

Iraq's Second Validation

MSG Comments on the international secretariat's draft assessment

July 10, 2019

Corrective action 1 – Government engagement (#1.1)

Government and all its entities effectively engaged within the period of 2017 – 2019 in every detail of the EITI's work. Most of EITI's work focused on Ministry of Oil, as the ministry bears most of the extractive activity and it provides a significant support, in financial, moral and procedural term. H.E. Minister of Oil chairs the MSG and provides it with required support. Representatives of the ministry attend the meetings; present thoughts and proposals; and always take part in sub-commissions. All ministry directorates understood the work of EITI, start complying with its standards and became fully ready to apply Systematic Disclosure on their websites and in their reports.

Federal Board of Supreme Audit, Ministry of Planning and Ministry of Finance actively participate and provide EITI with required opinion and data. Recently, Ministry of Industry and Minerals began responding and changed its representative at the MSG and selected Director General of Investment Directorate to be a member of the MSG, as he is acquainted with the ministry activity and he is responsive with EITI.

Iraq will ensure the continuity of the participation of all related governmental entities in applying the EITI standards and use the same to achieve optimal governance of extractive industries and to adopt such standards as a means of deliberation with companies and civil society in regard of reforming the extractive sector.

Assessment: the MSG agrees on the current assessment (Satisfactory Progress)

Corrective action 2 – Industry engagement (#1.2)

Due to the specialty of the Extractive Sector in Iraq and due to the fundamental and vital role played by SOEs, MSG attempted to equally divide the representation of Industrial Sector at the MSG between SOEs and IOCs. Therefore, when discussing the participation of the industrial sector in EITI, we should not neglect the role of SOEs.

The MSG sees that the SOEs has actively participated during 2017-2019 and that significant changes took place in terms of their response and adoption of EITI standards. Recently, the companies disclosed their final accounts and unprecedentedly published the same at their websites. Such companies also expressed their readiness to take part in Systematic Disclosure Project. It's also worth mentioning that the representatives of such SOCs are considered as one of the active categories participating in works and meetings of the MSG.

IOCs, on their account, showed an explicit understanding of their role in EITI and representatives of such companies constantly attend meetings of the MSG and take part in sub-commissions. IOCs Forum discusses EITI standards and affairs at every

meeting held in Dubai and Baghdad within the last two years. Mr. Zaid Al-Yasiri, representative of British Petroleum (BP) and coordinator of IOCs Forum, exerted exhaustive efforts and has achieved appreciated successes in making the fields developing international companies and oil purchasing international companies participate more in, more interested and applying the EITI and its standards.

In response to the corrective action regarding setting a work plan of companies to overcome their weak points of their participation, the representative of such companies sought to discuss the work plan with wider stakeholders on the months proceeded the defined date. The results were an effective plan although it was behind schedule, such delay did not affect the anticipated significance and usefulness of forming the bigger work plan of MSG.

According to what was mentioned, the MSG sees that the clauses (B) and (C) of Requirement (1.2) were deservedly achieved and that the companies heading for achieving clause (A) fully. The work plan of the companies contributed and contributes in securing the full, effective and active participation of the companies in all aspect of implementing EITI, in addition to its participation in presenting data in accordance with the abovementioned requirement. As a complementary action to above, the MSG will urge the companies to improve and develop the plan and keep doing the efforts aiming at systematic disclosure of required information.

Assessment: the MSG suggests changing the assessment from "meaningful Progress" to "Satisfactory Progress".

Corrective action 3 – Multi-Stakeholder Group oversight (#1.4)

Now, members of MSG became more aware and responsive with their tasks and the responsibilities of the entities they represent, especially after the series of workshops held by National Secretariat for the purpose of fully explaining and review in details the standards. All issued arose by Validation Team regarding MSG governance were overcome within the period 2017-2019, including the attendance of the MSG Head and MSG Members to all meeting and their fully free participation in discusses and resolutions and in activities of drafting Terms of Reference of Annual Progress Reports. Further, in following-up the issuance of such reports by Independent Administrator. Also, the MSG adopted more effective manner of communication through creating a group on WhatsApp and through exchanging discussions, information and data via emails.

Members also are persistent to communicate with the entities they represent to keep such entities updated with the work of EITI and the role of such entities in applying the standards. Representatives of civil society created a group on WhatsApp called "Friend of EITI" (اصدقاء المبادرة) to discuss EITI affairs with hundreds of civil activists. IOCs representatives discuss the work of EITI in the meeting of IOCs Forum.

Assessment: the MSG suggests changing the assessment from "meaningful Progress" to "Satisfactory Progress".

Corrective action 4 – Work plan (#1.5)

Most of 2018-2019 plan items were priced and only few were undefined by cost, as they do not need funds to be implemented. The funding sources of each item are clear and defined, which are two sources; first: allocations from Ministry of Oil and Second: the grant of the World Bank. The current work plan of 2019-2020 is considered as an ambitious plan that differs from the previous ones, as it takes in consideration all EITI work requirements and define the cost of each item included in this work plan. This plan was prepared in coordination with all wider stakeholders, including civil society, through deliberating with relevant activists and organizations.

Ministry of Oil covered the significant deficit incurred in the plan budget resulting from the decrease of World Bank grant. The MSG is exerting great efforts with Development Partners to obtain support for capacity building programs that will be designated for wider stakeholders. Negotiation is still in progress and work plan will be updated once an agreement reached with Development Partners.

The MSG will review the work plan regularly to update the actually implemented clauses.

Assessment: the MSG suggests changing the assessment from "meaningful Progress" to "Satisfactory Progress".

Corrective action 5 – Legal framework (#2.1)

The MSG believes that that the evaluation of Validation Team was objective and EITI will, now, broaden the implementation through analyzing the legal environment and financial scheme of Oil and Gas Sectors, which started in 2016 report, enhanced in 2017 report and will be deepened in further reports as a way of supporting public debates regarding proposed legal and regulation reforms.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 6 – License allocations (#2.2)

The MSG collectively agrees with what the Validation Team mentioned and assures that what was pointed at, in 2016 and 2017 reports, that there is no licenses in mining sector and shows that the payments in this sector has no significant value. Noting that, the MSG will disclose any licenses granted in mining sector with the same mechanism and density by which disclosures of Oil and Gas Sector licenses were done, once available. As the factors of weighting of various technical and financial standards will be expressly cleared, that are evaluated for granting and transferring of licenses. Also, comments on granting and transferring of licenses system will be presented once it is implemented, as a means of explaining the procedures and limit the significant discrepancies. Further, the procedure of licensing granting and transferring in KRG will be explained once Kurdistan Government responses to the request of adopting and applying EITI standards and to take part in the MSG works and activities.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 7 – License register(s) (#2.3)

The MSG completely agrees with what was mentioned and has contracted (for Ministry of Oil) with specialized neutral company to prepare license register that comply with the EITI standards requirements. Available Information on any mining licenses throughout Iraq or Oil, Gas and Mining in Kurdistan Region will be inserted in such register.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 8 – Policy on contract disclosure (#2.4)

The MSG agrees with what was mentioned and assures that there is no written and clear policy on contract transparency published on Ministry's official website and this was documented in 2016 report addendum. International Extractive Companies announced publically their compliance with the government policy. Minister of Oil, and Chairman of MSG, required international companies to state their stance officially on contract transparency policy that's currently published and which was agreed on during the meeting of companies' representatives with MSG Chairman on 25/03/2019.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 9 – State participation (#2.6)

The 2016 report and its addendum did not include a list of state-owned companies in Kurdistan Region, specialized in mining field, as Kurdistan Region is excluded according to the approval of MSG on amended implementation request.

Iraqi Laws do not consider mixed companies as State-Owned Enterprises, as mixed companies are subject to Companies Act No. 21 of 1997 while State companies are subject to Companies Act No. 22 of 1997. Thus, this case only applies one company which is Basra Gas Company as the state owns 51% of its shares. This company is not an extractive one, but rather Midstream Company that receives associated gas from Basra Oil Company then treats such gas and markets it in Iraq and abroad.

The MSG adopted this definition because otherwise will be considered as violation of law. So, what is required to be taken by the MSG to overcome this matter?

On contrary of what was mentioned in 2nd Validation Assessment on loans and guarantees presented by State to extractive companies, 2016 report clearly stated that there are no loans or guarantees presented by the State to State-Owned extractive companies, nor between companies themselves, nor by companies to any other entity (page: 15 of the Arabic version). Therefore, the need to conduct analysis and evaluation is no longer needed, as there are no loans at all. This information is

publically-available in 2016 report which is published on the website and distributed on wider range in Iraq.

Assessment: the MSG suggests to change the assessment from "meaningful Progress" to "Satisfactory Progress".

Corrective action 10 – Production data (#3.2)

The MSG stated that the 2016 report stated the "fourth mineral" and pointed that it is "Filter Sand" (P: 73 of the Arabic version) and the quantity of its production was 190 ton and sale quantity was 190 ton.

In further reports, the MSG will ensure that the volumes, values and production sites of each extractive commodity, including crude oil, natural gas and mineral will be public-available.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 11 – Comprehensiveness (#4.1)

The MSG stated that the final defining of the materiality was done by a committee of selected members, assembled by the MSG on 15/10/2018 after receiving the remarks of International Secretariat, sent by Mr. Pablo Valverde on 10/09/2018. The committee convened several discussion meetings and made long phone calls with representatives of EITI, World Bank and Ernst & Young. Based on the recommendations of this committee, the MSG issued its resolution of adopting materiality threshold of 2% for revenues flows of oil, gas and minerals sectors. 0% for revenues flows of companies, recovered costs and remuneration fees.

The Independent Administrator stated that the reason for not evaluating materiality for companies that did not submitted required data for 2016 report goes back to that the entities that submitted their data are other entities that submitted data on their behalf, like filed operators on behalf of official Consortium, or Basra Oil Company on behalf of Occidental Petroleum and Shell, as they hold field license or latter owner of stocks.

The MSG will ensure that the further reports shall expressly include the evaluation of Independent Administrator of materiality defined for payments of each company that did not submit their disclosure reports, in order to check whether nondisclosure did actually affect the comprehensiveness of payments and revenues reconciliation. Documentation will be continued of the taken options to define materiality and thresholds.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 12 – SOE transactions (#4.5)

The MSG does not consider that the determination of materiality of the state-owned enterprises to this extent has limited the disclosure of these companies in the oil and gas sectors in the federal Iraq and excluded their counterparts in the mining sector in the Kurdistan region. Because these Companies simply did not achieve extractive activity in 2016 or their activity was below materiality that the MSG has identified. Since the determination of materiality is considered to be an exclusive prerogative of the MSG and its identification has followed extensive consideration and deliberations with stakeholders outside the MSG, as well as Mr. Pablo Valverde of the International Secretariat. The MSG confirms the soundness of its procedures with regard to the materiality.

Regarding the Ministry of Finance remittances of internal service payments, the MSG clarified that the Ministry of Finance sends an instrument to the administrative department of the Ministry of Oil. The administrative department then releases an instrument to SOMO under the title (Cost of production of crude oil exported for this month). SOMO then issues instruments (cheques) to the companies after the amounts have been determined on the basis of a memorandum from the Economic Department of the Ministry after obtaining the approval of the Minister. At the end of the year, SOMO prepares tables of the amounts given to each company and sends them to the administrative department for final clearing with the Ministry of Finance.

In future reports, all significant corporate payments to state-owned enterprises, whether in cash or in kind, and all transfers of important state-owned enterprises to and from the government will be disclosed and will be guaranteed to be publicly available.

Assessment: the MSG agrees with the current assessment, (Meaningful Progress).

Corrective action 13 – Direct subnational payments (#4.6)

Excluded from assessment

Corrective action 14 – Disaggregation (#4.7)

On the reconciliation of the financial statements and their classification by the company, not only to be classified by the government entity, the independent administrator explained that the 2016 report presented the financial statements that were settled in accordance with the revenue stream and the company except for the cost recovery and remuneration fees, where the reporting by the company was not possible for all fields. Because few companies have reported their data. In such cases, the cost recovery fees and bonuses reported by the field operator on behalf of the entire consortium are to be relied upon.

The MSG asserts that 88.14% of the revenues achieved in 2016 representing 70 oil purchasers, including the developed extractive companies have been classified by the

company (see p. 89 of the Arabic version), as well as the commodity production of crude oil, gas and domestic consumption (See Appendix P.14), the production of the four mineral (see Appendix 16 of the Arabic version) and the social expenditures of national companies (see report p. 128 of the Arabic version).

In future reports, the MSG ensures that all reconciled financial statements, including cost recovery and fee costs, are classified by company, revenue stream and government entity.

Assessment: The MSG suggests to change the assessment from "meaningful Progress " to "Satisfactory Progress " .

Corrective action 15 – Data reliability (#4.9)

With regard to the quality assurance of the data of the reporting companies, the MSG has taken several measures to ensure the quality of the data and to assess the reliability of the information reported. The reporting companies were required to provide all the specified quality assurance documents but a number of them did not comply with these measures. They provided part of the supporting documents required, such as the audited financial statements, and did not provide the other part.

On the other hand, the independent administrator assessed all the government companies and international buying companies (see page 112 of the Arabic version of the report) without naming them. It also provided a detailed explanation of his efforts to ensure reliability and presented his vision in this regard (see p. 12 of the Arabic version of the report)

Assessment: the MSG agrees with the current assessment, (Meaningful Progress).

Corrective action 16 – Distribution of revenues (#5.1)

The MSG considers that the 2016 report fully met all the requirements of paragraph 5.1 of the criteria. Kurdistan region data are excluded in the 2016 report under the approval of the EITI MSG for the revised implementation request.

In future reports, the MSG will ensure that the allocation of EITI income not recorded in the national budget (if any) is made public, in particular revenue collected from the KRG, provided that the KRG responds to repeated requests to submit the required data from the Independent Administrator.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 17 – Subnational transfers (#5.2)

In the coming reports, as in past reports, the MSG is keen to ensure that the details of the calculation of allocations for sub-national transfers are related to the revenues of the extractive industries and are disclosed to the public in a more effective manner. To the extent possible, the sub-national transfers of extractive industries will be

matched with the governorates up to 5.2. It will also emphasize the development of systematic disclosure mechanisms through routine government systems such as the websites of the Ministry of Finance and the governorates.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 18 – Social expenditures (#6.1)

As independent administrator has previously pointed out, not all international extractive companies have reported their compulsory or voluntary social expenditures. Therefore, the information provided on its behalf has been relied upon by national oil companies (license holders). In addition, the forms of disclosure sent to reporting entities that include fields marked "for information purposes only" in accordance with requirement 6.1 have resulted in inconsistencies in reports submitted by companies and partial compliance with requirements 6.1.

The MSG indicates the lack of data on social expenditures in the extractive sector in the Kurdistan Region due to the failure of the Region to provide any data relating to the Initiative's reports. Therefore, Iraq has obtained the approval of the EITI MSG for the amended implementation.

In future reports, the MSG shall ensure that the mandatory social expenditure reported is disaggregated by type of payment and beneficiary, indicating the name and function of any non-governmental (third party) beneficiaries and whether such expenditures are paid in cash or in kind.

Assessment: the MSG agrees with the current assessment, (Meaningful Progress).

Corrective action 19 – Economic contribution (#6.3)

In the coming reports, the MSG is keen to ensure that information on the contribution of extractive industries in the KRG to GDP, government revenues, exports and employment is publicly available if the territorial Government responds to requests for data to be submitted to the Initiative. And to provide up-to-date macroeconomic information on the contribution of extractive industries in a timely manner.

Assessment: the MSG agrees with the current assessment, (Satisfactory Progress).

Corrective action 20 – Public debate (#7.1)

The MSG adopts an ambitious dissemination Policy, as well as the activities and workshops detailed in the 2018-2019 Work Plan and the current Work Plan of 2019-2020.

In addition to publishing reports on the initiative website and other related sites, annual paper and electronic reports are distributed to ministries, government institutions, universities, civil society organizations and governorates, and during workshops organized by the Council at the rate of 3 workshops a month.

In addition, the members of the MSG move to their constituents to inform them of the criteria of the initiative to be implemented in each area, the news of the deliberations and discussions they hold in the MSG's meetings, as well as the most important conclusions and statements emanating from the annual reports.

As an example, the Chairman of the MSG, Mr. Thamer Ghadhban talks about the initiative in most of his meetings and meetings that held in and outside Iraq, most recently the CWC Iraq Petroleum Conference, which was held in London in June 2019; also, the MSG member Dr. Nidhal Abdul-Zahra in Iraq during her participation in the work groups arising from the audit of extractive industries in Kenya in 2016 and America in 2017 and the Philippines in 2019; and The member Mr. Zaid Yasiri at all meetings of the Forum of extractive companies operating in Iraq (IOCs Forum); as well as representatives of civil society during conferences and workshops inside and outside Iraq and in their television interviews.

At the level of the House of Representatives, Dr. Ibrahim Bahr Uloum Member of the Parliamentary Energy Committee, and Dr. Haitham al-Jubouri, head of the parliamentary finance committee, to name a few, citing the initiative's reports during their discussion of the government's performance in television programs in Iraq.

In future reports, the MSG is keen to ensure that the initiative's data are actively promoted and available for public debate. A media plan will be developed to address the national priorities identified in the Action Plan and involve a wider range of relevant stakeholders, including parliamentarians, academia, the media and host communities. The MSG will discuss a clear policy on access, issuance and reuse of EITI data.

Assessment: The MSG suggests to change the assessment from "meaningful Progress" to "Satisfactory Progress".

Corrective action 21 – Follow-up on recommendations (#7.3)

Iraq is keen to activate the work of the Follow-up Committee on the recommendations of the previous reports and the reports of the verification team. Efforts will continue to identify the causes of any weaknesses in the work of the Initiative following the publication, investigation and treatment of the Initiative's reports. The Council will also seek to play a proactive role in the formulation of its own recommendations as part of the EITI report.

Assessment: the MSG agrees with the current assessment, (Meaningful Progress).

Corrective action 22 – Assessment of outcomes and impact (#7.4)

The MSG is keen to include in the next annual activity report a recital of efforts exerted to enhance the impact of the implementation of the Initiative in the management of natural resources.

Assessment: the MSG agrees with the current assessment, (Meaningful Progress).

Conclusion: The MSG sees that Iraq deserve a Satisfactory Progress mark as an overall and final assessment of the validation procedures.