**Kyrgyz Republic 2016 Validation comparison matrix**

| **Requirement** | **International Secretariat’s initial assessment (**[**Source**](https://eiti.org/sites/default/files/eng_kyrgyz_republic_draft_report_on_initial_data_collection_and_stakeholder_consultations.pdf)**)** | **Comments from stakeholders on the Secretariat’s initial report (**[**Source**](https://eiti.org/sites/default/files/msg_and_national_secretariat_comments_on_ia_report_0.pdf)**)** | **Independent Validator’s assessment (**[**Source**](https://eiti.org/sites/default/files/sdsg_validation_report_kyrgyz_republic.pdf)**)** | **Comments from stakeholders on the Validation report**  ([**Source**](https://eiti.org/sites/default/files/en_kr_msg_comments_on_the_validation_report.pdf) **for MSG comments;** [**Source**](https://eiti.org/sites/default/files/en_kr_industry_comments_on_the_validation_report_-_jan_2017.pdf) **for Industry comments;** [**Source**](https://eiti.org/sites/default/files/en_attachment_comments_from_ia.pdf) **for IA comments**) | **Next steps** |
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| 1.2 Company engagement  a) Companies must be fully, actively and effectively engaged in the EITI process.  b) The government must ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of company representatives substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected.  c) The government must ensure that there are no obstacles to company participation in the EITI process | The International Secretariat’s initial assessment concludes that “[…] there do not seem to be any legal obstacles preventing company participation in the EITI. The 89 largest extractive companies voluntarily reported under the Standard in 2014. Although this did not include all companies that met the materiality threshold, it nevertheless includes all the major tax payers in the Kyrgyz Republic. Companies are also participating in Supervisory Board meetings, even if industry representatives may not be actively providing input to the design, monitoring and evaluation of the EITI process. There is certainly a strong scepticism towards the EITI within the business community and limited interest from most companies in participating in the EITI. However, in practice this does not appear to have significantly affected the EITI reporting process. Thus, the International Secretariat’s initial assessment is that Kyrgyz Republic has made **SATISFACTORY** progress in meeting this requirement.” (p. 18) | None. | The Validator disagrees with the International Secretariat’s assessment and instead finds that the Kyrgyz Republic has made **MEANINGFUL** progress in meeting this requirement. The Validator notes, that “[w]hile companies are participating in Supervisory Board meetings and the 89 largest extractive companies[[1]](#footnote-1) voluntarily reported under the EITI Standard in 2014, it is difficult to find that companies are fully, actively, and effectively engaged in the EITI process. Company participation has been inconsistent and, according to the Institutional Set-Up Study, ‘with the exception of Kumtor and JSC KyrgyzAltyn was nominal.’ The International Secretariat’s Initial Assessment notes that lack of company access to Supervisory Board membership has been a concern, along with concerns regarding lack of outreach and engagement. The Initial Assessment notes that this has led to misunderstanding of EITI among industry stakeholders, many of whom government and civil society note have been “against the EITI.” The Initial Assessment also notes that there is no evidence that industry has made use of wider networks to advocate for legislative reform related to the EITI, including those that would identify and address duplicative reporting requirements.” (p.4) | The industry constituency raises concern with the Validator’s assessment noting that “[…] since the International Business Council joined the EITI Supervisory Board, intensive work has been carried out to engage and involve the members of our Association in the EITI process. The work has involved the inclusion of EITI issues in meetings of the Mineral Resources Committee[[2]](#footnote-2) of the International Business Council. In addition to working with the Committee, information about the EITI has been published in the weekly news bulletin of the International Business Council in order to attract a larger audience to the EITI. So, work with the members of the International Business Council has helped to attract more companies to the EITI and to spread awareness of EITI standards among subsoil users.” They also add that “After familiarization with the activities of the EITI Supervisory Board, on 31 March 2016 four representatives of the mining industry from the International Business Council entered the Supervisory Board.” (p.1) | The Committee needs to make a recommendation on whether the Board’s assessment of requirement 1.2 should be “meaningful progress” or “satisfactory progress”.  If “meaningful progress”, the Committee should specify which provisions it considers to be breached, and recommend corrective actions. |
| 1.5 Work plan  The multi-stakeholder group is required to maintain a current work plan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board. The work plan must:  a) Set EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. Multi-stakeholder groups are encouraged to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations and in business.  b) Reflect the results of consultations with key stakeholders, and be endorsed by the multi-stakeholder group.  c) Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation should be tailored to contribute to the desired objectives that have been identified during the consultation process. The work plan must:  i. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation.  ii. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness (4.1) and data reliability (4.9).  iii. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation.  iv. Outline the multi-stakeholder group’s plans for implementing the recommendations from Validation and EITI reporting.  d) Identify domestic and external sources of funding and technical assistance where appropriate in order to ensure timely implementation of the agreed work plan.  e) Be made widely available to the public, for example published on the national EITI website and/or other relevant ministry and agency websites, in print media or in places that are easily accessible to the public.  f) Be reviewed and updated annually. In reviewing the work plan, the multi- stakeholder group should consider extending the detail and scope of EITI reporting including addressing issues such as revenue management and expenditure (5.3), transportation payments (4.4), discretionary social expenditures (6.1.b), ad hoc subnational transfers (5.2.b), beneficial ownership (2.5) and contracts (2.4). In accordance with Requirement 1.4.b (viii), the multi- stakeholder group is required to document its discussion and decisions.  g) Include a timetable for implementation that is aligned with the reporting and Validation deadlines established by the EITI Board (8.1-8.4) and that takes into account administrative requirements such as procurement processes and funding. | The International Secretariat’s initial assessment concludes that: “[…] the work plan contains objectives aligned with national priorities, as well as activities and actions aimed at ensuring delivery against the objectives. The work plan includes a broad timeline for achieving the objectives, as well as costings and proposed funding sources. [It] appears to sufficiently address the EITI Requirements and the International Secretariat’s initial assessment is that Kyrgyz Republic has made **SATISFACTORY** progress in meeting this requirement.” (p.35) The International Secretariat’s initial assessment also recommends the SB to agree a fund raising strategy including plans for partial government funding in the future. (p.35) Future work plans could be clearer about the link between the work plan activities and the work plan objectives, and include more specific deadlines for each activity. | The MSG agrees and notes that: “the objectives of the work plan are clearly linked to national priorities. All actions in the work plan support Government plans to improve natural resource management, transparency and accountability, and to attract investment. | The Validator disagrees with the International Secretariat’s assessment and instead finds its level of progress to be **MEANINGFUL.** […] while the work plan provides for capacity building activities, it does not outline specific plans; the work plan comments on the need to implement amendments to the Law on Subsoil Use, but does not outline plans for how this will be addressed; while the work plan mentions the need to implement recommendations from Validation, it does not outline the MSG’s plans for doing so; the work plan does not mention any plans to implement recommendations from EITI Reporting; and while some of the activities are costed, others only note “donors” or “government” but do not indicate who the donors are, nor does it indicate any fundraising activities or sources of technical assistance.” (p.4) | The members of the Supervisory Board disagree with the Validator and raise concern over the version of the work plan that has been reviewed by the Validator: “[…] the Validator evidently did not receive the full version of the Work Plan, since the arguments provided there do not find confirmation in the document itself. Activities for increase of validation potential are described in sections 5 and 7 of the Work Plan, respectively.” The MSG continues to provide arguments against each point raised by the Validator: “(1) We draw your attention to the fact that pursuant to Government Resolution No. 317, the responsibility for raising funds rests with the EITI Secretariat, which participated in the Donor Council twice in 2013-2014, as well as from separate meetings with the participation of other representatives of the Supervisory Board. (2) It is true that sections 2.4 and 4.4 do not define the cost of the activities, since they are supposed to be covered by the same grant as section 2.10, which calculates the cost of preparation of the Report.  (3) In regard to the Validator’s comments on the amendments to the Law ‘On Subsoil’ “amendments to the Law are being prepared in accordance with the legislative process and the state body overseeing the EITI– the State Committee for Industry, Energy and Subsoil Use of the Kyrgyz Republic – participated in the initiation of a package of amendments to the Law of the Kyrgyz Republic “On Subsoil” in 2016. These amendments include the items envisaged in the Work Plan and are being reviewed by the Kyrgyz Parliament in a second hearing [in 2017]. Comments in the Preliminary Report regarding inconsistency of activities in the Work Plan with the goals of EITI implementation also did not find understanding of the Supervisory Board. We believe that the Report itself, disclosure of beneficial ownership, meetings of the Supervisory Board and validation are processes that enhance management of natural resources and increase transparency and accountability of the Government in management of the sector. | The Committee needs to make a recommendation on whether the Board’s assessment of requirement 1.5 should be “meaningful progress” or “satisfactory progress”.  If “meaningful progress”, the Committee should specify which provisions it considers to be breached, and recommend corrective actions. |
| 2.4 Contracts  a) Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals.  b) It is a requirement that the 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 should include relevant legal provisions, actual disclosure practices and any reforms that are planned or underway. Where applicable, the EITI Report should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published.  c) The term contract in 2.4(a) means:  i. The full text of any contract, concession, production-sharing agreement or other agreement granted by, or entered into by, the government which provides the terms attached to the exploitation of oil gas and mineral resources.  ii. The full text of any annex, addendum or rider which establishes details relevant to the exploitation rights described in 2.4(c)(i) or the execution thereof.  iii. The full text of any alteration or amendment to the documents described in 2.4(c)(i) and 2.4(c)(ii).  d) The term license in 2.4(a) means:  i. The full text of any license, lease, title or permit by which a government confers on a company(ies) or individual(s) rights to exploit oil, gas and/or mineral resources.  ii. The full text of any annex, addendum or rider that establishes details relevant to the exploitation rights described in in 2.4(d)(i) or the execution thereof.  ii. The full text of any alteration or amendment to the documents described in2.4(d)(i) and 2.4(d)(ii). | The International Secretariat’s initial assessment concludes that: “Although the 2013-14 EITI Report describes the actual practice on contract transparency, the government’s policy is not fully explained and lacks references to relevant legal provisions and commentary on reforms underway. The International Secretariat’s initial assessment is that the Kyrgyz Republic has made **MEANINGFUL** progress in meeting this requirement.” (p.42) The International Secretariat’s initial assessment also notes: “[t]he SB’s work plan for 2016 includes disclosure of license agreements (2016 work plan, activity 3.6)”. | None. | The Validator disagrees with the International Secretariat that the Kyrgyz Republic has made meaningful progress in meeting this requirement, and instead finds its level of progress **INADEQUATE**. The Validator notes that “the government’s policy regarding the public disclosure of contracts and licenses is not described in the 2013–14 EITI Report, and the report lacks the required references to relevant legal provisions and commentary on reforms underway. Although the report confirms that the license agreements that set forth the obligations of the license holders are not publicly available; we do not find that this statement alone constitutes meaningful progress with the broader objective of contract transparency.” (p.5) | The Supervisory Board disagrees with the Validator’s assessment noting that the “the policy and regulatory legal acts on licensing are exhaustively described in the EITI Report for 2013-2014 (p. 120-130).” The Supervisory Board continues to explain that: “the text and format of licenses is standard [as described in the annexes], and that 99% of cases the Government of the Kyrgyz Republic grants subsoil right through license agreements in accordance with the Regulation on the Licensing of Subsoil Use (publicly available on the website and also described in the Report for 2013-2014).” SB notes that the Open Register of Licenses provides information on license agreements that are relevant for the public.  Moreover, as stated in the Preliminary Report, where technically feasible, the Government considers the disclosure of licenses to be possible and there are no legal obstacles in place. Disclosure of licenses was included in the EITI 2016 Work Plan. | The Committee needs to make a recommendation on whether the Board’s assessment of requirement 2.4 should be “meaningful progress” or “inadequate progress” and agree corrective actions. |
| 3.2 Production  Implementing countries must disclose production data for the fiscal year covered by the EITI Report, including total production volumes and the value of production by commodity, and, when relevant, by state/region. This could include sources of the production data and information on how the production volumes and values disclosed in the EITI Report have been calculated. | The International Secretariat’s initial assessment concludes that: “The 2013-14 EITI Report appears to disclose comprehensive production volumes for all commodities. The production volumes are disaggregated by commodity, but not by producing region. Production values are not provided. The International Secretariat’s initial assessment is that the Kyrgyz Republic has made **MEAININGFUL** progress in meeting this requirement.“(p.49) | None. | The Validator disagrees with the International Secretariat’s assessment and instead finds Kyrgyz Republic’s progress to be **INADEQUATE**. The Validator notes that “the 2013–14 EITI Report does not provide production value data, and the production volume data provided in the report is incomplete and is not disaggregated by region.” (p.5) | None. | The Committee needs to make a recommendation on whether the Board’s assessment of requirement 3.2 should be “meaningful progress” or “inadequate progress” and agree corrective actions. |
| 4.1 Comprehensiveness  a) In advance of the reporting process, the multi-stakeholder group is required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds. Payments and revenues are considered material if their omission or misstatement could significantly affect the comprehensiveness of the EITI Report. A description of each revenue stream, related materiality definitions and thresholds should be disclosed. In establishing materiality definitions and thresholds, the multi-stakeholder group should consider the size of the revenue streams relative to total revenues. The multi-stakeholder group should document the options considered and the rationale for establishing the definitions and thresholds.  b) The following revenue streams should be included:  i. The host government’s production entitlement (such as profit oil)  ii. National state-owned company production entitlement  iii. Profits taxes  iv. Royalties  v. Dividends  vi. Bonuses, such as signature, discovery and production bonuses  vii. License fees, rental fees, entry fees and other considerations for licences  and/or concessions  viii. Any other significant payments and material benefit to government  Any revenue streams or benefits should only be excluded where they are not applicable or where the multi-stakeholder group agrees that their omission will not materially affect the comprehensiveness of the EITI Report.  c) Implementing countries must provide a comprehensive reconciliation of government revenues and company payments, including payments to and from state-owned enterprises, in accordance with the agreed scope. All companies making material payments to the government are required to comprehensively disclose these payments in accordance with the agreed scope. An entity should only be exempted from reporting if it can be demonstrated that its payments and revenues are not material. All government entities receiving material revenues are required to comprehensively disclose these revenues in accordance with the agreed scope.  d) Unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds. Where this data is not available, the Independent Administrator should draw on any relevant data and estimates from other sources in order to provide a comprehensive account of the total government revenues. | The International Secretariat’s assessment concludes that: “In accordance with requirement 4.1, the Supervisory Board has agreed a list of material revenue streams. Some, but not all are described in the EITI Report. The Supervisory Board has also agreed reporting thresholds for companies, and identified the reporting entities. Although the Independent Administrator was not consulted on the templates, neither the Independent Administrator nor other stakeholders have expressed any concern about the revenues covered in the template.Some government entities and companies did not report. The government has not disclosed total government revenues. However, according to consultations with the Independent Administrator, the omissions appear to be immaterial and payments by companies can be accessed online from the portal [www.budget.okmot.kg](http://www.budget.okmot.kg). In light of this, the International Secretariat’s assessment is that the Kyrgyz Republic has made S**ATISFACTORY** progress in meeting this requirement. (p.53) | None. | The Validator disagrees with the International Secretariat’s assessment and finds that the Kyrgyz Republic has made **MEANINGFUL** progress. The Validator notes that “According to the International Secretariat’s Initial Assessment, the Supervisory Board has not documented the options considered and its rationale for establishing the materiality definitions and reporting thresholds, nor does the 2013–14 EITI Report contain a description of each payment/revenue stream or disclose aggregate revenues received (material and non-material) for each of the agreed payment/revenue streams. Issues with regard to the reporting of SOE transactions, which are required by 4.1 to be included in the comprehensive reconciliation, are addressed in the International Secretariat’s initial assessment of provision 4.5.” (p.5). | Supervisory Board members disagree with the Validator and refer to the minutes of their meeting on 9 December 2014 that provides documentation of the discussion that led to the decision of a materiality threshold. They also refer to the documentation listed in the Initial Assessment Report. “With respect to the information set out in the Initial Assessment Report, we believe that the Supervisory Board has sufficient grounds for the usage of materiality thresholds (Resolution of the Government, Minutes of Meeting of the Supervisory Board No. 14, 21). The “criterion” that the Initial Assessment Report refers to is not mentioned in the EITI requirements.” ~~.~~  The Independent Administrator that was involved in the publication of the 2013-2014 Report also disagreed with the Validator, noting that the report provides an explanation as to why a number of companies did not report. The Report states that: “89 companies submitted their data for 2014” and notes that “… it nevertheless includes all major taxpayers in the Kyrgyz Republic”. | The Committee needs to make a recommendation on whether the Board’s assessment of requirement 4.1 should be “meaningful progress” or “satisfactory progress”.  If “meaningful progress”, the Committee should specify which provisions it considers to be breached, and recommend corrective actions. |
| 4.7 Level of disaggregation.  The multi-stakeholder group is required to agree the level of disaggregation for the publication of data. It is required that EITI data is presented by individual company, government entity and revenue stream. Reporting at project level is required, provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming European Union requirements. | The International Secretariat’s initial assessment concludes that: “The 2013-2014 EITI Report is disaggregated to the levels required by the EITI Standard, i.e. by individual revenue stream, company and government entity. The International Secretariat’s initial assessment is that the Kyrgyz Republic has made **SATISFACTORY** progress in meeting this requirement.” (p.57) In addition to this the International Secretariat’s initial assessment notes that: “27 of the 44 government entities submitted reporting templates in 2014 (p.128). Two central government agencies did not report – the State Registration Authority and the State Property Management Fund (p.128). However, the report confirms that the former did not receive any revenues in 2014 and the revenues collected by the latter were actually included with the reports of the State Social Fund (p.128). The other 15 non-reporting entities were local governments. […] The report does not estimate the materiality of the omitted revenues received by non-reporting local government authorities, but local governments only collect land tax and property tax.” (p.51) “[T]he revenues collected from land tax and property tax appear insignificant, amounting to KGS 25 033 (USD 466) and KGS 18 101 (USD 377) only. (p.56). |  | The Validator disagrees with the International Secretariat’s assessment and instead finds the level of progress to be **MEANINGFUL**. The Validator notes that “the 2013–2014 EITI Report does not disaggregate the data by subnational governmental entity. Given that none of the local governmental entities reported in either 2013 or 2014 (see 4.1), and that progress in reporting subnational direct payments (4.6) and subnational transfers (5.2) are assessed as inadequate, we do not believe that the Kyrgyz Republic has made satisfactory progress in meeting a provision that requires disaggregation by government entity.” (p.6) | The response from the Supervisory Board highlights discussions regarding project-level reporting, but otherwise has not commented on the disaggregation of the data on (immaterial) payments to local governments. | The Committee needs to make a recommendation on whether the Board’s assessment of requirement 4.7 should be “meaningful progress” or “satisfactory progress”.  If “meaningful progress”, the Committee should specify which provisions it considers to be breached, and recommend corrective actions. |

1. of the 136 companies that met the materiality threshold [↑](#footnote-ref-1)
2. the members of the Mineral Resources Committee are the largest representatives of the mining industry in the Kyrgyz Republic. [↑](#footnote-ref-2)