

Board decision on the second Validation of Ukraine

Decision reference: 2021-22/BC-305

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The Board's decision

The Board came to the following decision:

The EITI Board agrees that Ukraine has fully addressed three of the eight corrective actions from the country's first Validation and has made satisfactory progress on beneficial ownership requirement according to the framework agreed by the Board in June 2019. Consequently, Ukraine has made meaningful progress overall in implementing the 2016 EITI Standard, with considerable improvements across several individual requirements.

The Board commends the Government of Ukraine and the multi-stakeholder group (MSG) for their efforts to align EITI implementation with broader national reform priorities such as anti-corruption and improvement of investment climate. The Board takes note of how license allocation processes and disclosure of subsoil agreements have become more transparent through digitisation. The Board also recognises the country's efforts on improving beneficial ownership disclosures, including through strengthening verification procedures. The Board further encourages the MSG to link their efforts on these thematic areas with the government's overall agenda to combat corruption in the extractive sector, particularly in detecting conflicts of interest and identifying non-legitimate license applicants.

The Board welcomes Ukraine's efforts to establish an electronic data collection portal as complemented by the country's gradual transition to systematic disclosure of extractives data. In addition, Ukraine is leveraging EITI to strengthen disclosures and garner trust at the regional level by focusing on outreach activities and disclosure of environmental payments. The Board recognises improvements in the extractive sector's legal framework, including harmonisation of fragmented laws in the extractive sector to improve investors' confidence and ensure efficient management of natural resources. The Board also recognises Ukraine EITI's work on monitoring impact to further improve the contribution of the EITI to the country's transparency reform agenda.

Ukraine is recognised for its efforts to comprehensively disclose information related to state-owned enterprises (SOEs), even in a complex environment with hundreds of SOE subsidiaries, joint ventures and affiliates. However, there are opportunities for the MSG to further improve disclosures related to SOEs' operations in the country, particularly in relation to third-party financing and state guarantees. More comprehensive disclosures can help Ukraine to facilitate further public debates and reforms related to improving transparency and efficiency of the state participation in the extractive sector and ensuring macroeconomic stability. Ukraine is also encouraged to leverage the ongoing and planned reforms of the oil and gas transportation sector to build greater accountability in the management of transportation arrangements. Additionally, the EITI Board recognises the call from stakeholders that Ukraine could further improve transparency by removing constraints for comprehensive disclosure of data on production and reserves. These efforts could be integrated in the broader open data and energy sector reforms.

Finally, the Board takes note of some stakeholder concerns about the independence of all constituencies involved in EITI implementation in the future and urges the MSG and government to continuously ensure adequate space for each constituency to fulfil its role in EITI implementation free from any interference.

The Board has determined that Ukraine will have time **until 1 April 2023** before its next Validation to carry out corrective actions regarding state participation (Requirement 2.6), production data

(Requirement 3.2), comprehensiveness (Requirement 4.1), transportation revenues (Requirement 4.4), and SOE transactions (Requirement 4.5). The next Validation of Ukraine will be conducted according to the revised Validation model approved by the Board in October 2020. Failure to demonstrate progress in the next Validation will result in temporary suspension in accordance with Article 6 of the EITI Standard. In accordance with the EITI Standard, Ukraine's MSG may request an extension of this timeframe or request that Validation commences earlier than scheduled.

Background

Ukraine joined the EITI in 2013. Ukraine's first Validation under the EITI Standard concluded on 29 June 2018, in which the EITI Board found that Ukraine had made 'meaningful progress' in implementing the EITI Standard. Eight corrective actions were identified by the Board, to be assessed in a second Validation commencing on 29 December 2020, under the 2016 EITI Standard, related to:

1. State participation (#2.6)
2. Production data (#3.2)
3. Comprehensiveness (#4.1)
4. Transportation revenues (#4.4)
5. SOE transactions (#4.5)
6. Data quality (#4.9)
7. SOE quasi-fiscal expenditures (#6.2)
8. Economic contribution (#6.3)

On 13 February 2020, the EITI Board agreed that Ukraine was eligible for an extension of its deadlines and postponed the commencement date of their second Validation. Ukraine's second Validation commenced on 30 June 2020. Ukraine has undertaken a number of activities to address the corrective actions:

- The 2017 Ukraine EITI Report was published on 2 June 2020.
- A series of trainings and workshops have been conducted on various EITI-related topics.
- On 7 October 2018, UAEITI published an Annual progress report for 2017.
- On 28 December 2019, UAEITI published an Annual progress report for 2018.
- On 2 June 2020, UAEITI published an Annual progress report for 2019.
- On 6 December 2019, UAEITI published a work plan for 2020.
- UAEITI developed a Monitoring and evaluation framework for EITI Ukraine.
- Ukraine passed a Law "On ensuring transparency in extractive industries" on 18 September 2018.
- UAEITI is now piloting an electronic platform for submission of data for EITI reporting.

Since the commencement of Ukraine's second Validation on 30 June 2020. The EITI International Secretariat has assessed the progress made in addressing the eight corrective actions established by the EITI Board following Ukraine's first Validation in 2018.

Scorecard

EITI Requirements		Level of Progress				
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond
MSG oversight	Government engagement (#1.1)				█	
	Industry engagement (#1.2)				█	
	Civil society engagement (#1.3)					█
	MSG governance (#1.4)				█	
	Workplan (#1.5)				█	
Licenses and contracts	Legal framework (#2.1)				█	
	License allocations (#2.2)				█	
	License register (#2.3)				█	
	Policy on contract disclosure (#2.4)				█	
	Beneficial ownership (#2.5)				█	
	State participation (#2.6)			█		
Monitoring production	Exploration data (#3.1)				█	
	Production data (#3.2)			█		
	Export data (#3.3)				█	
Revenue collection	Comprehensiveness (#4.1)			█		
	In-kind revenues (#4.2)	▨				
	Barter agreements (#4.3)	▨				
	Transportation revenues (#4.4)			█		
	SOE transactions (#4.5)			█		
	Direct subnational payments (#4.6)	▨				
	Disaggregation (#4.7)				█	
	Data timeliness (#4.8)				█	
	Data quality (#4.9)				█	
Revenue allocation	Distribution of revenues (#5.1)					█
	Subnational transfers (#5.2)				█	
	Revenue management and expenditures (#5.3)					█

EITI Requirements		Level of Progress				
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond
Socio-economic contribution	Mandatory social expenditures (#6.1) 					
	SOE quasi-fiscal expenditures (#6.2) 					
	Economic contribution (#6.3) 					
Outcomes and impact	Public debate (#7.1) 					
	Data accessibility (#7.2) 					
	Follow up on recommendations (#7.3) 					
	Outcomes and impact of implementation (#7.4) 					
Overall progress						

-  **No progress.** All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
-  **Inadequate progress.** Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
-  **Meaningful progress.** Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
-  **Satisfactory progress.** All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
-  **Outstanding progress (Beyond).** The country has gone beyond the requirements.
-  This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
-  The MSG has demonstrated that this requirement is not applicable in the country.

Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Ukraine. Progress in addressing these corrective actions will be assessed in a Validation commencing on **1 April 2023**:

1. In accordance with **Requirement 2.6**, Ukraine should ensure that the policies and practices regarding the financial relationship between the government and state-owned enterprises are publicly disclosed, and that EITI reporting complements existing disclosures by covering gaps in public disclosures. This includes (i) decisions and practices related to SOEs' retained earnings, reinvestments, dividends and third-party financing, as well as those of their

subsidiaries and joint ventures; (ii) the level of state participation in all SOEs, their subsidiaries, associated companies, joint activities and ventures, and the terms associated with equity shares. Any loans or loan guarantees provided by the government or SOE(s) to oil, gas and mining companies operating within the country should be publicly disclosed, including their total amounts, outstanding balances, interest rates and repayment schedules. Ukraine may wish to use EITI reporting to assess the comprehensiveness of SOEs disclosures through publicly accessible financial statements, and to assess whether additional disclosures are needed by SOEs to fully reflect disclosures of transfers, retained earnings, reinvestment and third-party financing related to SOE joint ventures and subsidiaries.

2. In accordance with **Requirement 3.2**, Ukraine should ensure disclosure of production volumes and values for all extractive commodities produced in Ukraine, including titanium, uranium, and other ores. Ukraine is also encouraged to continue the ongoing efforts related to ensuring that differences in methodologies applied by different agencies are well-explained. Ukraine may also wish to consider systematic disclosure of mining production value data by relevant government entities.
3. In accordance with **Requirement 4.1**, Ukraine should provide an assessment of materiality of all extractive companies, including those operating in uranium and thorium ore sub-sectors. If this information is not available, the MSG should provide an explanation of any barriers preventing from such disclosures as well as any steps taken to address these issues. To strengthen implementation, Ukraine is encouraged to continue the ongoing work on systematic disclosure of taxes and revenues with a view to ensuring comprehensive and reliable disclosures of government extractive revenues in a timely manner through routine government and company disclosures.
4. In accordance with **Requirement 4.4**, Ukraine (i) must establish whether transportation revenues are material; (ii) must indicate what level of disaggregation should be sought for transportation revenues (i.e. coverage of disaggregated data), and; (iii) is expected to disclose transportation volumes and revenue values by material revenue stream, and by companies. In the event there are practical or legal barriers to comprehensively disclose data as per (i)-(iii) above, Ukraine must document which practical and legal barriers exist, and document a clear plan for how to overcome the barriers for public disclosure. To further strengthen public disclosure of transportation revenues, Ukraine is recommended to engage Ukrtransgaz, Ukrtransnafta, the newly incorporated “Gas Transmission System Operator of Ukraine”, and any other SOEs involved in the transportation of extractive commodities, to develop procedures for systematically disclosing extractive transportation revenues and volumes and values of extractive commodities transported. These engagements could focus on procedures to ensure public disclosure of transportation volumes and values, disaggregated by the largest consumers (e.g. searchable by company names and/or identifiers – EDRPOU). Where legal or practical barriers exist to disaggregated transport revenue disclosures, Ukraine is encouraged to publicly document the relevant obstacles and agreed public and time-bound plans for overcoming such constraints.
5. In accordance with **Requirement 4.5**, Ukraine should ensure that the reporting process provides comprehensive and reliable disclosures of SOE transactions with government and

extractive companies, including their subsidiaries, joint activities and joint ventures, when material (materiality and reconciliation as per the standard procedure endorsed by the EITI Board). To strengthen implementation, Ukraine may wish to consider engaging the government to ensure data on budget programme transfers are available with disaggregated data per SOE (including SEs). Ukraine may further wish to explore how publicly available financial statements of SOEs compare to EITI Requirements, and whether regular publications of additional data is possible to ensure systematic disclosures of all significant SOE transactions.