

Comments of the Independent Administrator for reconciliation of data and preparation of the IETI Report of the Kyrgyz Republic for 2013-2014 on the Report of the EITI International Secretariat regarding initial data collection and stakeholder consultation in the Kyrgyz Republic

In view of the decision made by the Supervisory Board of the EITI of the Kyrgyz Republic (KR) to open the Report of the EITI International Secretariat on initial data collection and stakeholder consultation in the KR ("the Validation Report") for comment by stakeholders, the EITI Secretariat in the KR applied to the Independent Administrator ("the IA") of the EITI Report of the KR for 2013-2014 ("the EITI Report") in order to obtain comments.

The Independent Administrator, which is not an organization that can challenge the decisions of the Validator, and which must maintain its independence, does not make any attempts to challenge and/or agree/disagree with the assessments provided in the Validation Report. However, in response to the request by the EITI Secretariat in the KR, the IA provides its considerations with respect to the statements contained in the Validation Report. The considerations stated below should not be construed as recommendations, requirements, agreement or disagreement with the assessments provided in the Validation Report.

1. Comments on Requirement 2.2.

The comments themselves state: *"There is no possibility to determine if there were any deviations from the regulatory framework that requires direct negotiations for these licenses"*. It is also stated that *"the EITI Report does not confirm that all the auctions and direct negotiations conducted in 2014 were carried out in accordance with the applicable legal and regulatory regime and standard technical and financial criteria"*.

The Independent Administrator could not have confirmed the above without having conducted relevant audit of all the licenses issued in 2014. However, such audit was not envisaged in the Terms of Reference for the Independent Administrator.

2. Comments on Requirement 2.4.

It is stated that *"the EITI Report for 2013-2014 does not describe the Government's policy or reforms carried out in connection with transparency of contracts"*. It is also stated that *"the Government's policy is not explained in full..."*.

Unfortunately, it is hard to understand what exactly the EITI Report lacks in the opinion of the authors of the Validation Report. All the information, which was publicly available at the time of preparation of the EITI Report, was provided in it.

3. Comments on Requirement 2.6.

The following is stated: *"The EITI Report for 2013-2014 does not disclose the rules and practice, which determine financial relationships between the State and the companies in which the State has an ownership share"; "The Company has 6 subsidiary companies on its web site⁸⁹, but there is no information about the level of ownership", "The share of the Government in the rest 10 state enterprises /open joint stock companies is not disclosed and it is unclear if these companies have any subsidiary companies that work in the mining sector, or have ownership in mining projects."*

It should be noted that information about the largest and the most important state enterprise, Kyrgyzaltyn, is provided in the EITI Report. This includes information about the ownership structure of the enterprise and the dividend distributions.

As for the information about ownership shares in the six subsidiary companies, etc., this information could not be found in official sources as of the time of preparation of the EITI Report. However, as of January 2017, Kyrgyzaltyn's Annual Report for 2014 is published on its web site, which states ownership shares in such enterprises as Centerra Gold Inc, Talas Gold Mining Company, Altyn-Tor Gold, CJSC Jerui Altyn and Altynken. But only an incomplete document in MS Word format is published, which does not have signatures and seal, and what is provided is only the text of the auditor's opinion. Consequently, it does not seem possible to have confidence in this document. Kyrgyzaltyn should publish scans of the originals of the official report and the auditor's opinion on the report.

Therefore, it will most likely be possible to publish the required information in the EITI Report in the next reporting period. As a minimum, the IA will have to make an official request to Kyrgyzaltyn for the provision of relevant official reports.

In respect of the comment that *"the EITI Report for 2013-2014 does not include information on loans or guarantees from the Government / state enterprises to companies operating in the country"* the following

should be noted: the Terms of Reference for the Independent Auditor for 2013-2014 does not contain such a task.

If such a task will be included in the next Terms of Reference, it will be important to obligate state bodies in advance to provide such information in response to respective requests from the IA. Otherwise, it will again be problematic to disclose this information in the next EITI Report.

4. Comments on Requirement 3.3.

It is stated that *"the EITI Report for 2013-2014 contains limited statistics on exports"*.

It should be noted that, at the time of publication of the EITI Report, there were no more data in the public domain than are provided in the EITI Report. This is directly stated on page 61 of the EITI Report. The IA submitted separate requests to the Ministry of Finance and the National Statistics Committee for the provision of such information. However, due to shortage of time, only general data on exports of the whole industry were obtained, without details.

What is important is not only that the IA should ensure the disclosure of more complete data on exports in the next EITI Report. It seems reasonable to ensure that, even before the start of the tender for the selection of the IA, state bodies (the Customs Service and the National Statistics Committee) should be asked to provide detailed data on mining industry exports to the IA in response to its request.

5. Comments on Requirement 4.1.

It is stated that the *"EITI Report for 2013-14 does not provide an explanation as to why these companies did not report and does not report actions taken by the Supervisory Board to address this issue"*.

The IA could not have provided such explanations since there were no such explanations. The IA does not have the right to invent such explanations on the behalf of other stakeholders.

It is stated earlier in the Validation Report that "89 companies submitted their data for 2014" and noted that "... it nevertheless includes all major taxpayers in the Kyrgyz Republic".

6. Comments on Requirement 4.3

The data collection forms did not have a question about barter arrangements of companies. The IA did not find such information in the public domain nor in annual reports of the largest mining companies. Therefore, it seems that relevant questions to companies could be included in the forms before preparing the next EITI Report for the KR.

7. Comments on Requirement 4.4

The Terms of Reference for the IA did not in fact set the task of showing transportation revenues. Nevertheless, the IA made a request to the National Statistical Committee and requested relevant data from them. But unfortunately, such data was not provided, possibly due to shortage of time for preparation of the EITI Report (it should be remembered that the IA only had only one month to prepare it).

8. Comments on Requirement 4.5

The IA was unable to provide a reply from Kyrgyzneftegaz in the EITI Report since no such reply was provided to the IA by this company. Therefore, the amount of deviation was left unexplained.

The question about any transactions other than dividends between state enterprises and the Government was not envisaged by the data collection form. So it seems that the forms could be supplemented with a respective question to state-owned companies before preparation of the next EITI Report for the KR.

9. Comments on Requirement 4.6

It is clearly stated on page 97 of the EITI Report: *"The revenues received on the unified treasury account are allocated in the Treasury Information Management System between budgets at different levels in accordance with the tax and budget laws of the KR regarding the standard payment ratios (in percent) as established for the respective financial year, and, with respect to local taxes and charges, in accordance with regulatory legal acts of local government bodies regarding local budgets for the respective financial year. Allocation of receipts between budgets at different level is carried out according to the established standard payment ratios in total for the amount of received revenues (revenue classification element)".* All this is described in more detail in sections 6.5.2, 6.5.3 of the EITI Report.

Section 6.5.5 of the EITI Report provides an explanation in the part entitled "Main areas of use by budgetary institutions of special funds received from the mining industry". The IA had no other information and was unable to find other information.

10. **Comments on Requirement 4.7**

The part entitled "Documentation of progress" probably contains an error in the publication dates of reports.

11. **Comments on Requirement 4.9**

It is stated that *"the Independent Administrator does not comment on how many companies or government bodies followed this procedure, and the Report also does not confirm how many companies, government bodies and state enterprises conducted an audit of financial reports in 2014"*.

Section 3.3 of the EITI Report "Reconciliation procedure for payment data" clearly describes how exactly the IA verified the correctness of the provided data. However, in section 8.2 "Verification of information about payments to the State" the IA provided clear recommendations as to how the correctness of data could be better ensured in the future.

Accordingly, the IA could not comment on the exact number of companies, which followed the audit procedure, since the IA did not have this information. Each report provided by a company or a government body was reviewed as to the presence of a signature of the senior officer and the seal of the organization. The IA would have pointed out any deviations from these criteria in the EITI Report.

It is also stated: *"...and the Independent Administrator was not involved in discussion of the data verification procedures in accordance with Requirement 5.2(c)"*.

The IA did discuss this issue with the EITI Secretariat. The IA expressed its opinion on the data collection and verification procedure (it is stated both in the Initial Report of the IA and in the EITI Report). The IA also gave recommendations in this respect (they are stated in the EITI Report).

12. **Comments on Requirement 6.1**

Page 143 of the EITI Report states: "Difference between the data of state bodies and payers relates mainly to the difference for the payment "Support of social infrastructure" (EITI reporting indicator No. 32), which is 280,980 Kyrgyz soms. Most of the projects, for which payments under indicator 32 are made, are carried out by companies independently, without the participation of state bodies, and it is not possible to confirm these payments by reconciliation with data provided by state bodies".

Accordingly, the IA was unable to provide any more information regarding this matter.