

Validation Committee Paper 80-2

Submitted by: EITI International Secretariat

on: 24 May 2019

Second Validation of Albania

For decision

For discussion

For information

Summary

The EITI International Secretariat recommends that the Validation Committee recommends to the EITI Board that Albania is found to have achieved “meaningful progress” overall in implementing the 2016 EITI Standard, with considerable improvements across several individual requirements. In accordance with Requirement 8.3.c.iv.2, Albania will be requested to undertake corrective actions before the third Validation on <date of Board decision + 12 months>.

Supporting documentation

Board decision on the 2017 Validation [\[English\]](#)

Draft assessment by the International Secretariat [\[English | Albanian\]](#)

Comments from the Albania Multi-Stakeholder Group [\[English\]](#) and annexes [\[English\]](#)

Final assessment by the International Secretariat [\[English | Albanian\]](#)

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

There are no financial implications arising from the recommendation.

Document history

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| Validation Committee review of draft assessment | 29 May 2019 |
| Validation Committee approval of Board Paper | TBC |

SECOND VALIDATION OF ALBANIA

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1. Recommendation

The International Secretariat recommends that the Validation Committee recommends that the EITI Board agrees the following:

The EITI Board agrees that Albania has partly addressed the corrective actions from the country's first Validation. Consequently, Albania has made meaningful progress overall with implementing the EITI Standard, with considerable improvements across several individual requirements.

The Board recognises Albania's efforts to use the EITI as a diagnostic tool of government's public finance management of extractive revenues. Public reporting of subnational transfers of royalties has generated significant public interest and demonstrated the importance of the EITI in providing a platform for multi-stakeholder oversight. Albania's EITI implementation is also recognised as having provided a key centralised source of information on the extractive industries, in some cases being the key source of data on licenses and contracts.

The Board nonetheless encourages Albania to further enhance public disclosures, particularly related to license allocations, state participation in oil and gas and the comprehensiveness and reliability of disclosures, including at the subnational level. While civil society has made welcome efforts to better structure the constituency's coordination, the Board encourages the constituency to further expand its membership to ensure representation of the diversity of civil society active in Albania.

The Board welcomes Albania's consideration of opportunities to improve government and company disclosures through systematic disclosures of data required under the EITI Standard.

*The Board has determined that Albania will have **12 months, i.e. until <date of Board decision + 12 months>** before a third Validation to carry out corrective actions regarding civil society engagement (1.3), license allocations (2.2), state participation (2.6), comprehensiveness of disclosures (4.1), direct subnational payments (4.6) and data reliability (4.9). Failure to achieve meaningful progress with considerable improvements across several individual requirements in the third Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Albania's MSG may request an extension of this timeframe, or request that Validation commences earlier than scheduled.*

2. Assessment card

| EITI Requirements | | Level of progress | | | | | Direction of Progress |
|--|--|-------------------|------------|------------|--------------|--------|-----------------------|
| Categories | Requirements | No progress | Inadequate | Meaningful | Satisfactory | Beyond | |
| Albania Second Validation scorecard | | | | | | | |
| MSG oversight | Government engagement (#1.1) | | | | ■ | | = |
| | Industry engagement (#1.2) | | | | ■ | | = |
| | Civil society engagement (#1.3) | | | ■ | | | → |
| | MSG governance (#1.4) | | | | ■ | | → |
| | Work plan (#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 & expenditures (#5.3) | | | | | | |
| Socio-economic contribution | Mandatory social expenditures (#6.1) | | | | | ■ | → |
| | SOE quasi-fiscal expenditures (#6.2) | | | | | ■ | → |
| | Economic contribution (#6.3) | | | | ■ | | = |
| Outcomes and impact | Public debate (#7.1) | | | | ■ | | = |
| | Data accessibility (#7.2) | | | | | | |
| | Follow up on recommendations (#7.3) | | | | ■ | | → |
| | Outcomes & impact of implementation (#7.4) | | | | ■ | | = |
| Overall assessment | Meaningful progress, with considerable improvements | | | ■ | | | → |

Legend to the assessment card

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| | No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled. |
| | Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled. |
| | Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled. |
| | Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled. |
| | Beyond. The country has gone beyond the 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. |

3. Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Albania. Progress in addressing these corrective actions will be assessed in a third Validation commencing on **<date of Board decision + 12 months>**:

1. In accordance with Requirement 1.3.e, civil society stakeholders including but not limited to members of the MSG must be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate. The civil society constituency is encouraged to implement all provisions of its Code of Conduct in practice, including those related to regular coordination and canvassing of views, and ensure that adequate outreach is undertaken towards all CSOs with potential interests in EITI implementation.
2. In accordance with Requirement 2.2, Albania is required to publicly disclose a comprehensive description of the process for transferring or awarding licenses in mining, oil and gas, including the specific technical and financial criteria assessed. Where licenses are awarded through a bidding process, the government is required to disclose the list of applicants (including non-winning applicants).
3. In accordance with Requirement 2.6, Albania should publicly clarify the rules and practice related to Albpetrol's ability to raise third-party financing, any changes in state participation in the year under review and any outstanding loans and guarantees from either Albpetrol or the state to companies in the mining, oil and gas sector. Albania may wish to consider improvements in the accessibility of Albpetrol's published audited financial statements as a means of clarifying the practice of financial relations between Albpetrol and the state.
4. In accordance with Requirement 4.1, Albania should ensure that the materiality threshold for selecting companies in future EITI reporting ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation, and ensure that all material companies participate in EITI reporting. Albania may wish to consider revisiting its materiality threshold for selecting mining companies to strike a balance between the comprehensiveness of disclosures and the quality of reporting. The MSG may wish to consider a

sampling approach, which would allow these payments to be investigated without creating an unreasonable reporting burden.

5. In accordance with Requirement 4.6, Albania is required to ensure that all company payments to subnational government entities, when material, are disclosed and reconciled. Albania is encouraged to publicly disclose a more detailed explanation of the types of local taxes collected by local governments and to enhance its outreach to local governments ahead of future EITI reporting and reconciliation of material direct subnational payments.
6. In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the IA agreed by the EITI Board, the MSG and IA should develop and agree quality assurance procedures for Albania's EITI reporting, based on a review of audit and assurance practices in the year under review. Albania should ensure that the IA provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the IA must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report. Albania should ensure that the IA provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided. In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in the reliability of reporting documented in the initial assessment.

4. Background

Albania was admitted as an EITI Candidate in May 2009. The first Validation of Albania commenced on 1 April 2017. On 13 February 2018, the EITI Board found that Albania had made meaningful progress in implementing the 2016 EITI Standard. Twelve corrective actions were established by the EITI Board, pertaining to the following requirements:

1. Civil society engagement (Requirement 1.3)
2. MSG oversight (Requirement 1.4)
3. License allocation (Requirement 2.2)
4. License register(s) (Requirement 2.3)
5. Contract disclosure (Requirement 2.4)
6. State participation (Requirement 2.6)
7. Direct subnational payments (Requirement 4.6)
8. Data reliability (Requirement 4.9)
9. Revenue distribution (Requirement 5.1)
10. Social expenditures (Requirement 6.1)
11. Quasi-fiscal expenditures (Requirement 6.2)
12. Follow-up on EITI recommendations (Requirement 7.3).

The Board asked Albania to address these corrective actions to be assessed in the second Validation. Albania has undertaken a number of activities to address the corrective actions:

- On 18 July 2016, the MSG approved the Independent Administrator contract for the 2015 and 2016 EITI Reports with Deloitte Audit Albania.
- In February 2018, the AlbEITI MSG held a launch conference for the 2016 EITI Report. After incorporating final comments to the report, the AlbEITI MSG published the 2016 EITI Report on its website in June 2018.
- On 28 March 2018, the MSG approved the 2018-2019 EITI work plan following input from MSG members and discussed the development of civil society's action plan for addressing weaknesses in the constituency's engagement identified during Validation.
- On 13 May 2018, civil society MSG members submitted an action plan to address issues related to civil society engagement highlighted in the Validation decision both to the AlbEITI MSG and to the International Secretariat.
- On 13 May 2018, the MSG agreed to draw up an action plan for addressing the corrective actions identified in Validation.
- In June 2018, the MSG approved and published the 2017 annual progress report on the AlbEITI website.
- On 7 December 2018, the MSG approved the formalized process of selecting civil society members of the MSG.
- In December 2018, the MSG reviewed the draft commodity trading pilot report prepared by Deloitte covering Albpetrol's crude oil sales over the 2013-2016 period.
- On 11 January 2019, the MSG agreed to initiate procedures for the election of MSG members from civil society, a process that was finalized on 12 February 2019.
- On 12 February 2019, the MSG established a working group to draft the 2019 EITI work plan, through consultations with wider stakeholder groups, to address corrective actions from Validation and use of EITI recommendation to highlight discrepancies in the legal, fiscal and regulatory framework in mining, oil and gas.
- In February 2019, the MSG approved an updated 2018-2019 AlbEITI workplan, which it published on the AlbEITI website.
- In early March 2019, the MSG's new working group on follow-up of recommendations of EITI Reports and Validation agreed a dedicated work plan for this follow-up.
- In early April, the AlbEITI Secretariat, with approval from the MSG, published data complimentary to the 2016 EITI Report, including the industry constituency's MSG nominations procedures and disaggregated government unilateral disclosures.

Albania's second Validation commenced on 13 February 2019. The Secretariat assessed the progress made in addressing the twelve corrective actions established by the EITI Board, as well as progress in meeting Requirement 4.1. **The EITI International Secretariat's assessment is that Albania has fully addressed seven of the twelve corrective actions, with significant improvements on the five outstanding requirements. Progress in meeting Requirement 4.1 has declined from 'satisfactory progress' to 'meaningful progress'.** The draft assessment was sent to the Multi-Stakeholder Group (MSG) on 26 April 2019. Following MSG comments received on 17 May 2019, the assessment was finalised for consideration by the EITI Board.