can only happen after investigations have been completed. But now, accounts are being frozen or arrested prior to the investigation taking place or people having been charged.

The government claims that the main objective of this criminal case is to clamp down on tax fraud among NGOs. However, according to the law, NGOs cannot earn profit. The only taxes applicable to NGOs are employee tax which is deducted at source, tax on property rental, and road tax if the organisation uses a car. However, if grants have been used by NGOs without their first being registered with the Ministry of Justice, NGOs also have to pay VAT and income tax as their activities are then treated as commercial activities. In any case, tax fraud is a criminal offence, not for small scale tax evasion. Some NGO leaders have been put in pre-trial detention for tax fraud, or because they speak and think differently. According to the law, the Court can order pre-trial detention if there is a risk that the people involved can tinker with evidence, escape or interfere in the investigation. However, the pre-trial detentions that have taken place in relation to this case are not justified as accounts are already frozen or arrested and no investigations have taken place.

⁸⁶ Economic Research Centre, Public Association of Assistance to Free Economy, Public Union for Assistance to Economic Initiatives, Democratic Institutions and Human Right Union, Protection of Oil Workers Right's Organisation, Free Person Human Rights Defense Society, the Public Union of Young Leaders Education, Training and Development, and the Public Union of Development of the Society and Civil Relations.

⁸⁷ Nasimi District Court Decision, No. 5(006)-536/2014. Some stakeholders have commented that the 3 October 2014 Court order on tax inspections of EITI Board member Gubad Ibadoghlu's organisation (the Economic Research Centre) coincided with the 17 October 2014 decision of the EITI Board to conduct an early Validation of Azerbaijan.

All charges I have seen so far are unsubstantiated and evidence is fabricated. What is going on right now is extraordinary. We have more than 100 political prisoners at a time of civil peace. If not resolved quickly, the whole of civil society will be beheaded. “

In July 2015, the Prosecutor General’s Office informed the Ministry of Taxes that they had found financial irregularities during their investigation and this led to tax penalties being issued to several organisations⁸⁸. The organisations are accused of conducting illegal entrepreneurial activities (i.e. using grant money without registering the grant first) and abuse of power (in cases where the Head of the organisation is implicated). Six Coalition members have had tax penalties imposed on them in the period June 2015-2016, ranging from AZN 8000 (USD 5k) to AZN 880k (USD 560k)⁸⁹. The penalty amount is based on the grant turnovers for the past 3-5 years. There is a daily interest of 0.1% accruing on the tax debts for up to one year. The organisations affected claim that these tax debts are unjustified.

In addition to this larger criminal case implicating several Coalition members, there are three Coalition members that have individual criminal cases against them and who have or are currently imprisoned⁹⁰. None of these cases appear related to the EITI. In addition, there is a criminal case against one Coalition member who was an MSG member at the time when the investigations against the organisation started. Although the reason for the criminal case appears unrelated to the EITI, this person fled the country in fear of being prosecuted, affecting his ability to participate in EITI work.

In addition to the above, there are other *operational and administrative restrictions*, such as excessive bank fees that are affecting the ability of civil society to operate. This not only includes state-owned banks, but also private banks that have substantively increased the fees for NGOs. Some banks now charge USD 300 for opening a bank account and USD 100 in monthly service fees (Ibadoghlu, Ismayil, and Mehtiyev; 2016, p.21) .

Stakeholder views

With regards to the **legal framework and procedures for NGO registrations**, representatives from the MoJ explained that the registration of an NGO, like any other legal entity, may take 30 days and can be extended for another 30 days in case the MoJ needs additional information to process the registration. The MoJ representatives noted that this extension is rarely practiced, and in reality the registration takes less time. As per the law, registration is not mandatory for local NGOs, but it provides the status of a legal entity with all associated rights and obligations such as access to funding.

MoJ officials explained that the extract from the NGO Registry, confirming the validity of the registration, should be renewed every two years in conjunction with the NGO’s general assembly, or whenever there are changes in the NGO’s legal address, management and so on. NGOs should inform the MoJ of such changes within 40 days. MoJ officials said that the issuing of the extract takes 5 days and that refusal is very rare. The MoJ processed 582 requests for extracts in 2015, and 375 requests in the first half of 2016.

Civil society stakeholders noted that the MoJ has considerable discretion in denying registration of NGOs and that this is often applied to NGOs working on issues such as human rights, democracy, election monitoring etc. Some CSOs mentioned that in reality the registration could take up to 8 months instead of

⁸⁸ Letter from the Prosecutor General’s Office No.142006023/1015, 23 July 2015.

⁸⁹ Economic Research Centre, Caucasus Media Investigations Centre, Democratic Institutions and Human Right Union, Protection of Oil Workers Right’s Organisation, Public Association for Assistance to Free Economy, and Free Person Human Rights Defense Society.

⁹⁰ Fuad Gahramanli; Ogtay Gulaliyev; Asif Yusifli; and Elchin Abdullayev. Further information on these cases is available from the International Secretariat.

30 days. One coalition member said that “I am denied the extract confirming the registration of my organization. According to the new law, every two years we have to obtain the extract showing that we are registered. I have applied 7 times in 2014, but every time the MoJ refused the registration. The last time I asked the MoJ about the registration of my NGO was in October 2014. Now I cannot re-apply because there is an ongoing court case. We appealed to the Court, but in April 2016 their ruled in support of MoJ. We then appealed to the Supreme Court and maybe later this month we will have a final decision. Unless we get a favourable ruling from the Supreme Court, we will appeal to European Court of Human Rights”.

Another Coalition member explained that he had applied three times for the extract and that every time the authorities came back pointing out a flaw that needed to be corrected, rather than pointing out all errors at once.

One Coalition member explained that “Our organisation has been registered since 2006. In May 2014, we organised our annual general meeting and subsequently submitted our papers to the MoJ to get the extract. We never received it. I cannot open a bank account without this paper. I cannot sign a grant agreement without this paper. The government doesn’t want to formally cancel our registration because of all the cases that have been submitted to the European Court of Human Rights regarding registration. So instead they choose this way to prevent us from being able to operate.”

With regards to **grant registration procedures**, the MoJ explained that there are three legal forms of financial support to NGOs: grant agreements; service and work agreements; and donations. For the grant agreement registration, both parties (a donor and a recipient) should comply with the rules for grant registration, and both parties need to register each individual grant. Both foreign and local organizations may provide financial support, but need to obtain a letter from the MoF confirming the economic feasibility of the grant. MoJ officials explained that given that grants are tax exempt, strict rules were considered necessary. In the past, grants had also been used to fund terrorism and extremism, further justifying the need for these new procedures. Furthermore, the MoJ explained that the government wants to ensure that donor funds are equally distributed across regions and purposes, and avoid double funding of the same activity. The MoJ also confirmed that the new procedures have to be followed regardless of when the grant agreement was signed.

One civil society representative lamented that the situation on grant registration had not improved. No Coalition member had signed and registered any new grants from foreign donors since the new Rules were issued in November 2015. One CSO MSG representative explained that Eurasia Foundation had recently issued a call for proposals that he had applied for. If successful, this project would take the form of a Service Contract Agreement and not a grant.

Some Coalition members confirmed that they had been able to register grants that were signed with foreign donors in 2014, prior to the new Rules coming into force. One Coalition member explained that: “In September 2014, I applied for the registration and the grant was refused. In December 2014, I wrote to the MoJ asking them to provide an official explanation for the refusal because I needed it for the donor. I received this letter in January 2015. The letter said that the grant agreement included a clause stipulating that if I don’t use the grant for its intended purpose, then it must be returned to the donor, and this was not in line with Azeri legislation. However, this was just an excuse. If I had complained and proven that they were wrong, they would have found another excuse. Then suddenly when I reapplied in February 2016, the grant was registered. I didn’t change a word in the agreement, but they signed it nevertheless”. Other Coalition members confirmed that this was indeed a common reason cited by the

MoJ for refusal of grants. “If the MoJ points to this clause then we know it is the end of the conversation.” One Coalition member explained that the organisation had a grant from Germany that had been signed in 2014, but it was only after the EITI Chair’s visit in October 2015 that the organisation had been successful in registering this grant with the MoJ.

Other CSO representatives mentioned that the law should not be having a retroactive force. Yet the government was still applying the procedure retroactively to selective grants and organisations. For example, with regards to the grants offered by the CSSN there was rarely any challenges with registration as the previous Coalition Coordinator, who was also a member of the CSSN, would help negotiate and liaise with the MoJ.

One Coalition member explained that the registration of his organisation’s grant had not been possible for two years. At the same time, other government-friendly organisations were able to register grants for similar purposes. Another Coalition member explained that “The State Council for NGO support offered us AZN 7000 (USD 5k) to do a project, which would easily be registered by the Ministry of Justice. But then at the same time the Ministry of Justice would reject the registration of a similar project if the funding comes from other sources”.

In terms of funding proposals from the Coalition as a whole, one Coalition member explained that the Coalition had attempted to approach several donors for financial support, but none had been forthcoming. The Coalition had for example submitted a proposal to the EU in July 2015 in the amount of EUR 200 000, but the proposal had been rejected because “the purpose of the project was not considered sufficiently clear.” The CSSN was therefore the only “lifeline” and although the grants were small, it was remarkable that they had awarded the highest possible amount – AZN 17000 (USD 10k) – to the Coalition in 2015.

Several development partners expressed frustration over the new grant registration procedures. The double registration process requiring the donor to apply and obtain approval from the authorities for every single grant regardless of the size of the grant, and for any single change to the grant agreement, was bureaucratic and heavy handed. In addition, the possibility that the government might afterwards refuse the NGO to register the same grant made it difficult for donors to take the risk. One development partner had been forced to cancel over EUR 6 million worth of grants to NGOs because of the new rules. Some donors said that the new Rules for grant registration have also affected the disbursement of grants signed prior to the rules coming into force. According to some, the government had indicated that grants signed before the new rules were issued could be registered according to the old procedure. However, only some NGOs had been able to register such grants, while other NGOs have had such grants rejected and decision-making around this appeared ad-hoc and selective. A couple of donors confirmed that they were now considering using service agreements to fund NGOs.

A representative of the CSSN commented that the government was continuously seeking to improve the legal framework, and there were plans to further study whether the current laws and regulations governing NGO activities were fit for purpose. However, the extent of any potential amendments was not clear and there was first a need to come to agreement on why and if changes were needed. In any case, the government would not make any changes that could compromise the transparency and accountability of NGO activities. To advance these discussions, the government had agreed to take part in a two-year project by the EU that would seek to review whether the legal framework for NGOs in Azerbaijan was in line with the Council of Europe obligations. Civil society groups were participating in this work.

Some civil society organisations believed that this might be an opportunity for softening some aspects of the law. One Coalition member explained that he had elaborated a suggested amendment to the Rules on grant registration for foreign donors, suggesting that foreign donors that operate within the framework of the international activities that Azerbaijan has signed up to should be excepted from these rules. Other civil society organisations dismissed this effort as a show-off for the international community only, and expressed concerns about the lack of participation of independent NGOs in the dialogue.

The CSSN representative further explained that if a donor did not want to register in Azerbaijan or follow the procedure set out in the Rules for registration of grants from foreign donors, any donor would be welcome to sign an MoU with the CSSN to enable disbursement of funds to NGOs. The CSSN would act as an operator of the funds and the NGOs receiving these funds would sign a sub-agreement with the CSSN.

Some development partners also perceived the funding from the CSSN as an attempt by the government to infiltrate the coalition and inflaming tensions between civil society groups. Although this was the only funding source available, the grants were so small that it would not be possible to run longer term projects that could lead to any kind of meaningful or sustainable outcomes. Several donors confirmed that they had been offered to channel funds through the CSSN, but were reluctant to do so because of the potential influence that the Council would then have in terms of how these grants would be allocated.

With regards to the **criminal investigations**, the Prosecutor General explained that government agencies like the Ministry of Taxes (MoT) and the MoF are responsible for investigating the financial activities of NGOs. If they find evidence of misconduct, they pass the documents to the Prosecutor General's Office to conduct a formal investigation and launch a criminal case. In such cases, the Prosecutor General may ask for a court order to have bank accounts frozen, in particular if there is reason to believe that funds held on those account are related to the criminal activities. The Prosecutor General explained some NGOs had received funds from foreign donors which must be registered with the Ministry of Justice prior to spending. However, the Prosecutor General had discovered that some NGOs did not register this money but rather start to spend it, or divert it for entrepreneurial activity, which they should pay tax on. They had also discovered that some NGOs claim to have used these funds to pay staff salaries, but that in reality these were ghost workers.

With regards to the Oxfam case, the Prosecutor General explained that the investigation focused on who had received funds from Oxfam, whether those funds had been registered, and what they had been spent on. It was in this context, and based on the Court order that some Coalition members had been called and questioned in capacity as witnesses, not as suspects. In the same vein, the Prosecutor General needed to confiscate the documents of these organisations and freeze the bank accounts to avoid loss of potential evidence. The Prosecutor General had found that many of the organisations receiving funds from Oxfam had conducted entrepreneurial activity without paying taxes. These NGOs were now accused for tax evasion (article #213) and were facing tax penalties. Some were also charged with abuse of power (article #308) and illegal business activity (article #182). Cases that were only related to tax evasion were considered administrative and would be handled by the MoT. Cases related to abuse of power and illegal entrepreneurship were considered criminal and would be handled by the Prosecutor General. The Prosecutor General confirmed that the Oxfam case involved many organisations, and they were reviewing each organisation case by case. Some episodes, e.g. where only tax evasion was found, were closed. However, the general criminal investigation was still ongoing, but no charges had been pressed. In fact, only one of the Coalition members was charged with tax evasion of an amount that was considered a

criminal liability⁹¹, others were only facing administrative liabilities. In addition, the Prosecutor General confirmed that all bank accounts had been unfrozen and travel bans lifted on those implicated.

Civil society lamented the lack of clarity on the current status of the criminal investigations that they had been involved in. One civil society representative explained that “The criminal case against me is frozen, but the government can decide to activate it anytime. Therefore I am afraid to go back to Azerbaijan, because the authorities can decide to activate the case and arrest me. Other activists have been arrested on the basis of much smaller fines than me. The reason why they froze the case is because I am no longer in the country. I have a letter from the authorities confirming this”.

A lawyer explained that “the criminal case is still open, although according to the law it must be time bound. So the government was faced with the choice of either terminating or suspending it, and they chose the latter. If the case is terminated then those implicated get a copy of the termination order. Investigations without criminal charges are a common practice in Azerbaijan. The authorities treat the witnesses as a suspect but call them a witness. A court order is needed to invoke a travel ban or to freeze bank accounts. For travel bans, the authorities often don’t bother to ask for a court order. The bank account freezes tend to be accompanied by a court order, but the courts are anyway just following the instructions of the presidential administration. In my ten years as a criminal defense lawyer, I have never seen the court refuse”.

Civil society also expressed confusion about the status of the **tax fines**. While they had heard rumours that fines were frozen, the information available in the online tax database showed that tax fines were increasing day by day. In addition, some found the claims of the government groundless because they had confirmation from the MoJ that their grants had been registered and they should therefore be exempted from paying VAT. “We have shown these documents to the court, but they have chosen to neglect them”.

A representative from the MoT explained that the tax authorities first undertake a desk audit of the NGO’s financial documentation. If irregularities are discovered, further investigations are carried out and eventually tax penalties may be imposed. The taxpayer may dispute the conclusion of the MoT, but must do so within one month. If there is a dispute, there is a so-called “freeze” on the tax penalty meaning that no actions will be taken to enforce the penalty. However, the tax debt itself is not frozen and interests on the debts will continue to accrue until eventual adjustments resulting from a dispute resolution. The taxpayer does not get any notification regarding the freeze and there is no defined timeframe for how long the freeze can be in place.

A lawyer explained that the tax fines were not part of the criminal case. Rather in conducting the investigations related to the criminal case, the Prosecutor General had handed over findings to the MoT who had then issued the tax penalties. Tax evasion would only be a criminal liability if the amount was above a certain threshold. However, in practice this was at the discretion of the authorities. “They have let some people with high tax fines walk free, and locked up people with very small fines.”

One civil society representative said that the freezing of the tax penalty was just a warning. “They keep it hanging over our heads to make sure that we behave ourselves. They know that we know that they can impose it anytime.” Another civil society representative said that the organisations that had their

⁹¹ Economic Research Centre. On 17 April 2015, the Nasimi District Court ordered a search of the ERC offices. Further inspections and confiscation of materials took place on 13 May 2015 by the Prosecutor General’s Office. On 23 July 2015, the Prosecutor General’s letter to the MoT on the outcomes of the tax investigations suggested a AZN 130 000 (USD 85k) tax fine for ERC. Some stakeholders have suggested that these events are related to the EITI Board decision of 15 April 2015 to downgrade Azerbaijan’s EITI status.

accounts frozen were just a random set of organisations that the government wanted to punish. “They didn’t bother to look at our documents at all. We have never done anything wrong, we always registered our grants. Once I got travel costs reimbursed to my personal account, and then they said this was unlawful entrepreneurial activity and that I should pay tax on it”.

Another representative explained that “most organisations that received a tax penalty had not recorded their grant in the register, or did not have the slip from the MoJ confirming the registration of the grant. That’s why the government is claiming that they are engaged in unlawful entrepreneurial activity. But alongside this, it really depends on whether there is a political desire to punish the NGO. If such a desire exists, the government will always find a reason to impose restrictions. That’s why we see that those NGOs that have been exposed to penalties are all NGOs that have actively protested against the government, provided evidence of wrongdoing to international organisations, the Council of Europe etc.”

One civil society representative said that although it was not a widespread practice among civil society to use grants before they were registered, also because most banks would not allow transactions without first receiving a copy of the grant registration, it could have happened. Another CSO representative explained that “even if we knew that we had to register the grant prior to spending, the MoJ was sometimes so slow that we had to start to use the money. Once I had a grant that was not for any sensitive project and I thought the registration would be straight forward. I therefore started to use it pending the grant registration. When I later on was refused the grant registration I got a problem with the bank. They said they couldn’t keep the money in my account without the registration and had to transfer it back to the donor. So I then needed to reimburse what I had started to spend. But the MoJ should get most of the blame here because they require us to follow the letter of the law, but they themselves breach the processing timelines that they are legally required to follow on these matters”.

Others explained that in the past, the registration process for grants was less formal. “When you received a grant, you had to register it with the MoJ. Within one month you would receive an official letter of approval or refusal. If you don’t receive anything, it was considered approved. Or at least it would be the MoJ’s problem, because the timeline at their disposal to process the grant would have elapsed. It was more of a notification process than an approval process. Then every six months MoJ would issue a list of approved grants, and we could see our grants on the list confirming that they had been registered. Interestingly, these lists were only made public until mid-2013. Then, the list showed a grant from SOCAR to an NGO that wrote a book on Heydar Aliyev, amounting to AZN 3 million. This created major discontent in the NGO community and since then the government stopped publishing the lists.”

One civil society representative also commented that there was sometimes a practice of NGOs receiving grants to their personal accounts rather than their organizational accounts, and this was not good practice.

None of the development partners consulted had come across any financial irregularities in their dealings with the coalition or coalition member organisations. One donor explained that in the past, although they did check that their grants were being awarded to registered NGOs, they did not check whether the NGO had registered the grant with the MoJ prior to disbursement. At the time, there was no such obligation on the donors. However, given the amendments to the NGO Law, any new contracts would now have a clause in them obliging the NGO to present evidence that the grant had been registered with the MoJ in order to effectuate the disbursement.

Some civil society representatives were also of the view that the **unfreezing of the bank accounts** were linked to the tax fines in that the government knew that those organisations with tax fines would not use their accounts anyway. Two Coalition members explained that once the bank account had been unfrozen, the authorities had simply ordered the bank to deduct money from the account to cover the tax debt. Another Coalition member explained that there was no point in obtaining the extract from the MoJ to access the account because this might lead to the money being withdrawn by the authorities. Others said that there was no consistent approach to these issues.

Civil society representatives also said that even if bank accounts had been unfrozen, they were not able to use these for various reasons. One Coalition member informed us that the Prosecutor General's Office still needed to return documents confiscated during the inspections, such as the grant agreements, as these were needed for the grant registration process. Without these documents, it is not possible to complete the registration process for grants signed prior to 2015 and spend those grants, even if the money may already have reached the bank account. Another reason cited is that some Coalition members are still waiting to obtain the extract from the Ministry of Justice that confirming that their organisation is registered. Without a proof of NGO registration, the banks have orders not to effectuate transactions. Some also said that although the court order confirming the defreeze had been provided to the banks by the authorities, banks were also claiming that they had received an instruction from the MoT in May 2015 not to effectuate transactions until they have been told it is ok to do so. One person said that "I have asked the bank to deduct the tax penalty from the money on my account, but they refuse to effectuate the transaction, citing this letter." Another Coalition member was recently (July 2016) rejected registration of two grants.

Coalition members appreciated that they were **no longer checked at the border**. The Coalition members who had left the country commented that the main reason why they did not return to Azerbaijan was fear of imprisonment.

A government representative said that the government had tried to resolve the problems highlighted by civil society. Bank accounts had been unfrozen and border checks had stopped. If new challenges had appeared related to registration or tax fines, the government would look into that.

Initial assessment

As part of the corrective actions, the EITI Board requested that: "The government and the MSG should ensure that civil society representatives who are substantively involved in the EITI process are able to operate freely in relation to the EITI process. The government and the MSG should also take steps to ensure that civil society representatives substantively engaged in the EITI process are able to freely access and use funding to carry out their activities, including those of the EITI Coalition. Specifically, the government should ensure that the EITI Coalition and its members and employees are able to access their bank accounts and register new grants for the purpose of activities related to the EITI process and natural resource governance, and any further restrictions on NGO operations in natural resource governance should be avoided."

Evidence gathered during the initial assessment shows that *legal and regulatory obstacles* continue to affect the ability of civil society to participate in the EITI process. Notably:

- Several Coalition members continue to have their applications to register or request for extracts rejected for reasons that do not appear justified. Although the reasons for rejection are likely not due to the work that these NGOs are doing on EITI issues, their ability to undertake EITI work is

nevertheless affected by the lack of registration.

- In the period April 2015-April 2016, the government passed a series of implementing regulations giving effect to the 2014 amendments to the NGO Law. These regulations have made it more difficult for NGOs to obtain funding. While a few NGOs have been able to register relatively small EITI grants from the CSSN, no NGO has been able to secure or register larger grants from any other donor during this period for EITI purposes.

Furthermore, Coalition members continue to encounter some *practical obstacles* to access to funding. Although all bank accounts have been unfrozen in accordance with the corrective action requested by the EITI Board, some Coalition members are for various reasons documented above not able to use their bank accounts. Some coalition members are facing difficulties because of the tax penalties. Previous restrictions on *freedom of movement* have been lifted in accordance with the corrective action requested by the EITI Board.

It is clear that Coalition members are still experiences legal and practical obstacles affecting the ability to operate freely. Some of the organisations affected are substantially engaged in EITI activities. All of these organisations are also engaged in non-EITI work, including political activities and human rights work. There is no reason to believe that the operational restrictions that these NGOs are facing are due to their involvement in the EITI. Nevertheless, the restrictions are affecting their ability to freely operate also in the context of the EITI. In light of this, the International Secretariat's initial assessment is that the corrective action has not been completed, and that requirements 1.3(b) and 1.3(c) are not met.

2.3 Association: Civil society representatives are able to communicate and cooperate with each other regarding the EITI process.

Documentation of progress

Civil society has been growing and developing since Azerbaijan became independent in 1991. Currently, the estimated number of NGOs registered in Azerbaijan is between 2500 and 3000, with an additional 1000 or so unregistered NGOs (ICNL website, 2016). Civil society has been actively involved in Azerbaijan's EITI process from the outset. This engagement mainly takes place within the framework of the Coalition which was established in 2004. It currently has 138 member organisations⁹² active in the areas of the extractive industries, economic and social development, human rights and democracy work. The goals of the Coalition, set out in the Coalition statutes⁹³, are to:

- "Organize and publicly monitor delivery, reliable preservation and effective use of the revenues from Azerbaijan's natural resources;
- "Implement relevant measures for sufficient awareness of the Azerbaijani citizens on operation of natural resources and revenues raised, as well as public monitoring of the activities of companies in this area;
- "Increase awareness and activities through combining the joint efforts of civil society organisations on transparency;
- "Represent Azerbaijani civil society organisations in the "Extractive Industries Transparency

⁹² Overview of Coalition members: http://eiti-ngo-azerbaijan.org/?page_id=155

⁹³ Coalition statutes: <http://eiti-ngo-azerbaijan.org/wp-content/uploads/2014/11/EITI-Regulations.pdf>

Initiative”, which is being implemented by the Government of Azerbaijan.”

The highest governing body of the Coalition is the General Assembly, held every two years. The General Assembly elects the Coalition Council, which is the decision-making body of the Coalition⁹⁴. The General Assembly also elects the Monitoring Group, which is responsible for overseeing that the Coalition and Coalition Council are adhering to its statutes⁹⁵. Membership of the Coalition Council and Monitoring Group is for two years. Any changes to the Coalition Regulations or other major decisions are typically also discussed at the General Assembly. The General Assembly is also an opportunity for the Coalition Coordinator to report on behalf of the Council on the results achieved during the term of the Council. The Assembly is open to observers. The last General Assembly took place on 30 April 2016.

The Coalition Council elects a coordinator who serves for one year⁹⁶. Any Coalition member can put their name forward to serve on the MSG. Three MSG members and three alternates are elected by the Coalition Council once a year⁹⁷. The Coalition Council is the body responsible for capturing input to MSG deliberations and informing the Coalition of the outcomes of MSG discussions. Coalition Council meetings are held at least once a month, and are open for any member of the Coalition to observe. The Coalition’s input to MSG meeting agendas, positions on agenda items, and outcomes of MSG meetings are discussed at Coalition Council meetings. Minutes from Coalition Council meetings are generally available online⁹⁸. During MSG meetings, civil society MSG members will only advocate for issues and present positions that have been agreed at the Council in advance. In cases where new issues arise during MSG meetings, the civil society MSG members will refrain from giving their consent until the Coalition Council has been consulted.

The Coalition has a strategic plan⁹⁹ covering the years 2015-2018 and a communication plan¹⁰⁰ developed with support by the World Bank in 2014. However, most of the activities in these plans have not yet been implemented due to the financial constraints and other difficulties faced by civil society.

Communication with the wider body of Coalition members is done electronically through an email distribution list. Anyone can post information on the network. The International Secretariat understands that Coalition members frequently use this channel. There is no evidence of that this channel is being restricted or that there are difficulties for Coalition members to also cooperate with other groups outside the Coalition, and internationally. Although opportunities for international exchanges have decreased given the financial constraints, coalition members have had opportunities facilitated for example by the Natural Resource Governance Institute (NRGI).

The Coalition does not have an agreed position on policy and operational independence from government and civil society. The International Secretariat understands that such a policy has been discussed at least at three occasions. Firstly, in the lead up to the General Assembly in April, a clause to this effect was suggested in the proposed revised charter of the Coalition. The clause reads that “A person who is

⁹⁴ Members of the Coalition Council: http://eiti-ngo-azerbaijan.org/?page_id=160

⁹⁵ Member of the Monitoring Group: http://eiti-ngo-azerbaijan.org/?page_id=157

⁹⁶ On 30 June 2016, Gubad Ibadoghlu was elected Coalition Coordinator.

⁹⁷ As of February 2016, the Coalition is represented by Sabit Bagirov, Azer Mehtiyev and Alimammad Nuriyev as full MSG members, and Gubad Ibadoghlu, Mehriban Vezir and Rafiq Temrazov as alternates.

⁹⁸ Minutes from meetings held in the period July 2015-May 2016 are currently not available online. The Secretariat understands that due to lack of personnel in this period, Coalition Council meeting minutes were audio recorded but written minutes were not circulated to Coalition Council members.

⁹⁹ Strategic plan 2015-2018 : http://eiti-ngo-azerbaijan.org/wp-content/uploads/2014/11/Strateji-Plan-2014_son-eng.pdf

¹⁰⁰ Draft communications plan: http://eiti-ngo-azerbaijan.org/wp-content/uploads/2015/04/Azerbaijan_EITI_NGO_Coalition_Communication_Strategy_en_2014.pdf

represented in decision making bodies of political parties, may not hold a position in the Coalition Council or the monitoring group". As the Assembly decided not to go ahead with the registration of the Coalition at this time, this charter and clause was dropped. Secondly, at the meeting of the Coalition Council on 9 May 2016, the Council discussed the development of procedures, requirements and criteria for removing the functional and political independence of the Coalition members represented in the MSG from the government and companies. A working group was established to undertake the drafting of these procedures (Coalition Council meeting, 9 May 2016, p.4-5). Thirdly, at the meeting of the Coalition Council on 30 June 2016, a Coalition Council member proposed four criteria for being elected as a Coalition Coordinator, one of which were "the Coalition Coordinator should not be a head of a political party or a political movement". The Council did not agree to support this proposal, but it was decided to revisit it in the future. At this meeting, the Coalition Council also signed a statement confirming that the Coalition will act independently of both the ruling party and political opposition¹⁰¹. These discussions do not yet appear to include details such as disclosure policies for MSG members, or agreement on what constitutes a conflict of interest.

The Coalition has also taken the initiative to propose a code of conduct to the MSG, which would not be limited to civil society. While this code of conduct has not yet been adopted, the draft contains an Article 11 Conflict of Interest and Prevention of Malfeasance. The Article generally states that the MSG members and the Secretariat should act in the interests of EITI only, not misuse their official powers, and rule out any form of influence of their personal interests....In case of the conflict of interest, the members of the MSG and Secretariat should inform the MSG and shall not participate in decision making process (Draft MSG Code of Conduct, p.4).

It should be noted that the Coalition functioning has more or less come to a stand-still after the last General Assembly. While the election procedures and outcomes are not disputed, there has been considerable criticism of political lobbying and other attempts at influencing the outcomes of the elections in the lead up to the General Assembly. In the aftermath of the Assembly, there has been increased tension between those who are regarded to be affiliated with political opposition and those who are regarded to be affiliated with government. In short, the former are being perceived by some to mainly serve political agendas related to the opposition while the latter are being perceived by some as an attempt by the government to infiltrate and weaken the Coalition with pro-governmental voices. At the time of the data collection for Validation, this conflict had escalated to the brink of break-up of the Coalition.

Stakeholder views

Civil society representatives consulted said that there were no restrictions on collaboration among civil society groups in the country. Several MSG members explained that for MSG related activities, MSG members representing civil society would typically share the agenda for the MSG meeting with Coalition members in advance, asking for input. "If we see from the draft MSG agenda that there are issues that require the Coalition Council's approval then we raise that to get their approval. We try to get it before hand, or if a new matter is introduced at the MSG meeting, then we say we have to revert to the MSG after further consultation. In that sense, our communication is quite adequate." CSO MSG representatives also explained that they would typically disseminate the outcomes of the MSG meeting to the network. A technical working group of experts was entrusted with elaborating the Coalition's opinion on the EITI

¹⁰¹ <http://eiti-ngo-azerbaijan.org/az/az%c9%99rbaycan-gh-t-l%c9%99rinin-m%c9%99d%c9%99n-s%c9%99navesind%c9%99-s%c9%99fafligin-artirilmasi-koalisiya-surasinin-b%c9%99ynati/>

report and other technical issues.

Civil society representatives confirmed that the Coalition Council kept minutes from all meetings, but that in the last year minutes had mainly been audio recorded as the person who was usually preparing the written minutes was on maternity leave. Press releases were still issued for all Coalition Council meetings. Some Coalition members were of the view that the lack of written minutes was therefore not problematic. Other Coalition members lamented the lack of available minutes, noting that it was hard to know what had been decided by the previous Coalition Council.

Although some stakeholder commented on that links with some international CSOs or donors such as the National Democratic Institute, the National Endowment for Democracy, Open Society Institute and Oxfam was regarded as not desirable by the government, no civil society representatives highlighted any examples of restrictions (beyond restrictions on access to funding) on collaboration with international partners on EITI issues. It was pointed out how for example the NRGi office in Istanbul continued to support the Coalition with technical analysis.

Coalition members consulted confirmed that conversations about a policy for ensuring political and operational independence had commenced, albeit with limited progress. It was noted that almost all members of the current Coalition Council and MSG either have a political affiliation to opposition parties, political movements or the ruling party, even if this affiliation did not always imply a senior or active affiliation; or an operational affiliation in that 100% of the funding received by certain NGOs were from the CSSN. It was noted that political affiliations was not new and that many Coalition members had held membership in various political parties and movements in the past.

One MSG member explained that “Officially we didn’t develop any document for ensuring political or operational independence of the coalition. There were some individual proposals and ideas voiced around this at the Coalition meetings, and I also supported it because I believed that otherwise we would compromise the independence of the coalition. It is not straight forward to develop such a policy because we have a limited calibre of people in the coalition as is, and some of them are very serious but at the same time have political ambitions. So such a policy cannot be too strict because civil society has many hats. If we say no to any political affiliation at all, then we will bleed ourselves. It is a very fine line.”

Another Coalition member commented that regardless of what the draft policy will look like, it is likely to spark a new round of in-fighting as people will see their interests being threatened.

In terms of the recent conflict in the coalition, stakeholders expressed different views. Government representatives commented that the Coalition had been taken over by people who were not interested in the EITI, but rather saw the Coalition as a means of building political capital for opposition activities. Some Coalition members noted that this conflict had also started to affect the financial support from the CSSN as the CSSN was unlikely to fund the Coalition if it was perceived to have too close links with the opposition. Other argued that the reason for the recent reluctance of the CSSN to finalize the recently awarded institutional grant to the Coalition was due to that some members of the new Coalition Council had accused the CSSN of being corrupt and trying to infiltrate and buy Coalition members by awarding them grants.

One Coalition member explained that: “We have had certain internal challenges that I am afraid will compromise our collaboration internally in the Coalition, and our collaboration within the MSG. We don’t want to be associated either with the government nor with the opposition.” Another Coalition member noted that although it was good that the Coalition Council now had a stronger, independent

composition, it could also backfire if Council members were mixing up their political and civil society hats as the government would fight anything associated with the opposition and as a consequence civil society at large would suffer.

A longstanding Coalition member lamented what the Coalition had become. “In the beginning, we were a small group of people focused on extractive issues. Then the Coalition started to get filled with people who have nothing to do with the EITI. Little by little key experts on the oil sector left the coalition. Now the Coalition Council is filled with political activists who don’t even know what OPEC stands for”.

Another longstanding Coalition member said that having taken a closer look at the Coalition register, he had discovered that only 20 or so of the 138 members are actually actively participating in the network. “The rest are relatives, party members, friends and neighbours who are just there to vote for certain people to be elected to the Coalition Council”. Others saw the increasing membership of the Coalition as a sign of strength and influence.

Some non-coalition members commented that the Coalition had now become a battleground of political opposition versus government.

Initial assessment

The findings noted above show that civil society involved in the EITI process are not restricted from engaging with other national or international civil society groups. The Coalition has developed mechanisms for ensuring that MSG members can communicate with the wider civil society constituency, and there do not appear to be any restrictions on these communication channels.

As part of the corrective actions, the EITI Board requested that “The government and the MSG should take steps to ensuring that the civil society MSG members are operationally and in policy terms independent of government and companies. In making this assessment, the Secretariat Review is expected to cite evidence of any civil society constituency discussions or agreed consistency policies related to ensuring policy and operational independence from members of parliament from the ruling party, other political parties aligned with the government, or extractive companies; Evidence that any potential conflict of interests or issues affecting civil society MSG members’ independence have been transparently disclosed; and that the details about the articles of association, objectives, work programmes and funding sources of civil society organisations represented on the MSG are transparently disclosed”.

As noted above, there is evidence that the Coalition has commenced discussions about a policy for ensuring policy and operational independence. However, the International Secretariat did not see evidence that any potential conflict of interests affecting CSO MSG members’ independence have been transparently disclosed, nor any other details related to funding and work programmes of civil society representatives on the MSG. At the same time, the use of political affiliations seems to be a key issue in the ongoing conflict within the coalition. Although requirement 1.3.e.iii on the right to communicate and cooperate seems to be met, it is difficult to conclude that the corrective action related to ensuring political and operational independence has been completed. As a consequence, it is also not possible to conclude that there has been satisfactory progress in meeting requirement 1.4.a.ii stating that: “Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies”, even if the EITI Board concluded in April 2015 that this requirement was met.

2.4 Engagement: Civil society representatives are able to be fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process.

Documentation of progress

Civil society is actively contributing to the design, implementation, monitoring and evaluation of the EITI process, including through participation in the MSG. The MSG is currently composed of three members from each constituency. In addition, based on a proposal from civil society, the MSG agreed that each constituency may appoint up to three alternates. As noted above, civil society is currently represented by three full members and three alternates, who were elected in February 2016 and will serve until February 2017.

Draft agendas for MSG meetings and meeting schedules are established annually in the MSG workplan, and final meeting agendas and dates are communicated at least ten days ahead of the meeting so enabling members to prepare and undertake consultations with their constituencies. All decisions are taken by consensus. Minutes of MSG meetings confirm that civil society is actively contributing to MSG discussions and influencing meeting agendas, and their views are reflected in MSG meeting minutes.

Civil society representatives are also contributing to the scope and production of the EITI Report by providing expert input on reporting templates, participating in the MSG working group responsible for overseeing the production of the EITI report, and preparing the official Coalition opinion on the EITI report. The 2014 Coalition opinion on the EITI report is a detailed review of compliance of the report with the EITI requirements¹⁰². It also includes a stocktake of progress with the recommendations presented by the Coalition related to the 2013 EITI Report, and presents 26 recommendations for improved reporting and further transparency. Based on MSG meeting minutes, it appears that civil society is the most active constituency when it comes to engagement on EITI reporting related matters.

Civil society has also contributed to documents such as the MSG workplan and the annual activity report. The International Secretariat was informed that the Coalition submitted several proposals for the 2016 workplan objectives. The 2016 MSG workplan contains a number of activities to be carried out by the Coalition, in particular with regards to communication and dissemination of the EITI Report¹⁰³. The 2015 annual progress report for 2015 documents the activities and events carried out by the Coalition¹⁰⁴.

In terms of capacity to participate in the EITI, the 2016 workplan does not include any detailed plans for addressing civil society capacity constraints, nor is the International Secretariat aware that a separate capacity building plan for civil society exists. In terms of technical capacity, the Coalition's practice of using an expert group to facilitate and prepare the Coalition's input on technical matters seems to be working well. In terms of technical capacity building events, a workshop for civil society on the 2013 standard was arranged in September 2016 in the SOFAZ premises, with trainers from Eurasia hub (2015 Annual Progress Report, p.5). Civil society representatives were also invited to a workshop for reporting entities in July 2015 (2015 Annual Progress Report, p.5). Other than that, main capacity building opportunities have been those arranged by international partners such as NRGi in Istanbul. In terms of other capacities, several Coalition members have experience with journalism and media work and are contributing with these skills. Overall, MSG members appear to have sufficient capacity to carry out their

¹⁰² <http://eiti-ngo-azerbaijan.org/wp-content/uploads/2012/10/Coalition-Review-to-2014-Report-EITI.pdf>

¹⁰³ <http://www.eiti.az/index.php/en/senedler-2/work-plan-for-implementation-of-eiti>

¹⁰⁴ <http://www.eiti.az/index.php/en/reports/2015>

duties.

Stakeholder views

Civil society representatives consulted confirmed that they had an opportunity to provide input to key documents. With regards to the workplan, several Coalition members informed us that “the draft 2016 workplan was circulated in the network for input and we also had two discussions of the draft workplan in the Coalition Council. We made a number of proposals and recommendations, and the MSG members informed us afterwards that all our proposals were accepted by the MSG.”

With regard to the annual progress report, some Coalition members regretted that the process for putting together the latest annual progress report had been rushed. Only two English speaking members of the Coalition could provide their comments within a very tight time- frame, and only some of the comments were taken into account.

One civil society representative commented that “we never had any problems raising issues at the MSG table. It might be called multi-stakeholder group, but civil society is the most active constituency and the ones to make proposals, prepare analysis etc.” It was also noted that many of the Coalition’s inputs and recommendations for improving EITI reports were taken into account. One Coalition member said that the government and MSG were paying more attention to the Coalition’s opinion on the report in light of the upcoming validation.

Secretariat staff confirmed that civil society was the most active constituency in terms of providing substantive input to MSG discussions.

Initial assessment

Civil society representatives are able to fully contribute and provide input to the EITI process, and have adequate capacity to carry out their EITI duties. Despite the resource constraints that the coalition has experienced in the last couple of years, the Coalition is able to influence and shape the EITI process. In particular, the technical skills and input of the Coalition to the EITI reporting process, including the analytical work, is commendable and could be considered best practice among EITI countries. The International Secretariat’s initial assessment is that requirements 1.3(a) and 1.3(e)(ii) are met.

2.5 Access to public decision-making: Civil society representatives are able to speak freely on transparency and natural resource governance issues, and ensure that the EITI contributes to public debate.

Documentation of progress

As outlined in section 2.1 above, there is evidence that civil society is able to use the EITI process to promote public debates and inform the wider public of the EITI process and outcomes.

Regarding the ability of civil society to engage in analysis and advocacy on natural resource issues, the Coalition has developed several analytical pieces in the last year including for example the research on SOCAR’s quasi-fiscal expenditures as well as the Coalition’s opinions on the 2013 and 2014 EITI Reports that have been used to push for further transparency and improved reporting within the MSG. The

Coalition also developed a draft communication strategy¹⁰⁵ in 2014 to promote the findings of the EITI Report to key audiences, but it has not yet been implemented.

Although some of this work has been presented to the media or at events where the media has been invited, there is less evidence that the Coalition has advocated the findings of this work in other forums or as a means of trying to influence government policy, for example in meetings with SOCAR or other government agencies involved in the extractive sector, or in presentations to Parliamentarians. At the same time, the International Secretariat is not aware of any major public discussions about changes in government policy or other reforms related to the extractive sector that have taken place during the last year. One Coalition member – Protection of Oil Worker’s Rights Organisation – recently submitted input to the parliament on the amendments on the Law related to access to environmental information¹⁰⁶. The input was submitted to the relevant committee, but had not been discussed at the time of writing of this report. In March 2016, the same organisation also sent a proposal to the Cabinet of Ministers of Azerbaijan suggesting the preparation of a report on expenditure of extractive revenue¹⁰⁷. According to the NGO, the Cabinet deferred the proposal to SOCAR and SOFAZ.

In terms of accessing forums for public debates and discussion, the International Secretariat is not aware of any restrictions on access to meeting space since April 2015, beyond financial constraints. Civil society has been able to hold EITI events in several regions in the last year, although these events remain subject to approval by the government.

Stakeholder views

With regards to the ability to hold events facilitating debates on natural resource governance, one civil society representative explained that “without consent of the presidential authorities, it is not possible to have conferences and other events, in particular not in the region. It has always been like this. I have to inform them about the purpose of the event, the agenda, the location and who is attending. But I don’t wait for their response. Once I have informed them, I hold my meeting. But of course this is an attempt by the government to exercise control.”

Another representative said that “We have resumed our activity of going to the regions to inform people about EITI. But it is still very difficult, near impossible, to have an independent meeting with communities and members of the public. If any such meeting can take place it is only with permission and interference of the government authorities, and usually only if it is strongly supported and pushed by a senior government official or an NGO leader with connections in government.”

Others reported that they needed to inform the Presidential Administration, and wait for a phone call confirming the approval before they can go ahead with the event. “So on paper it is a notification process, but in practice it is an approval process.” The NGOs implementing grants from the State Council for NGO Support aimed at raising awareness of the EITI did not report of any problems receiving the approval from the Presidential Administration.

In terms of EITI contributing to the public policy, some CSOs representatives noted, that in recent times there has been less input or advocacy by civil society due to financial limitations and general environment constrains. One Coalition Council member explained that in the lead up to 2013 elections, there was an invitation to CSOs to participate in a conversation hosted by the CSSN about reforms to the NGO law. The

¹⁰⁵ http://eiti-ngo-azerbaijan.org/?page_id=130

¹⁰⁶ <http://nhmt-az.org/frontend/pages/oil-income-inner.php?id=1130>

¹⁰⁷ <http://nhmt-az.org/frontend/pages/oil-income-inner.php?id=114>

meeting was well attended by key government agencies and members of parliament, as well as independent NGOs. However, none of the input provided by civil society was taken into account. Another Coalition member said that “in February 2016, new rules for studying NGOs activities were issued. We were never consulted, shared or informed, even if we are the ones affected by these rules.”

One Coalition member explained that few Coalition members are actually speaking about sector governance to the wider public, and that the Coalition needed to develop a clear vision of how to organize its advocacy, awareness raising, contribute to public hearings etc.

Initial assessment

The EITI Board requested that “the government should ensure that the Coalition is able to freely access space for public events related to the EITI and facilitate public awareness campaigns and debates related to the EITI process and natural resource governance.” As documented in the assessment in section 2.1 above, civil society representatives are able to use the EITI process to promote public debate through public events, workshops and conferences organised by or with participation of civil society to inform the public about the EITI process and outcomes. Civil society representatives have also demonstrated that they are to some extent able to engage in activities and debates about natural resource governance, including for example conducting analysis and advocacy on natural resource issues.

Nevertheless, there are limited opportunities and forums for civil society to engage in public decision-making around the extractive sector and to widely engage stakeholders. While lack of access to funds is an important factor, the ability of the Coalition to freely hold events and discussions throughout Azerbaijan is somewhat restricted by the need for permissions (outside Baku) and the extent of government control over such events. There are limited opportunities for civil society to contribute to government-led processes for policy making, and in the few instances where these have occurred there have been limited uptake of civil society proposals. In light of this, it is difficult to conclude that the corrective action is completed and that requirement 1.3(d) is met.

2.6 Contextual information on the wider civil society environment in Azerbaijan

Reports from a number of international organisations suggest that civil society has limited freedom to operate in Azerbaijan. The *US Department of State* writes in its 2015 Human Rights Azerbaijan country report that:

The most significant human rights problems during the year included: 1. Increased government restrictions on freedoms of expression, assembly, and association that were reflected in the intimidation, incarceration on questionable charges, and use of force against human rights defenders, activists, journalists, and some of their relatives. The operating space for activists and nongovernmental organizations (NGOs) remained severely constrained. Multiple sources reported a continuing crackdown on civil society, including intimidation, arrest, and conviction on charges widely considered politically motivated; criminal investigations into NGO activities; restrictive laws; and the freezing of bank accounts that rendered many groups unable to function (...)¹⁰⁸.

The *International Centre for Non-Profit Law (ICNL)* website¹⁰⁹ states that:

In 2007, the Government of Azerbaijan established the NGO Support Council, with the goal to provide financial and informational support to Azerbaijani NGOs, and to facilitate NGO/government cooperation. The NGO Support Council has provided financial assistance to hundreds of NGOs, based on transparent and competitive grant procedures, which are considered among the best in the former Soviet Union. The NGO Support Council also initiates legislation to improve the regulatory environment for NGOs, and engages NGOs in the legislative drafting process.

Registration still remains a challenge for NGOs. It is very difficult to register as either a domestic or foreign NGO in Azerbaijan. The Government of Azerbaijan has lost at least five cases before the European Court of Human Rights, which has found denials of registration to violate the freedom of association. In addition, Azerbaijani NGOs have difficulty complying with financial reporting requirements. Many NGOs have limited capacity to comply with such requirements and are under threat of being punished for non-compliance.

In addition to the aforementioned concerns, on February 3, 2014, November 16, 2014, and November 20, 2014, changes were made to the Law on Grants, the Law on State Registration of Legal Entities and the State Registry and the Code of Administrative Offences, which have the potential to significantly impair the work of both Azerbaijani and foreign organizations. They introduce many obligations for organizations, including new registration requirements, and rules regarding receiving and using grants and reporting to the government. In addition, the new changes establish harsh penalties for those who violate both new and previously existing obligations under the law.

On December 28, 2015 the Ministry of Justice (MoJ) adopted Rules on Studying the Activities of Non-Governmental Organizations, Branches or Representative Offices of Foreign Non-Governmental Organizations, which were published on February 13, 2016. The Rules establish the procedure for the MoJ to inspect the activity of local NGOs and foreign NGOs with registered

¹⁰⁸ <http://www.state.gov/j/drl/rls/hrrpt/2015/eur/252823.htm>

¹⁰⁹ <http://www.icnl.org/research/monitor/Myanmar.html>

offices in Azerbaijan. There is concern that the Rules grant very broad powers to the MoJ to conduct inspections with very few guarantees for protecting the rights of NGOs. While it remains to be seen how the Rules will be implemented in practice, they nonetheless provide a basis for unrestricted intrusion into the activities of NGOs.

Azerbaijan's rankings on the *Freedom House Index* have deteriorated in the last year, and the country is currently considered 'not free'¹¹⁰. The 2016 summary notes that:

Azerbaijan's political rights rating declined from 6 to 7 due to an intensified crackdown on criticism and dissent; widespread violations in connection with the November 1 parliamentary elections; and serious violations of the right to a fair trial. President Ilham Aliyev and his Yeni Azerbaijan Party (YAP) escalated an aggressive campaign against criticism and opposition in 2015. Parliamentary elections in November took place amid unabated repression and with limited monitoring, as most international observer groups declined to cover the vote. International rights groups used the elections and the inaugural European Games, which Azerbaijan hosted in June, to draw global attention to the country's dismal human rights record. The government's crackdown on fundamental freedoms showed no sign of subsiding, however, and harassment, detention, and prosecution of opposition politicians, journalists, civil society activists, and their families continued during the year.

While the constitution guarantees freedom of the press, the authorities severely restrict the media in practice. Broadcast outlets generally reflect progovernment views. Most television stations are controlled by the government, which also controls approval of broadcast licenses. Although there is more pluralism in the print media, the majority of newspapers are owned by the state, and circulation and readership are relatively small. Independent and opposition papers struggle financially and have faced heavy fines and other pressures as retaliation for critical coverage. Local radio broadcasts of international news services, including the British Broadcasting Corporation (BBC) and Voice of America, have been banned since 2009, though they are available online. The authorities shuttered the Baku office of Radio Free Europe/Radio Liberty (RFE/RL) in 2014. The few critical outlets that are able to disseminate information in the country—including the independent online television station Meydan TV, which operates from Germany—face constant pressure and risk. In 2015, representatives of Meydan TV and other critical outlets reported that their family members in Azerbaijan had faced threats, interrogations, and arbitrary detentions. Defamation remains a criminal offense punishable by exorbitant fines and imprisonment. Journalists are threatened and assaulted with impunity, and many have been detained or imprisoned on fabricated charges of drug or weapons possession, ethnic hatred, high treason, and hooliganism, among others.

Other regressive laws require nongovernmental organizations (NGOs) to register all grants and donations with the Ministry of Justice, and to inform authorities of all donations over \$250. The rules have been used to pressure both local and foreign organizations, many of which were forced to suspend operations when their bank accounts were frozen, and in some cases, their offices raided and closed. Officials increased hostile rhetoric towards foreign-funded NGOs, accusing them of undermining political stability.

A number of prominent rights activists were sentenced to prison on spurious charges in 2015.

¹¹⁰ <https://freedomhouse.org/report/freedom-world/2016/azerbaijan>

The government has increasingly restricted freedom of movement, particularly foreign travel, for opposition politicians, journalists, and civil society activists.

On 4 May 2016, the *Open Government Partnership* declared Azerbaijan “inactive” due to “due to unresolved constraints on the operating environment for Non-Governmental Organizations”¹¹¹.

In 2014, the *United Nation’s Human Rights Council*¹¹², noted that

The Special Rapporteur is also concerned that the legislative amendments to the Code of Administrative Offences, the law “On non-governmental organizations” and the law “On grants” could be used to hinder the work of nongovernmental organisations (NGOs) in Azerbaijan. These amendments have increased the penalties in cases where organisations do not register with the Ministry of Justice and have defined what constitutes a “donation” for the purposes of grants legislation. Therefore, only those organisations whose causes are approved by the Government via registration are legally entitled to receive funds for their cause. The Special Rapporteur believes that this constitutes an undue restriction to the right to associate freely, which further narrows the space for peaceful and independent work by human rights defenders.

In 2014, the *United Nation’s Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association* made the following statement¹¹³:

“We are appalled by the increasing incidents of surveillance, interrogation, arrest, sentencing on the basis of trumped-up charges, assets-freezing and ban on travel of the activists in Azerbaijan,” they said. “The criminalization of rights activists must stop. Those who were unjustifiably detained for defending rights should be immediately freed.”

The experts highlighted the specific cases of Leyla Yunus, director of the Azerbaijani Institute of Peace and Democracy; Arif Yunus, head of Conflict Studies in the Institute of Peace and Democracy; Rasul Jafarov, coordinator of Art of Democracy and head of Human Rights Club; and Intigam Aliyev, chair of Legal Education Society.

“We are alarmed at the wave of politically-motivated repression of activists in reprisal for their legitimate work in documenting and reporting human rights violations,” they noted, reiterating their grave concerns about the deteriorating situation in the country for the third time in less than a year.”

In December 2014, the *European Commission for Democracy through Law (the Venice Commission)* issued a review of the NGO law noting that:

93. Globally, the cumulative effect of those stringent requirements, in addition to the wide discretion given to the executive authorities regarding the registration, operation and funding of NGOs, is likely to have a chilling effect on the civil society, especially on those associations that are devoted to key issues such as human rights, democracy and the rule of law. Like the Council of

¹¹¹ <http://www.opengovpartnership.org/blog/anonymous/2016/05/04/media-briefing-azerbaijan-made-inactive-open-government-partnership>

¹¹² UN Human Rights Council (2014), p. 8 http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-55-Add3_en.doc

¹¹³ <http://freeassembly.net/news/persecution-rights-activists-must-stop-un-experts-call-government-azerbaijan/>

Europe Commissioner on Human Rights has, the Venice Commission finds that the amendments, in an overall assessment, “further restrict the operations of NGOs in Azerbaijan”¹¹⁴.

Several other international organizations have also expressed concern about the enabling environment for civil society, including Amnesty International¹¹⁵, Article 19¹¹⁶, the International Federation for Human Rights¹¹⁷ and Human Rights Watch¹¹⁸.

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¹¹⁴ European Commission for Democracy through Law; Venice Commission (2014), p. 20
<http://www.venice.coe.int/webforms/documents/default.asp?x?pdf=CDL-REF%282014%29053-e>

¹¹⁵ <https://www.amnesty.org/en/countries/europe-and-central-asia/azerbaijan/report-azerbaijan/>

¹¹⁶ <https://www.article19.org/pages/en/azerbaijan.html>

¹¹⁷ <https://www.fidh.org/en/region/europe-central-asia/azerbaijan/17056-addressing-the-human-rights-situation-in-azerbaijan-at-the-28th-session-of>

¹¹⁸ <https://www.hrw.org/europe/central-asia/azerbaijan>