

**Pilot validation report: Mongolia**

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EITI International Secretariat

Independently review by (to be confirmed)

## Abbreviations

|       |  |
|-------|--|
| BOM   | Bank of Mongolia                                 |
| CBL   | Consolidated Budget Law                          |
| CSO   | Civil Society Organisation                       |
| EBRD  | European Bank for Reconstruction and Development |
| EGPS  | Extractives Global Programmatic Support          |
| EITIM | EITI Mongolia                                    |
| ETT   | Erdenes Tavan Tolgoi                             |
| GDT   | General Department of Taxation                   |
| GLDF  | General Local Development Fund                   |
| GTL   | General Tax Law                                  |
| MDTF  | Multi-Donor Trust Fund                           |
| MECC  | Mongolian Environmental Civil Council            |
| MNMA  | MNMA   |
| MNT   | Mongolian Tugrik                                 |
| MoF   | Ministry of Finance                              |
| MRAM  | Mineral Resources Authority of Mongolia          |
| MSG   | Multi-Stakeholder Group                          |
| MSWG  | Multi-Stakeholder Working Group                  |
| NC    | National Council                                 |
| NGO   | Non-Governmental Organisation                    |
| NRGI  | Natural Resource Governance Institute            |
| PAM   | Petroleum Authority of Mongolia                  |
| PSA   | Production-Sharing Agreement                     |
| PSFML | Public Sector Finance and Management Law         |
| PWYP  | Publish What You Pay                             |
| SOE   | State-Owned Enterprise                           |
| ToR   | Terms of Reference                               |

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## Executive Summary

The government of Mongolia announced its first commitment to the EITI in January 2006 by issuing Government Resolution 1 of 2006 on the EITI. A Multi-Stakeholder Working Group (MSWG) was formed in 2006, and the country was accepted as an EITI Candidate in September 2007. Following their first Validation the EITI Board designated Mongolia EITI Compliant in October 2010, making it the fourth country to become compliant with the EITI Rules.

In November 2015, Mongolia undertook a pilot Validation of compliance against the EITI Standard. This report presents the findings and assessment of the pilot. The International Secretariat has applied the standard terms of reference and assessed Mongolia's compliance with the EITI Standard. While the assessment has not yet been reviewed by the MSG or been quality assured, the Secretariat's preliminary assessment is that requirements 1.4, 3.4, 3.5, 3.6, 3.9, 3.10, 4.1a, 4.1c, 4.1e, 4.2a-c, 5 and 7.2 are unmet. Some of these are assessed as "unmet with limited progress". The major areas of concern relate to data quality assurance by both government and industry as well as state-owned enterprises, including quasi-fiscal expenditures, financial relations with government and in-kind revenue. Corrective actions for each sub-requirement are suggested below.

## Overall conclusions

Mongolia has been a pioneer in EITI implementation, both in terms of being one of the first countries to implement the EITI as well as in expanding the scope of reporting to the highest number of companies featuring in an EITI Report. It has also expanded reporting to include contributions to environmental funds and reporting by subnational governments, established subnational EITI councils and made strides to rendering EITI data more accessible through a new online eReporting platform.

Since the country became an EITI candidate in 2007, the government has supported the EITI through public statements and enabling legislation. Representatives from agencies such as the Mineral Resources Authority and General Department of Taxation have actively contributed to drive the work of the Mongolia's multi-stakeholder working group (MSWG), provide data for EITI Reports and supporting the entrenching EITI reporting in government systems.

Another key strength of EITI implementation in Mongolia has been the extension of EITI reporting to areas not required by the EITI Standard, but that have been considered meaningful in local circumstances. Even before enactment of the 2013 EITI Standard, the MSWG has included information on companies' social expenditures and contributions to environmental rehabilitation funds. It has continued since then, conducting work on beneficial ownership and contract disclosure.

The MSWG has gradually built trust amongst the three stakeholder groups, but it provides more of an oversight capacity than a driver of implementation. This role is fulfilled by the EITI Mongolia (EITIM) Secretariat, which coordinates the work of ad hoc working groups established by the MSWG. While these informal working groups perform key tasks like following up on EITI Report recommendations and updating reporting templates, the lack of formal mandates and record keeping places a high degree of responsibility on the EITIM Secretariat. The National Council provides high-level steering for the work of the MSWG, but its functioning has often been affected by frequent political change and poor attendance by high-level members. It would now seem timely to revisit the institutional structure of EITI implementation in Mongolia to improve formal MSWG operational oversight and relieve the EITIM Secretariat of some of its leadership responsibilities.

Mongolia presents a complex case for the EITI, given its frequently changing mining taxes, over 1500 companies of which over 400 are producing and the impact of a sharp economic slowdown since mid-2012. With diligent attention to record-keeping, the MSG has extended the scope of reporting to over 1100 companies in recent years, even if only a fifth are reconciled by the Independent Administrator.

This attention to the detail of reconciliation has not always been matched with consideration of the contextual information now required under the transition from the EITI Rules to the EITI Standard. The MSG appears not to have considered in depth the full scope of contextual information required under the EITI Standard, though such issues as SOEs, if properly addressed, would likely be of great interest not only to public, but to investors and policy makers too. The main gaps in EITI reporting highlighted in this report are related to the quality of data and disclosures around state-owned enterprises (SOEs). The MSG's engagement in drafting the EITI Report appears to have been limited, with little reference to the requirements of the EITI Standard. While some information surrounding loans to SOEs may be politically sensitive, there is no lack of other publicly available data such as production figures from MRAM.

Given Mongolia's high dependency on mining, there is a vibrant national debate about sector management, the level at which the state should participate in the sector and the future prospects of the mining sector in Mongolia. The EITI's contribution to this debate has mainly been through dissemination events and workshops, in particular at district (soum) and province (aimag) levels. The number of EITI reporting companies has steadily increased, but the MSG has sought to cater this often overwhelming amount of information to particular groups. Summary EITI Reports for 12 soums and four aimags were produced, and the EITIM Secretariat has also mapped companies' licenses on an interactive eReporting portal, allowing users to query company payments based on location. Many civil society organisations also participate actively in this debate. While early EITI Reports exposed significant discrepancies and led to prosecution of corrupt tax collectors, the level of discrepancies has steadily declined over time – from MNT 4 billion in 2006 to MNT 36 million in 2013.

During public outreach and consultation events, there is particular public interest in direct payments to local governments, license allocations and provisioning for environmental rehabilitation. Following a Government Resolution in 2012, all aimags and soums hosting extractive industries are required to establish MSGs. These subnational EITI councils, while only roughly defined and not yet established in every soum, have in many cases become venues for tripartite discussions on the use of the soum's revenues. The EITI has provided a tripartite platform for discussions and debates about mining sector management. This has enabled the public to raise concerns in particular around the identity of license-holders and how the mining revenues are spent.

Vibrant debates at the subnational level have not been replicated at the national level, in Ulaanbaatar. There appears to be few links between EITI discussions and policy-making, despite the membership of high-level decision-makers on the National Council. Equally, industry and civil society seem to have focused more on the reconciliation section, rather than the contextual information section, which could provide a sound basis for supporting reforms. While EITI implementation in Mongolia is a meaningful process in a country where extractive industry governance is a topic of high interest amongst the general public, it remains shy of its full potential in supporting an evidence-based debate over issues extractive industry governance.

Looking ahead, there is significant scope for entrenching EITI reporting in government and company systems. While the second phase of Mongolia's eReporting system is meant to automate information systems between EITI and key government departments (covering taxation and mining in particular), the

MSWG and stakeholders, especially from government, should focus on means of ensuring robust quality assurance procedures are followed in the normal production of government extractive industries data. There is likewise scope for industry to consider means of producing EITI information on a regular basis, as part of regular reporting, and to integrate certification of EITI disclosures in regular auditing cycles.

## Recommendations

While the following report includes recommendations for specific reforms the MSWG may wish to consider implementing, the following are a list of strategic recommendations that could help Mongolia make greater use of the EITI infrastructure as an instrument to support reforms.

- The composition and structure of the EITI governance institutions could be revisited, with consideration given to reducing the number of representatives on the working-level body, increasing the frequency of working-level meetings and methodically recording and reporting on all discussions (including those of ad hoc working groups).
- The three stakeholder groups should engage in a frank and robust discussion around what issues in the extractive sector the EITI can help address and how. This could lead to a revision of the objectives of EITI implementation and the activities that could help attain these objectives.
- The MSWG is encouraged to further entrench extractive sector transparency in government systems, and take steps to move towards more frequent production of EITI information on a routine basis. As part of the second phase of the eReporting project running until end-2016, the MSWG may consider undertaking a study to identify what information required to be disclosed under the EITI Standard is already publicly available and what information is not yet routinely disclosed. Opportunities for providing more EITI data in open data formats could also be explored.
- In preparing the next EITI Report, covering FY2015, the MSWG should find a workable solution to the provision of quality assurance certification for EITI disclosures from both government and companies. The MSWG should work with the General Auditor of Mongolia, the Independent Administrator and industry MSWG members in particular to establish a robust quality assurance framework. The MSWG should consider procuring its next Independent Administrator earlier in the year to allow for sufficient data collection time.
- The MSWG should consider whether to take a more active role in developing recommendations from EITI Reports, and agree relevant follow-up and implementation.
- Outreach and stakeholder consultation mechanisms should be formalised to improve the relevance of MSWG discussions to national debates and key demands of stakeholders beyond the membership of the National Council and MSWG.
- Given the prevalence of social media users in Mongolia, the MSWG could consider alternative means of engaging a larger section of the population in its debates. More outreach online through social networking tools could facilitate greater public participation in EITI-related debates and swifter dissemination of EITI information.

## Introduction

### Brief recap of the sign-up phase

In October 2005, a joint session of standing committees of the State Great Hural (the Mongolian Parliament) on the budget and economy supported Mongolia in signing up to the Extractive Industries Transparency Initiative (EITI), and instructed the Government of Mongolia (GoM) to join the initiative. The GoM approved Mongolia signing up to the EITI at a Cabinet meeting on 4 January 2006 and issued a resolution in which the GoM officially committed to implement the EITI and set out the basic institutional framework to do so. Resolution No.1 (2006) stipulates that a National Council for EITI should be established as the oversight body for the EITI and indicates its composition. The former Prime Minister, Sanjaagiin Bayar, also mentioned the EITI in various speeches and interviews, and Resolution No.1 has been published in various newspapers.

Resolution No. 1 from the Prime Minister's office indicated that civil society should be represented on the EITIM National Council. The Terms of Reference of the National Council states that there should be "equal representation of Government, extractive industries and civil society". Furthermore, the Memorandum of Understanding (MoU) between the GoM, companies and civil society firmly establishes the government's commitment to cooperation, listing nine shared obligations and four obligations specific to each stakeholder group (government, civil society and companies).

The Terms of Reference of the National Council states (article 4) that the Chairman of the National Council shall be the Prime Minister of Mongolia. The Senior Advisor of the Prime Minister, Mr. B. Erdenesuren, was appointed as the Secretary of the National Council. Article 10 of the MoU also establishes an independent secretariat to support EITI implementation and the MSWG. The Secretariat was established in 2007. A costed work plan with measurable targets and a timetable for implementation was submitted and approved at the National Council meeting on 30 January 2008. The work plan was placed on the websites of six organisations, including ministries, agencies and NGOs.

### Objectives for implementation and overall progress in implementing the workplan

The objectives of the 2015 workplan<sup>1</sup> are identical to the 7 EITI Requirements, as was the case also in the 2014 workplan.<sup>2</sup> This would seem the workplan objectives do not reflect national priorities for the extractive industries. It includes activities aimed at addressing specific capacity constraints identified in the EITI Reports and other assessments, such as the Monitoring Report on the Implementation of EITI Recommendations. This includes creating databases for the legal environment, state ownership in the extractive industries, revenue expenditure, disbursement and subnational transfers and infrastructure developments.<sup>3</sup> In addition to building capacity to address recommendations in previous EITI Reports, section four of the 2015 workplan focuses on capacity building and training activities at the national level and section five on capacity building and training activities in local areas.<sup>4</sup> The 2015 workplan also contains activities related to the scope of EITI reporting, including conducting a scoping study for the 2014 EITI Report and all the activities related to sourcing the contextual information required under the EITI Standard. Section nine of the 2015 workplan focuses on enacting the draft Law on Transparency in the Mineral Resources Sector, which aims to overcome regulatory obstacles to full EITI reporting.

<sup>1</sup> EITI Mongolia 2015 workplan, <http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015en.pdf>

<sup>2</sup> EITI Mongolia 2014 workplan, [http://www.eitimongolia.mn/sites/default/files/uploads/en/EITIM\\_POA\\_2014en.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/EITIM_POA_2014en.pdf)

<sup>3</sup> EITI Mongolia 2015 workplan (p.1), <http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015en.pdf>

<sup>4</sup> EITI Mongolia 2015 workplan (pp.2-3), <http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015en.pdf>

The 2013, 2014 and 2015 workplans include clear timeframes for completion of each activity. In 2013, the Secretariat reports that 33 of the 42 activities planned (80% of the total) were completed, with the main activities not completed being the passage of the draft “EITI Law” and the development of television serials.<sup>5</sup> In 2014, the Secretariat reports that 42 of the 65 planned activities (65% of the total) were completed, with the main shortfalls being enactment of the draft “EITI Law”, the organisation of regional conferences and the broadcasting of television programmes.<sup>6</sup> As of 6 November 2015, 35 of the 50 activities planned in the 2015 workplan were completed. The activities not yet completed included Validation under the EITI Standard, activities planned to follow the enactment of the draft “EITI Law” was enacted, an EITI Open Day in the eastern region and training for subnational councils, although this is scheduled to take place by March 2016. The planned training for CSOs at the subnational level is not expected to be completed in 2015 because of lack of time and challenges of organising this activity during the winter, although this will likely be postponed to March 2016.<sup>7</sup>

### History of EITI Reporting

Mongolia produced eight EITI reports from 2006 to 2013 and is finalising its 9<sup>th</sup> report now, covering fiscal year 2014. While the 2006 EITI Report covered data from 35 mining companies only, 1198 oil, gas, coal and mining companies reported in FY2013. Between 2008 and 2011, Mongolia produced EITI Reports with a two-year lag (e.g. 2009 EITI Report in 2011). However in 2012 the MSG produced two EITI Reports, covering 2010 and 2011, and has since produced EITI Reports with a one-year time lag (the 2013 EITI Report was published in December 2014). The costs and names of Independent Administrators are listed in Annex E.

The original four EITI reporting templates were endorsed by joint order of the Chairman of the National Statistical Committee and the Minister of Finance in April 2007, reviewed in March 2008 and subsequently updated and expanded to seven templates in January 2011 and again in January 2014. These amendments improved the reporting, covering all material payments and revenues from the extractive industries in Mongolia.

### Summary of engagement by government, civil society and industry

The current MSWG and National Council operate under Terms of Reference that were initially approved in May 2006, and which have subsequently been updated (last version is dated 28 November 2012<sup>8</sup>). Members of the MSWG meet two to three times annually and those of the National Council meet once a year. Minutes of these meetings are published on the EITI Mongolia (EITIM) website. The MSWG has constituted several ad hoc working groups, although these do not have Terms of Reference and minutes of their meetings are not recorded. A list of MSWG and National Council members is included in Annex A.<sup>9</sup>

The early stages of the EITI in Mongolia were characterised by momentum and inclusiveness. More recently, particularly since 2012, attendance by designated MSWG and National Council members has been less consistent. In particular, civil society and government have tended to designate alternates to

<sup>5</sup> This was reported in the EITI Mongolia 2013-2014 annual activity report, July 2014, (p.15)  
[https://eiti.org/files/document/Mongolia\\_EITI\\_Activities\\_report\\_2013\\_half\\_2014\\_half\\_last.pdf](https://eiti.org/files/document/Mongolia_EITI_Activities_report_2013_half_2014_half_last.pdf)

<sup>6</sup> EITI Mongolia 2014 annual activity report, January 2015 (p.13)  
<http://www.eitimongolia.mn/sites/default/files/uploads/EITIMWorkReport2014en.pdf>

<sup>7</sup> According to EITI Mongolia Secretariat estimates.

<sup>8</sup> The ToR for the National Council are available on the EITI Mongolia website  
([http://eitimongolia.mn/sites/default/files/uploads/en/EITI\\_National\\_Council\\_TOR\\_in\\_English.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/EITI_National_Council_TOR_in_English.pdf))

<sup>9</sup> They are also available on the EITIM website (<http://www.eitimongolia.mn/en/national-council> and <http://www.eitimongolia.mn/en/working-group>).



attend meetings, with little consistency in the ad hoc nomination of alternates. Frequent political change has also impacted the holding of National Council meetings: successive Prime Ministers and Ministers of Finance have not attended a National Council meeting since 2011. The National Council did not meet in 2014 (although it made up for this by meeting twice in 2015) because the Chair of the MSWG was left vacant for several months. Nonetheless the main government agencies, (mostly large) companies and civil society groups working on extractive issues are involved somehow in the work of EITIM.

### Key features of the extractive industry

Mongolia sits atop some of the world's largest untapped mineral resources, including the world's second largest copper reserves and fourth-largest coal deposits, Mongolia also holds ample reserves of gold, iron ore, zinc, uranium, fluorspar and oil. The size of Alaska, Mongolia boasts over 6000 deposits of roughly 80 minerals according to the World Bank, although the country remains vastly under-explored with only 400 deposits defined, of which 160 are in production. The mining sector is a major contributor to the national economy: in 2013 it represented 18.5% of GDP, 17.5% of budget revenue, 58.7% of industrial output and 90% of export earnings in 2013.<sup>10</sup> Minerals and crude oil accounted for 88% of exports in 2013. Major exports include copper, gold, molybdenum, coal, iron ore and fluorspar concentrates.

Burgeoning coking-coal exports to China from 2009 exposed Mongolia to volatile commodity prices at the super-cycle's peak. Copper had long been Mongolia's main export, with the Russo-Mongolian Erdenet copper-mine opened in 1974 accounting for roughly 40% of GDP until 2006. While output of thermal coal from part-state-owned mines at Baganuur and Shivee Ovoo supply four major power plants, and over 100,000 informal 'ninja' miners supply low-income ger-dwellers, from the mid-2000s Mongolian miners like Mongolyn Alt (MAK) and MCS started exporting unprocessed coking coal to China, and iron ore followed in 2009. Copper exports slipped to second place as output, mainly from the ageing Erdenet mine, declined slightly to 517,000 tons in 2012 while gold production declined halved to 5703kg between 2009 and 2011, constrained by laws banning alluvial and declining output at the sole maturing Bordoo mine.

Coal production tripled from 2008 to 2011, with most exported to China. This, combined with the USD 6.2 billion development of the Rio Tinto-backed Oyu Tolgoi copper and gold mine from 2009, drove world-leading economic growth to 17.3% in 2011 and 12.3% in 2012. New laws deemed to be anti-foreign direct investment (FDI) in May 2012 coincided with crashing commodity prices and slowing Chinese demand, leading falling FDI and slowing growth. Mongolia has sent mixed messages over coal mining policy in its treatment of the massive Tavan Tolgoi deposit, one of the world's last untapped coal reserves with 7.42bn tons of coal and 1.4bn tons of coking coal according to state-owned Erdenes Tavan Tolgoi (ETT). At the height of coking-coal exports to China in 2011-2012 the government made key policy reversals that rattled investor sentiment. In late 2011 it cancelled the recent concession to develop the West Tsankhi part of TT, awarded to a consortium of the US's Peabody, Shenhua and Russian Railways, given Japanese and Korean criticisms at being excluded. This has left the state-owned ETT as the sole operator on most of East and West Tsankhi using contract-miners. Far less infrastructure-constrained exports of copper are growing roughly 30% annually, as OT overtakes Erdenet's traditional dominance. Exploration activity is the most active on copper licenses. Despite depressed prices, exports of metallurgical minerals like iron ore to China have surged.

The government sustained growth through government spending but with only 4% projected growth and

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<sup>10</sup> Mongolia 2013 EITI Report.

tight budget constraints in 2015, Mongolia's economy faces strong headwinds. In January 2014, the State Policy on Mining was agreed, as were certain amendments to the Minerals Law and to the Petroleum Law in June-July 2014. These regulations focus on, for example, awarding licences and environmental aspects of mining. In the January 2014 amendment to the 2006 Minerals Law Parliament replaced the 5% royalty on gold and the sliding scale of 0%-5% surtax depending on prices with a flat 2.5%-royalty on gold sold to Bank of Mongolia (BOM), in a bid to bolster reserves. The Mongolian government is in the process of revising and elaborating a number of laws related to extractives, such as implementing regulations for the revised mining and petroleum laws.

#### **Explanation of the validation process (objectives, timeline, ToR, etc.)**

Validation is an essential element of the EITI process and is central to the initiative's status as an international standard. Its objective is to provide an impartial assessment of the progress achieved in implementing the EITI and what measures are required to make better and faster progress. The Validation report will, in addition, address the impact of the EITI in the country being validated, implementation of activities encouraged by the EITI Standard, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI. For Candidate Countries, Validation should measure progress in EITI implementation. For countries that have fully implemented EITI (Compliant Countries), Validation will serve to provide an assessment of their on-going fulfilment of all the EITI Criteria.

On 22 October 2015 the EITI Board agreed that:

1. The five validations scheduled for 2015 (Solomon Islands, Ghana, Mongolia, Sao Tome and Timor Leste) would be undertaken immediately as pilots. The outcomes of the pilots would have no consequences for these countries' status, but would rather serve to inform on-going discussions regarding the validation methodology. Data collection and stakeholder consultations would be undertaken by the Secretariat applying the current Terms of Reference for validators, with the findings to be reviewed by to an external third party (validator) reporting to the Board via Validation Committee.
2. Eleven validations will commence on 1 January 2016 (for the five countries above + Kyrgyzstan, Liberia, Niger, Nigeria, Norway, Tajikistan).

Desktop review of documents was conducted from 27 October to 17 November 2015. An in-country visit was undertaken on 3-11 November 2015, coinciding with the EITI Mongolia National Forum on 3-4 November, the Publish What You Pay annual Eurasia regional meeting on 4-6 November and the Mongolia-Germany G7 Fast Track Partnership Conference on 10-11 November. A "normal" validation or secretariat review typically runs over 15 weeks. Had we had more time at our disposal, we would have been able to consult more stakeholders and provided deeper analysis of key issues. Challenges in translating the minutes of meetings from 2013 to 2015 caused some delay in reviewing certain documents, although these were overcome with the use of a translator during the country visit.

## Part I – MSG Oversight

### 1. Overview

This section relates to government oversight of the EITI process, stakeholder engagement and the environment for implementation of EITI in country, the governance and functioning of the multi-stakeholder group (MSG), and the EITI work plan.

### 2. Assessment

#### 2.1 Government oversight of the EITI process

##### Documentation of progress

Mongolia was one of the first 15 countries to be accepted as EITI Candidates by the third EITI Board meeting in Oslo on 27 September 2007. The government of Mongolia has been supportive of EITI since it announced its intention to implement the EITI in Resolution 1 on 3 January 2006. The government has publicly reiterated its commitment to implement the EITI on several occasions, most recently at the EITI National Forum on 3 November 2015 when Minister of Mining stated “Mongolia is committed to the EITI as it is important to ensuring the sustainability of the sector and attracting investment.”<sup>11</sup> The Prime Minister of Mongolia, HE Chinediin Saikhanbileg, wrote in the National Forum brochure: “Mongolia has recognised the EITI’s value and benefits, and government has drafted a law, with full legal mandates, which was submitted to the State Great Khural.”<sup>12</sup>

The Memorandum of Tripartite cooperation for EITI in Mongolia, signed on 25 April 2006, provides guidelines for all stakeholders to cooperate for the implementation of EITI in Mongolia.<sup>13</sup> In 2006 the Prime Minister of Mongolia, Miyeegombyn Enkhbold at the time, was appointed Chair of the EITI National Council and overall lead of EITI implementation. His two deputy chairs on the National Council are the Minister of Finance and the Minister of Mining, while the senior advisor to the Prime Minister, D. Batbayar at the time, was named secretary of the National Council and chair of the Multi-Stakeholder Working Group (MSWG).

Senior government officials are represented on the National Council, a high-level steering group in charge of overall governance of the EITI process, and on the MSWG, a consultative body in charge of implementation of the EITI Standard and the highest coordinating body with decision-making powers. Government members of the National Council include the Prime Minister, the Minister of Mining, the Minister for Finance, the Minister for Tourism, Environment and Green Development, the Chairman of Standing Committee on State Budget of Parliament, the General Auditor of Mongolia, the Chairman of National Statistical Committee, the Chairman of Independent Authority Against Corruption and the Governor of Tuv aimag.<sup>14</sup> Government members of the MSWG include the Senior advisor to the Prime Minister of Mongolia, the Chief of General Department of Taxation, the Chairman of General Agency for Specialized Inspection, the Chairman of Mineral Resources Authority, the Chairman of Petroleum Authority of Mongolia, the Senior Officer of Cabinet Secretariat of Government of Mongolia, the Head of

<sup>11</sup> The minutes of the EITIM National Forum, 3 November 2015, will be published on the EITI Mongolia website, likely by December 2015.

<sup>12</sup> See brochure for EITIM National Forum, 3 November 2015.

<sup>13</sup> The MoU is available on the EITI Mongolia website ([http://eitimongolia.mn/sites/default/files/uploads/en/MoU\\_Mongolia\\_EITI.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/MoU_Mongolia_EITI.pdf)).

<sup>14</sup> See full list of National Council members and contact details in Annex A.

Enlightenment and Prevention Department of the Independent Authority Against Corruption, the Head of Accounting Policy Department at the Ministry of Finance, the Head of Strategic Policy and Planning Department of the Ministry of Mining, the Head of Natural Resources Department of the Ministry of Tourism, Environment and Green Development and the Deputy Governor of Selenge aimag.<sup>15</sup>

### Stakeholder views

Several government representatives noted that the government's implementation of the EITI was "brave" given CSO demands for disclosure of information that was considered sensitive for national security purposes, even though this information was required under the EITI Standard. Although the government has made several public statements of support for the EITI, a few industry representatives questioned the level of government commitment to the EITI given officials referred to the EITI as a "project". Several donors noted that the EITI was never mentioned in their interactions with government representatives, including in the Ministry of Mining. The perception was that Mongolian authorities viewed the process as a box-ticking exercise, although CSOs took the process seriously.

### Assessment

We consider this requirement to be met.

## 2.2 Stakeholder engagement and the environment for their participation in the EITI process

### Documentation of progress

Government engagement: The government has come a long way in embedding the transparency advocated by the EITI in government systems. Government resolution 80, 28 March 2007 clarifies the functions of government entities in the implementation of the EITI. This resolution was updated in accordance with EITI Rules, 2011 edition and replaced by Government Resolution 222 on 4 July 2012, which clearly specified government bodies' functions and tasks. Key legal reforms include the Law on Transparency of Information and Freedom to Obtain Information, enacted on 16 June 2011<sup>16</sup>, the Law on Glass Accounts, on 1 July 2014<sup>17</sup>, and the Law on Supporting Economic Transparency, on 7 August 2015.<sup>18</sup>

Certain government agencies disclose information required under the EITI Standard on a routine basis. For instance the Ministry of Finance Budget Department maintains a standalone website<sup>19</sup> that produces information on aggregate corporate income tax and royalty revenues quarterly. The Ministry of Finance also maintains an e-report website<sup>20</sup> as well as a transparency section on its website<sup>21</sup>. Since Q2 2013, MRAM produces monthly reports on aggregate production per commodity, exports and revenues and since the start of 2014 they moved to reporting on a weekly basis. This information is not available on the website but is presented at regular press briefings, according to the Ministry of Mining. However the General Department of Taxation noted that the majority of EITI disclosures had never been published

<sup>15</sup> See full list of MSWG members and contact details in Annex A.

<sup>16</sup> <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan047231.pdf>

<sup>17</sup> [http://www.iaac.mn/pdf/law\\_en/8\\_on\\_glass\\_accounts.pdf](http://www.iaac.mn/pdf/law_en/8_on_glass_accounts.pdf)

<sup>18</sup> Summary of the law available on

<http://www.ashidadvocates.mn/files/publications/transparency%20law%20implementation%20rules.pdf> and [http://www.ey.com/Publication/vwLUAssets/EY-mongolia-tax-amnesty-law-alert-2015003/\\$FILE/EY-mongolia-tax-amnesty-law-alert-2015003.pdf](http://www.ey.com/Publication/vwLUAssets/EY-mongolia-tax-amnesty-law-alert-2015003/$FILE/EY-mongolia-tax-amnesty-law-alert-2015003.pdf)

<sup>19</sup> <http://www.iltod.gov.mn/>, available only in Mongolian.

<sup>20</sup> <http://119.40.100.204/EReport/>, only in Mongolian.

<sup>21</sup> <https://www.mof.gov.mn/%D1%88%D0%B8%D0%BB%D1%8D%D0%BD-%D0%B4%D0%B0%D0%BD%D1%81%D1%88%D0%B8%D0%BD%D1%8D/?lang=en>

prior to the EITI.

Funding for implementation in Mongolia came entirely by grant from the World Bank Multi-Donor Trust Fund (MDTF) from 2007 to 2010, covering fiscal years 2006-2009. From 2010 onwards, the Mongolian government allocated a relatively constant amount to funding the EITI Report: MNT201.1 million in 2012, MNT 183 million in 2013, MNT 220.1 million in 2014 and MNT 260 million. In practice only MNT 169 million, the allocation to the Independent Administrator, was disbursed in 2015 however, due to revenue constraints as indicated in the revised 2015 budget in November 2015. MDTF funds are used to cover non-reconciliation operating expenses, with the current grant of USD 280,000, disbursed in February 2015, required to be disbursed or returned by December 2015<sup>22</sup>. As of 6 November 2015, USD 153,000 had been disbursed.<sup>23</sup> A bridge grant of USD 46,450 was disbursed in August 2014 by the EITI International Secretariat on behalf of the Australian government. This was necessary because the MDTF grant of USD 250,000 was used by February 2014, while the next MDTF grant was only disbursed in February 2015.

The Independent Administrator found that the majority of the companies and government entities provided data for reconciliation, but several central and local government entities either did not respond to requests for information in the reconciliation phase, or refused to provide input to the 2013 EITI Report (such as The Mongolian Customs Authorities (slow to respond to requests for information for reconciliation); The taxation department of Sukhbaatar district;

- The taxation department of Bayangol district;
- The department of social insurance of Chingeltei district;
- The department of social insurance of Sukhbaatar district;
- The department of property and land relations of Songinohairhan district).

In terms of participation in outreach and dissemination activities, the Ministry of Mining and MRAM in particular are the main government entities engaged in outreach and dissemination activities and regularly participate in EITI Open Days at both central and provincial levels.

*Company engagement:* A number of legal provisions have been passed to underpin EITI reporting, requiring companies to report to government the taxes and fees they pay to central and local governments as well as their production by the end of the first quarter following the end of the fiscal year. These include:

- Article 48.10 of the 2006 Mineral Law<sup>24</sup> requires a license holder on extractive industries to publicize the amount of sales of products and taxes and fees paid to state and local governments on an annual basis before the end of the first quarter of the following year.
- Article 48.9 of the 2006 Mineral Law<sup>25</sup> requires license holders to submit a report on royalties to the tax office on the 20th of the calendar month following the end of the quarter.
- Article 28.6.4 of the 2009 Nuclear Energy Law<sup>26</sup> requires uranium license holders to publically

<sup>22</sup> 2014 annual activity report

<sup>23</sup> According to the EITI Mongolia Secretariat.

<sup>24</sup> [http://www.charltonsmine.com/images/stories/Overseas\\_Law/Mongolia/minerallawsofmongolia.pdf](http://www.charltonsmine.com/images/stories/Overseas_Law/Mongolia/minerallawsofmongolia.pdf)

<sup>25</sup> [http://www.charltonsmine.com/images/stories/Overseas\\_Law/Mongolia/minerallawsofmongolia.pdf](http://www.charltonsmine.com/images/stories/Overseas_Law/Mongolia/minerallawsofmongolia.pdf)

<sup>26</sup> <http://legal-policy.mn/uploads/files/1437032892-85658440.pdf>

disclose product sales, taxes and payments paid to the State and local budgets annually.

- Article 36.1 of the 2014 Petroleum Law<sup>27</sup> requires contractors to submit information on the amount of investment, incurred costs, paid royalties, the amount of extracted and sold petroleum, taxes paid into the State and local budgets, and the fees, bonuses, and service fees to the respective state agencies and the Petroleum Authority by the first quarter of the succeeding year. Contractors are also required to notify the public of this information through mass media.
- Article 66.1.2 of the amended Mining Law (passed in July 2014) provides for sanctions for companies that do not report according to Articles 48.1-48.10 of the Mining Law. The fines are 20 times the annual minimum wage for individuals and between 30 and 50 times for companies.
- The State Policy for the Mineral Resources sector 2014-2025<sup>28</sup>, passed in January 2014, encourages transparent and responsible mining.
- The Investment Law<sup>29</sup>, enacted on 3 October 2013, requires companies to make public their registrations with Mongolian Investment Agency.

The government has also initiated the drafting of a Transparency Law to give the EITI legal backing and to ensure transparency provisions related to other processes in the management of the extractive sector such as licensing, contracts, procurement etc. A draft law was approved by the Ministry of Justice in May 2014 and submitted to Parliament in October 2014, but the Citizens' Representative Khural has not passed the bill as of November 2015. (*see below, section on impact*)

The majority of companies holding mining, oil and gas licenses in Mongolia participate in EITI reporting, which is evidence of their engagement. Although only 250 companies were included in the scope of reconciliation in the 2013 EITI Report, 1151 of the 1617 companies that held licenses in 2013 reported their material payments to government. All but one of the companies included in the scope of reconciliation for 2013 submitted their reporting templates.

Article 66.1.2 of the amended Mining Law (2014) provides for sanctions for companies that do not report according to Articles 48.1-48.10 of the Mining Law. However the legal principle that a company could only be fined once for lack of compliance with any of the Articles 48.1-48.10 meant that companies often evaded being fined for non-reporting under EITI since they could claim they had already been fined for another reason. However some companies had been fined for failure to report in the EITI process. For the 2013 EITI Report, the EITIM Secretariat also published the names of reporting and non-reporting companies in daily newspapers.

***Civil society engagement:*** There is a vibrant and active network of NGOs working on mining issues in Mongolia, including the Open Society Forum, Steps Without Border NGO, the Natural Resource Governance Institute, Khongor nutgiin duudlaga movement, the Initiative for Responsible Mining NGO, the Sacred Stupa Movement, the Mongolian Environmental Civil Council, and the Transparency Foundation. NRGi also provides support with an Ulaanbaatar office focusing in 2015 on providing training and developing an open contracts portal.

***Expression:*** There is no evidence of self-censorship or self-imposed restrictions related to freedom of expression on EITI issues. Mongolia is ranked as one of the highest in terms of freedom of expression in

<sup>27</sup> <http://english.pam.gov.mn/content/11370.shtml>

<sup>28</sup> <http://en.mongolianminingjournal.com/content/54797.shtml>

<sup>29</sup> <http://www.mram.gov.mn/pdac/law/en/2.pdf>

the region. It has consistently been ranked “free” by Freedom House’s Freedom in the World rankings: it was ranked 1.5 for overall freedom, 2 for civil liberties and 1 for political rights in 2015 (with 1 being the best and 7 the worst rankings), as it was in the two previous years<sup>30</sup>. While the United States’ State Department notes human rights problems in its 2014 Human Rights Report on Mongolia<sup>31</sup>, including corruption, external influence over the judiciary and domestic violence, it appears from our discussions that these have not interfered in CSOs’ ability to openly discuss extractive industry governance issues in practice. In our discussions with the PWYP coalition, a number of instances of public criticisms related to EITI were noted. For instance during the spring of 2015, the PWYP made a public announcement criticising the government’s attempt to conclude an agreement over Tavan Tolgoi with Chinese and Japanese investors (Shenhua and Sumitomo) just before public holidays<sup>32</sup>, arguing that under the EITI the government was required to conclude such negotiations in a transparent manner (although this is not a requirement of the EITI Standard). Partly as a result of this campaign, the government did not proceed with the agreement. In general it was noted that criticisms of the EITI process itself were made at MSWG and National Council meetings however, noting that the minutes of such meetings were made public in any case.

*Operation:* There are no suggestions of legal, regulatory, administrative and actual barriers to civil society operation preventing participation in EITI, nor any restrictions of fundamental rights. The Freedom House ranking notes that freedoms of assembly and association are observed in law and in practice and that groups operate without government interference. Our discussions with the PWYP coalition noted that there were no threats to fundamental human rights and that Mongolia had a robust tradition of democratic liberties. While defamation is a criminal offence in Mongolia, even in cases where statements are true, we were not provided any concrete examples of (successful or unsuccessful) defamation charges against NGOs for their participation in the EITI. It was noted that media tended to be highly critical of CSOs and that CSOs often suffered “defamation”, but it was admitted that such public debate did not hinder CSOs’ freedom of expression. The CSO Protocol has not yet been translated into Mongolian (neither is the Validation guide or the constituency guidelines), although following a request from CSOs in November 2015 the EITIM Secretariat is planning to expedite the rest of the translations.

*Association:* Civil society groups engaged in the EITI process are freely collaborating with each other as well as with other local NGOs not directly represented on the MSWG or National Council as well as with international groups. Launched in 2006 and counting 29 members as of November 2015, the PWYP Coalition in Mongolia moved from a blog<sup>33</sup> to a website<sup>34</sup> (in Mongolian only) in 2013 and communicates to its members mainly via email. Its board is constituted of seven members, of which one third rotate every year. The coalition normally holds four meetings a year and had held three in 2015 as of November. Launched in 2008 and counting roughly 700 members, the Mongolian Environmental Civil Council (MECC)<sup>35</sup> moved from being an NGO network to a fee-based membership structure in 2015. While the MECC maintains a website<sup>36</sup> its main communications channel with members is via email. Relations between PWYP and MECC are close and there are several instances of dual-membership. PWYP provides

<sup>30</sup> <https://freedomhouse.org/report/freedom-world/2015/mongolia>

<sup>31</sup> <http://www.state.gov/j/drl/rls/hrrpt/2014/eap/236460.htm>

<sup>32</sup> CSOs complained that Parliament typically attempts to pass legislation right before public holidays to minimize public scrutiny of the bills.

<sup>33</sup> <https://sites.google.com/a/eiti.mn/tan-evsel/info-in-english-1/info-in-english>

<sup>34</sup> <http://pwyp.mn/>

<sup>35</sup> The MECC website is <http://www.mecc.mn/> but has not been operational since October 2015, due to DNS lookup failure.

<sup>36</sup> <http://www.mecc.mn/>

capacity building to MECC members at the subnational level. PWYP has conducted outreach to NGOs not part of either (PWYP or MECC) coalition to encourage such NGOs to seek membership of the National Council or MSWG, although this has not led to nominations of NGOs outside the two organisations.

*Engagement:* Civil society is involved in the design, implementation, monitoring and evaluation of the EITI through participation in MSWG meeting, CSO forums, dissemination events etc. The minutes from MSWG and National Council meetings<sup>37</sup> point to active engagement over the years and it is clear that there is capacity amongst wider civil society to engage in questions related to the extractive sector.

The PWYP coalition highlighted its outreach efforts for NGOs that are not members of either PWYP or MECC coalitions. It was noted that in recent years the PWYP coalition had invited other NGOs (like womens' NGOs, democracy NGOs and others) to take seats on the MSWG and National Council, which was seen as necessary given the breadth of disclosures under the EITI Standard. However it was stated that these NGOs were not interested and that this was the reason why PWYP continued to hold eight seats on the National Councils and nine on the MSWG.

*Access to public decision-making:* Despite the fact that some civil society complained that not all of their recommendations were fully accepted by legislators, they have the ability to ensure that the EITI process contributes to public debate and to influence public decision-making. The PWYP coalition noted that they did have access to influence decision-making and that their focus was particularly on the key areas of license allocation and the negotiations of production contracts. Specific examples were cited, such as PWYP's successful halting of the Tavan Tolgoi deal in early 2015 (see above, 'expression' section). CSOs also mentioned their role in lobbying for the inclusion of Article 48.10 in the 2006 Minerals Law as an example of successful input to decision-making. They also actively participated in developing the model ToR for the subnational councils (see below, section on subnational councils). More recently, CSOs claim to have played a key role in halting parliament's approval of the agreement over Centerra Gold's plans to develop a new gold mine in extension to the Gatsuurt project. Parliament enacted a Law on Public Hearings in July 2015 requiring public consultations in concluding new projects. The MECC also operates a shadow "green" parliament that provides public input to parliamentary discussions.

### Stakeholder views

Most government representatives consulted conceived of their participation in the EITI process in terms of submitting reporting templates, rather than shaping the EITI process. Government members of the MSWG noted they did not participate in outreach and dissemination events or conference, although they had attended the National Forum on 3-4 November 2015. While the Ministry of Finance played a central role in collating (mostly paper based) EITI reporting from the 35 government entities participating in the EITI, the launch of the eReporting system in 2015 meant all reporting entities entered their information on the system directly. A few government representatives recommended that each government department should nominate an officer tasked with EITI Reporting and that single company identification numbers should be rolled out across all government agencies to facilitate reporting. One industry representative noted representatives from Customs had never attended a meeting of either MSWG or National Council.

Several industry representatives noted they did not have the power to force companies to report but

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<sup>37</sup> See for instance the discussion of the communications strategy and workplan on 11 March 2014 and debates over the 2013 EITI Report on 10 October 2014.



were endeavouring to work with other companies not member of the NMNA to ensure as high participation as possible. Several industry members noted that enforcement of Article 48 of the 2006 Minerals Law requiring companies to publicly disclose payments to government was not effective. A number of industry representatives recommended that the MNMA consider establishing a working group on EITI to ensure greater consultation with companies not on the MSWG or National Council. A concern from Ulaanbaatar-based civil society was over the perceived lack of company engagement in the EITI process beyond providing data for EITI reporting. All CSOs consulted argued that EITI reporting should be made compulsory and automatic, as a regular element of government reporting.

Although several industry representatives noted that the MECC had conducted paid work for government ministries in the past (around 5 years ago), PWYP representatives noted this had not interfered in CSOs's independence from other stakeholders on the MSWG. Many CSOs argued that the proposed NGO Transparency Law now under discussion in Parliament (the Great Khural) represented a double standard compared to the tax amnesty provided to un-compliant companies under the Economic Transparency Law enacted in August 2015. The proposed NGO law would dissolve any NGO that did not provide financial statements to the General Department of Taxation (GDT) annually to justify their tax-exempt status. This was criticised as a double standard compared to the Economic Transparency Law, which provided amnesty to companies that came forward to the GDT for failure of paying taxes. However it could be argued that such companies would only receive retroactive amnesty from prosecution and would be required to pay taxes in future, while it would seem normal that NGOs be required to justify their tax-exempt status, as several donors noted in our consultations. Another provision of the draft NGO law requires CSOs to gather signatures from all founding members to avoid dissolution, which would pose challenges for older NGOs whose founding members may not all still be reachable. We heard estimates that some 50% of the estimated 11,000 NGOs in Mongolia risked dissolution if the draft law is passed. Nonetheless most donors noted that the space for CSO expression was good, but that a number of CSOs and most media organisations were linked to politicians and businessmen. The one caveat was that defamation was considered a criminal offence in Mongolia, even in cases of true statements, and that this could have an impact in self-censorship. It was noted that there were many defamation cases, but no specific case was mentioned of a defamation case (successful or not) brought against a CSO for statements related to the EITI.

### Assessment

We consider this requirement to be met. The government, companies and civil society are fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process. Stakeholders are taking part in outreach and efforts to promote public debate especially on regional level. Government has provided funding to implementation. There is an enabling environment for civil society participation in the EITI and there do not appear to be any legal obstacles preventing company participation in the EITI. The two CSO coalitions actively engaged in EITI implementation may wish to consider means of strengthening their outreach on EITI issues to enhance the inclusiveness of the EITI process. The PWYP Coalition's new website<sup>38</sup> (in Mongolian only) was last updated in March 2015 and does not contain the 2015 PWYP workplan (although the 2013 and 2014 workplans are included). Although we understand the MECC has conducted paid work on behalf of the government (Ministries of Mining and of Environment) in the past, this does not appear to have interfered with CSOs' independence

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<sup>38</sup> <http://pwyp.mn/>

from other stakeholders on the MSWG.

### 2.3 MSG governance and functioning

#### Documentation of progress

*MSWG composition and membership:* Mongolia's EITI implementation is governed by two bodies, the National Council and the MSWG. Most of the day- to day work is done by the Secretariat and approved by the MSWG, while the National Council plays more of a political support and general oversight role. Analysis of meeting minutes for both bodies and consultations with stakeholders show that the MSWG is in charge of reaching decisions, which are then approved by the National Council. Our assessment of MSG governance is thus focused on the MSWG.

The EITIM National Council was established on 4 January 2006 and comprises 30 members as of March 2015, listed in Annex A. It includes ten government members including Prime Minister HE Chinediin Saikhanbileg, who is also its Chair, and representatives from the Ministries of Mining, Finance, Tourism, Environment and Green Development, the Standing Committee on State Budget of Parliament, the General Auditor of Mongolia, the National Statistical Committee, the Independent Authority Against Corruption and the Governor of Tuv aimag.

The EITIM MSWG was established on 31 March 2006 and comprises 33 members as of March 2015, listed in Annex A.<sup>39</sup> It includes 11 government members including Senior Adviser to the Prime Minister Mrs.B.Delgermaa, who is its chair and Secretary to the National Council, and working-level representatives from all government departments sitting on the National Council. Article 25 of the National Council's ToR, originally published on 12 May 2006, establishes the National Council under the authority of the Cabinet and Cabinet Secretary of the Ministry of Mining.<sup>40</sup>

The composition of the MSWG is set out in the Terms of Reference (ToR) for the EITIM MSWG, approved by the National Council on 12 May 2006, amended most recently on 9 November 2012.<sup>41</sup> Government Resolution 80 enacted on 28 March 2007 establishes the functions and responsibilities of government representatives involved in EITI.<sup>42</sup> The Tripartite Memorandum of Understanding on effective implementation of Extractive Industries Transparency Initiative and partnership between the Government of Mongolia, companies and NGO coalition issued in April 2007 also sets out the participating parties involved in the EITI.<sup>43</sup> While the members of both bodies were initially nominated by order of the Prime Minister until 2012, Government Resolution 222 allowed the Prime Minister to nominate the government representatives but transferred authority for nominations to the MNMA for industry and the PWYP and the Mongolian Environmental Civil Council for civil society. Article 4 of the MSWG's ToR requires equal "tri-partied" representation of the three constituencies confirmed by government resolution.<sup>44</sup> The

<sup>39</sup> The names and contact details of all members of the National Council and the Multi-Stakeholder Working Group are available on the EITI Mongolia website (<http://www.eitimongolia.mn/en/national-council> and <http://www.eitimongolia.mn/en/working-group>). They are also available in Annex A.

<sup>40</sup> The ToR for the National Council are available on the EITI Mongolia website ([http://eitimongolia.mn/sites/default/files/uploads/en/EITI\\_National\\_Council\\_TOR\\_in\\_English.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/EITI_National_Council_TOR_in_English.pdf)).

<sup>41</sup> The ToR for the MSWG are available on the EITI Mongolia website ([http://www.eitimongolia.mn/sites/default/files/uploads/en/ToR\\_of\\_MS WG\\_Mongolia\\_EITI.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/ToR_of_MS WG_Mongolia_EITI.pdf)).

<sup>42</sup> Available in Mongolian language on the EITI Mongolia website (<http://www.eitimongolia.mn/sites/default/files/uploads/80%20-%202007.03.28.pdf>).

<sup>43</sup> The MoU is available on the EITI Mongolia website ([http://eitimongolia.mn/sites/default/files/uploads/en/MoU\\_Mongolia\\_EITI.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/MoU_Mongolia_EITI.pdf)).

<sup>44</sup> [http://www.eitimongolia.mn/sites/default/files/uploads/en/ToR\\_of\\_MS WG\\_Mongolia\\_EITI.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/ToR_of_MS WG_Mongolia_EITI.pdf)

government constituency includes the Chair, Deputy Chair, and Secretary of the EITIM National Council. There are no clauses in the MSWG's ToR covering criteria for NGO membership, or of seniority of representation by government or companies. While Article 7 of the National Council's ToR specifically requires civil society representatives to come from the meeting of the PWYP coalition or the Mongolian Environmental Civil Council, and for industry representatives to come from mining and oil companies or their subcontractors, the MSWG's ToR only names the senior representatives from each stakeholder group as the chair of the National Taxation Authority, the executive director of the NMNA and the "Coordinator of Coalition of NGOs". Each of these senior representatives is responsible for the nomination of MSWG members.

For the government, Government Resolution 222 only names the agencies and positions of representatives on the two EITI bodies. Thus the individual representatives change when new appointments are made to these positions, without the need to formally notify the EITIM Secretariat (in contrast to agreed procedures for industry and civil society representatives).

The president of the MNMA, an association with around 120 members amongst exploration, production and contracting companies, is responsible for industry nominations on the MSWG. While this membership, of which roughly half are contracting companies, is smaller than the roughly 1000 companies holding active licenses in Mongolia, the NMNA has conducted outreach to companies beyond its membership to improve participation in EITI reporting by non-member companies. Until 2012 the MNMA retained full authority for nominating industry representatives on the National Council and MSWG, but thereafter the Secretariat, in consultation with the Petroleum Authority of Mongolia (PAM) invited two oil and gas companies (PetroChina Daqing Tamsag and Petromatad) to become members of the National Council and MSWG respectively. Petromatad was first invited as the Chair of the Petroleum Explorers and Producers Association (PEPA): depending on the working group, the Petromatad member is categorised as representing either Petromatad or PEPA. There are no written rules governing the nominations process by industry. At its annual general meeting on the last Wednesday of January, the MNMA solicits expressions of interest from members. Due to lack of sufficient submissions however, the NMNA typically selects potential candidates and seeks to strike a balance between large and medium-sized companies and across different minerals. When the NMNA, together with the EITIM Secretariat, witness repeated lack of attendance at meetings by specific members, they move to replace them. The most recent refresh of mining industry representatives were the following (the oil and gas representatives have never changed since 2012:

- September 2012: all nine mining companies on both National Council and MSWG.
- February 2014: all nine mining companies on both National Council and MSWG.
- June 2014: one change each on the National Council and MSWG, when Mr N.Algaa was promoted from executive director of the NMNA to president.
- December 2014: one member change on the National Council.

The MSWG representative from the Mongolian Gold Producers Association, Mr.S.Burentogtoh, left his association position in 2015 but remains on the MSWG until his replacement is appointed in January 2016.

For civil society participation, the PWYP and MECC coalitions are responsible for nominating CSO representatives on the MSWG. There is no clause in the ToR providing for maximum duration, or term limits. Government Resolution 222 states that PWYP controls eight seats on the National Council and nine

on the MSWG, while the MECC controls two on each. There are no written rules within PWYP or the MECC for selection of CSO representatives to the National Council or the MSWG. The PWYP coalition bylaws only state that nominations to EITI bodies must be discussed at the members' meeting and that the PWYP Mongolia Board must be revised every two years.<sup>45</sup> PWYP operates a double selection process: the coalition appoints certain "people knowledgeable about the extractive industries"<sup>46</sup> in parallel to an informal election process, with no set split between the two types of members. The MECC nominations procedures are decided by discretion of the CEO of the MECC, out of the Network Board members, elected every three years, but there are no formal nominations procedures. While PWYP fields different members on the National Council and on the MSWG, the two MECC representatives on each body are always the same individuals. The PWYP coalition has changed its representation on the two bodies roughly every two years:

- May 2013: all eight members on the National Council, nine on the MSWG.
- July 2015: three members each on the two bodies.

The MECC representatives on both EITI bodies have changed more frequently. While the CEO is required to formally notify the EITIM Secretariat of change in representatives, the letter announcing the latest change (in November 2015) was signed by the President (a different position than the CEO), which represents a minor deviation from agreed procedures. The latest changes were:

- November 2014: change in both members.
- January 2015: change in both members.
- November 2015: change in one member.

*Terms of reference:* The MSWG's ToR were last reviewed in Q4 2012 and approved by the MSWG on 9 November 2012.<sup>47</sup> The key revision to the ToR was the provision for rotation in the chairing of MSWG meetings. While the chair rotation continued in 2014, when the MSWG was chaired by Mr N. Alгаа from the NMNA in March and by Mr.D.Nergui, then chief of the mining department of the Strategy Planning and Policy Division of the Ministry of Mining in October. Following Mrs B. Delgermaa's appointment as adviser to the Prime Minister and Chair of the MSWG in December 2014 however, the rotation stopped at subsequent MSWG meetings (in May and October 2015), all chaired by Mrs Delgermaa.

Article 8-44 of the MSWG's ToR provide details of the internal governance rules and procedures. Article 9 of the MSWG's ToR states that meetings are convened upon the consent of the Chair, but there is no provision related to the frequency of meetings, or to minimum advance notice periods of meetings. Meetings are convened upon the Chair's consent and, in their absence, a designated person who is member of both the MSWG and the National Council. The Secretary of the National Council provides for preparation of the meeting.

Article 13 of the MSWG's ToR requires that the agenda and required materials be circulated at least four days prior to the meeting. Article 16 of the MSWG's ToR includes quorum requirements. Meetings can only start when the majority of members are in attendance. Article 18 of the MSWG's ToR requires that the meeting minutes be prepared and validated with the signature of the MSWG Secretary or a member

<sup>45</sup> <https://drive.google.com/file/d/0B-z15B6VRn2jQk5EX3RJVjFqVFU/view>

<sup>46</sup> From our meeting with the PWYP coalition.

<sup>47</sup> Topic V (pp.15-17) Minutes of EITI Mongolia 10th National Council Meeting (28 November 2012), [http://eitimongolia.mn/sites/default/files/uploads/en/NC\\_10\\_2012.11.28.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/NC_10_2012.11.28.pdf)

of the EITIM Secretariat. Articles 3 and 8.4 of the MSWG's ToR provides for inclusive decision-making: it provides for the ways in which the MSWG may consent to decisions, including agreement between the heads of the representatives, or requiring issues to be studied further by expert ad hoc working groups. There is no clause allowing for decisions by vote where required due to lack of consensus. Article 8.4 of the MSWG's ToR states MSWG members can make proposals for additional topics for discussion in advance of meetings in writing and must canvass their constituencies for views.

Articles 12 and 25 to 28 of the MSWG's ToR detail the role, responsibilities and rights of the multi-stakeholder group and includes requirements for the MSWG to oversee the reporting process. There is no clause in the MSWG's ToR requiring that the MSWG undertake outreach activities with civil society groups and companies. However, the EITIM website indicates that outreach is a regular part of EITIM activities. The ToR does not contain any explicit safeguards to ensure that the nomination process for representatives of each stakeholder group be independent and free from any suggestion of coercion. There is no provision for ensuring a plurality of representation. There is no specific mention of any clause to ensure that MSWG members have the capacity to carry out their duties.

Although it is not a requirement of the EITI Standard, the MSWG's ToR does not include a code of conduct, or reference to one, or clauses related to conflict of interest, in any of the governance documents. Finally, there is no clause governing the treatment of confidential information by group members.

While the MSWG's ToR does not specifically mention the existence of ad hoc working groups that report back to the MSWG on specific topics, minutes from the 13 January 2015 National Council meeting indicate that five working groups dedicated to specific recommendations of the 2013 EITI Report operated in 2015. There are however no ToR for these ad-hoc working groups, nor publically available list of their members. In practice, minutes for these working groups are only available on request from the EITIM Secretariat, and the International secretariat understands that they have never been requested.

*Attendance:* The National Council has met 13 times between 2006 and June 2015 and the MSWG met three times in 2013, twice in 2014 and twice in 2015.<sup>48</sup> The MSWG meetings were initially held at the NMNA office the first year of implementation, but following CSOs' reluctance to attend meetings hosted by industry the location was moved to the Ministry of Mining. It has been noted by CSOs in several National Council meetings that government representatives on the National Council had a tendency to delegate attendance to other representatives or tended to be poorly briefed when attending in person.<sup>49</sup>

In practice CSO attendance at National Council and MSWG meetings also tends to change frequently: the PWYP coalition is proud of this flexibility and notes that all PWYP representatives agree their positions ahead of meetings, which ensures consistency in discussions. There is a general lack of understanding of the need to notify the EITIM Secretariat of any such delegations ahead of EITI meetings, as is stated in the National Council's ToR: all three stakeholder groups stated categorically that such notification was not required. In practice the EITIM Secretariat calls all National Council and MSWG members the day before meetings to confirm attendance.

Although several National Council meetings discussed the potential for publishing attendance sheets for

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<sup>48</sup> As of November 2015.

<sup>49</sup> For instance, during the discussion of the revised National Council ToR at the 10<sup>th</sup> National Council meeting on 28 November 2012. Topic V (pp.15-17) Minutes of EITI Mongolia 10th National Council Meeting (28 November 2012), [http://eitimongolia.mn/sites/default/files/uploads/en/NC\\_10\\_2012.11.28.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/NC_10_2012.11.28.pdf)

both National Council and MSWG meetings publicly on the EITIM website (most notably at the 10<sup>th</sup> National Council meeting on 28 November 2012), this was never implemented. The Secretariat maintains attendance sheets for all meetings in excel format, but it told us it worried of the potential for public backlash if it published these online.

Translations: Translation from English to Mongolian poses some unique challenges. The same word in Mongolian can denote several meanings in English depending on the context, such as encouragement/support, promote/advertise, accountability/responsibility. Thus accountability can be equated with CSR at times. The UN produced a glossary for governance terms in 2014 that assigned a Mongolian word for accountability. However this word is seldom used and remains broadly unfamiliar to most Mongolians. Likewise the word transparency is translated by three words in Mongolian. More broadly there is a lack of consensus in Mongolia given the rapid influx of new words in Mongolian and the government has established a special committee to clarify the spelling and meaning of key words. Adam Smith International undertook the translation of the EITI Standard into Mongolian. It is slightly concerning that the Mongolian version of the EITI Standard is only 28 A5 pages long. Only the requirements have been translated, but not the Validation guide, CSO Protocol, although we understand the EITIM Secretariat plans to complete these translations.

### **Stakeholder views**

Several representatives from all three stakeholder-groups involved in the EITI noted that the National Council was largely a symbolic body, with poor attendance from high-ranking officials other than the Minister of Mining. It was noted that neither the Minister of Finance nor the Prime Minister had attended a National Council meeting in the past three years. It was noted by all stakeholders consulted that the MSWG was effectively the decision-making body governing EITI implementation. All CSOs agreed that decisions were taken by the MSWG and simply confirmed by the National Council. While documents are always sent out in advance, it was noted by several government representatives that they were not always able to provide input due to time constraints and workloads. In practice the EITIM Secretariat typically schedules meetings one week in advance, sending via email the draft agenda and documents for discussion at least four days in advance. Draft EITI Reports must however be sent in hard copy at least four days ahead of meetings, which is complied to. A few CSOs argued that adding items to the draft agenda of meetings was challenging, although it was agreed that this was possible. The main reason was that agendas were sent out three days in advance and that this did not allow sufficient time for gathering all material required for the discussion of items proposed. However it was admitted that CSOs could prepare documents ahead of the meeting agenda being sent out, but that CSOs' capacity constraints made this challenging.

Several industry representatives noted that neither the National Council nor the MSWG operated efficiently, with consensus-based decision-making particularly challenging, due to the high number of members on each (ten and 11 respectively) and that the number should be reduced, with the emphasis on representation by government implementing agencies like MRAM and the General Department for Taxation. Because ToR provisions on consensus-based decision-making for the National Council and MSWG were not respected in practice, many CSOs complained of a de facto alliance of government and industry against them in practice. In practice, despite the lack of provisions for voting on the National Council, representatives from both Industry and CSOs noted that voting did take place in practice without the need for votes in favour from all three stakeholder groups.

Several industry representatives called for implementation of the changes proposed as part of the draft

“EITI Law”, including the merger of the National Council and MSWG into a single body and an expanded role for the Secretariat, complete with higher capacity. A few CSOs highlighted the impact of frequent political change on the consistency of government representatives’ attendance at EITI meetings. There was frustration over the lack of continuity in attendance, particularly by government officials, although the frequent change in CSO attendees was also noted. Several industry representatives noted that CSOs tended to rotate attendance at EITI meetings frequently, which did not encourage informed discussion. However several CSO representatives noted that the participation of CSOs had improved considerably in the past few years. In terms of stakeholder consultations, a group of civil society representatives on a variety of subnational councils we met stated that CSO representatives on the National Council or the MSWG did not tend to consult them. A senior member of broadcast media stated that there were no real consultations mechanisms in place between members of the MSWG and National Council, and the media and general public.

Most CSOs expressed concern over the hosting of MSWG meetings by the Ministry of Mining, given the time constraints this placed on the discussions, and noted meetings could be held at the Open Society Foundation. Several CSOs noted that National Council meetings were de facto chaired by the Secretary to the National Council, Senior Advisor to the Prime Minister Mrs B. Delgermaa, rather than by the Prime Minister. This was contrasted with the previous situation (over three years ago) when the Prime Minister would open National Council meetings and then delegated chairing to his Deputy Chair, the Minister of Mining.

### Assessment

On balance, we consider this provision to be met. The MSWG has been formed and includes self-appointed representatives from each stakeholder group with no suggestion of coercion. Although the mechanism for civil society nominations on the MSWG restricts selection of members outside the PWYP and MECC coalitions, there is no evidence that non-member NGOs that would have liked to participate have been constrained from doing so. The TOR for the MSWG addresses the requirements of the EITI Standard, but some stakeholders highlighted certain deviations in practice, in particular related to voting. Attendance of MSWG members is also inconsistent, with delegation of attendance to different representatives common. Nonetheless the MSWG may wish to ask each stakeholder group to codify their internal nominations and representation procedures to improve the transparency of the process. The MSWG may also wish to consider implementing a provision of the draft “EITI Law” that would combine the National Council and MSWG, reduce its membership number and require it to meet more frequently (once a quarter, as per the legislative proposals) without waiting for Parliament to enact the full law.

## 2.4 Workplan

### Documentation of progress

The EITIM 2015 Plan of Action (workplan) is available on the EITIM website.<sup>50</sup> It was approved by the MSWG at its 10 October 2014 meeting and by the National Council at its 12<sup>th</sup> meeting on 13 January 2015.<sup>51</sup> The objectives of the 2015 workplan<sup>52</sup> are identical to the 7 EITI Requirements, as they were in the

<sup>50</sup> In English (<http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015en.pdf>) and in Mongolian (<http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015mn.pdf>).

<sup>51</sup> Minutes of 12th meeting of National Council of Mongolian Extractive Industry Transparency, 13 January 2015, (only available in Mongolian on the website, [http://eitimongolia.mn/sites/default/files/uploads/UZ\\_12\\_2015.pdf](http://eitimongolia.mn/sites/default/files/uploads/UZ_12_2015.pdf))

<sup>52</sup> EITI Mongolia 2015 workplan, <http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015en.pdf>.

2014 workplan.<sup>53</sup> Hence the workplan objectives do not reflect national priorities for the extractive industries. It is unclear in which MSWG meeting the 2015 workplan was discussed, although it is noted that the 2014 workplan was developed drawing on the four-year communications plan developed by Mongolian consultancy firm ICG and approved by the MSWG at its meeting on 11 March 2014.<sup>54</sup> The MSWG added certain elements to the 2014 workplan prior to formal approval at its meeting on 11 March 2014.<sup>55</sup>

The EITIM Secretariat typically produces a draft workplan, which is then discussed by the MSWG and approved at the same meeting following amendments. The 2015 workplan includes measurable and time-bound activities, including a clear timeframe for implementation, the identification of the responsible party(ies), co-organisers, funding source(s) and performance indicators. It includes activities aimed at addressing specific capacity constraints identified in the EITI Reports and other assessments, such as the Monitoring Report on the Implementation of EITI Recommendations. This includes creating databases for the legal environment, state ownership in the extractive industries, revenue expenditure, disbursement and subnational transfers and infrastructure developments.<sup>56</sup> In addition to building capacity to address recommendations in previous EITI Reports, section four of the 2015 workplan focuses on capacity building and training activities at the national level and section five on capacity building and training activities in local areas.<sup>57</sup> One of the aims of the National Forum on 3-4 November is to feed comments into the 2016 workplan, with a particular focus on capacity building in key areas like communications, outreach and subnational implementation.<sup>58</sup>

The 2015 workplan also contains activities related to the scope of EITI reporting, including conducting a scoping study for the 2014 EITI Report and all the activities related to sourcing the contextual information required under the EITI Standard. Section nine of the 2015 workplan focuses on enacting the draft Law on Transparency in the Mineral Resources Sector, which aims to overcome regulatory obstacles to full EITI reporting. While the workplan identifies the funding source for each activity, the version of the 2015 workplan published on the EITIM website does not include the cost of activities or an overall budget. The 2014 workplan includes costings in the Mongolian version, but not the English one. The reason for this omission (which was not agreed with the MSWG or National Council) was that ICG advised the Secretariat to not publish budgets for communications activities to preserve bargaining power with contractors bidding for specific communications activities. We understand the Secretariat now plans to republish the 2015 workplan with full costings of each activity. In the 2015 workplan the MSWG has clearly considered extending the detail and scope of EITI reporting to beneficial ownership, contract disclosure (both covered in activity one, the creation of a database of transparency of contract and beneficial ownership) and revenue expenditure, disbursement and local transfers (activity five, the creation of a database of these payments).

The 2013, 2014 and 2015 workplans include clear timeframes for completion of each activity. In 2013, the Secretariat reports that 33 of the 42 activities planned (80% of the total) were completed, with the main activities not completed being the passage of the draft “EITI Law” and the development of television

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<sup>53</sup> EITI Mongolia 2014 workplan, [http://www.eitimongolia.mn/sites/default/files/uploads/en/EITIM\\_POA\\_2014en.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/EITIM_POA_2014en.pdf)

<sup>54</sup> Minutes of meeting of EITIM Multi-Stakeholders Working Group 11 March 2014 (only the Mongolian version available on the website, [http://eitimongolia.mn/sites/default/files/uploads/AH\\_35\\_20150312.pdf](http://eitimongolia.mn/sites/default/files/uploads/AH_35_20150312.pdf))

<sup>55</sup> <http://eitimongolia.mn/sites/default/files/uploads/EITIMWorkReport2014en.pdf>

<sup>56</sup> EITI Mongolia 2015 workplan (p.1), <http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015en.pdf>.

<sup>57</sup> EITI Mongolia 2015 workplan (pp.2-3), <http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015en.pdf>.

<sup>58</sup> National Forum, 3 November 2015. Minutes upcoming.



serials.<sup>59</sup> In 2014, the Secretariat reports that 42 of the 65 planned activities (65% of the total) were completed, with the main shortfalls being enactment of the draft “EITI Law”, the organisation of regional conferences and the broadcasting of television programmes.<sup>60</sup> As of 6 November 2015, 35 of the 50 activities planned in the 2015 workplan were completed. The activities not yet completed included Validation under the EITI Standard, activities planned for once the draft “EITI Law” was enacted, an EITI Open Day in the eastern region and training for subnational councils, although this is scheduled to take place by March 2016. The planned training for CSOs at the subnational level is not expected to be completed in 2015 because of lack of time and challenges of organising this activity during the winter, although this will likely be postponed to March 2016.<sup>61</sup> The 2016 workplan is being developed with technical assistance from GiZ.

### Stakeholder views

Roughly half of representatives from each stakeholder group we consulted had not read the full 2015 workplan in any detail. It was however noted that, once approved, they were informed of the elements of the workplan that affected their particular department through an official letter from the Chair of the MSGW. Several industry representatives noted their disapproval of how the workplan was elaborated, noting it resembled a wish list rather than a series of actionable activities leading to achievable goals. It was noted by both industry and CSOs that there were significantly different conceptions of what the EITI process was, with industry viewing it as a tool for fiscal transparency and compliance while CSOs conceived of it as a platform for engaging government in reforms.

Few stakeholder from any group we consulted had contemplated the question of why Mongolia was implementing the EITI. One government representative noted that Mongolia had decided to implement the EITI in 2006 as a means of providing information to investors at a time when Mongolia was little known amongst the global mining industry. Several CSOs noted Mongolia was implementing the EITI to reduce poverty and so that citizens could receive the full benefit of their natural resources.

Although the annual activity report provides an overview of the completion of activities in the workplan, one CSO representative called for amendment of the ToR to require the EITIM Secretariat to formally present its financial statements to the National Council or MSGW once a year.

### Assessment

We consider this requirement to be unmet, with meaningful progress. While an annual workplan is publicly accessible and produced in a timely manner, its substance falls short of EITI Requirement 1.4 in several ways. The objectives of EITI implementation do not reflect national priorities for the extractive industries and does not include clear costings for each activity. . However any delays in workplan implementation appear reasonable given legislative and funding constraints. The MSGW may wish to revise the 2016 workplan to reflect national objectives and consider the question of why Mongolia is implementing the EITI as a starting point for drafting EITI workplans.

*Table 1 - Summary assessment table: MSG oversight*

<sup>59</sup> This was reported in the EITI Mongolia 2013-2014 Annual Activity Report, July 2014, (p.15) [https://eiti.org/files/document/Mongolia\\_EITI\\_Activities\\_report\\_2013\\_half\\_2014\\_half\\_last.pdf](https://eiti.org/files/document/Mongolia_EITI_Activities_report_2013_half_2014_half_last.pdf)

<sup>60</sup> EITI Mongolia 2014 Annual Activity Report, January 2015 (p.13) <http://www.eitimongolia.mn/sites/default/files/uploads/EITIMWorkReport2014en.pdf>

<sup>61</sup> According to EITI Mongolia Secretariat estimates.

| EITI provisions   | Summary of main findings   | Validator's recommendation on compliance with the EITI provisions |
|---|--|---|
| Government oversight of the EITI process (#1.1-1.2)   | The government is committed to the EITI and relevant government representatives are part of the MSWG.  | Requirement met   |
| Stakeholder engagement and the environment for their participation in the EITI process (#1.3 (#1.3))  | Government, companies and civil society are engaged in the design, implementation, monitoring and evaluation of the EITI process. Stakeholders take part in outreach and efforts to promote public debate. There is an enabling environment for civil society participation in the EITI and there do not appear to be any legal obstacles preventing company participation in the EITI.  | Requirement met   |
| MSG governance and functioning (#1.3)   | The MSWG comprises relevant actors and all stakeholders feel adequately represented. The TOR for the MSWG addresses the requirements of the EITI Standard and appears to be largely followed in practice, even if decision-making sometimes includes voting in practice. While the MSWG meets at most three times a year, several ad hoc working groups undertake specific work, although records are not kept for these meetings. | Requirement met   |
| Work plan (#1.4)  | The MSWG has not agreed objectives that are linked to national priorities for the extractive sector. The workplan published on the EITIM website lacks costings for its activities. However implementation appears broadly on track and specific delays appear reasonable.   | Requirement unmet with meaningful progress                        |
| <b>Overall assessment:</b><br>Requirement unmet with meaningful progress.   |  |   |
| <b>Validator's conclusions and recommendations:</b><br>1. The MSWG may wish to consider how more meaningful discussions through the EITI, linking to national discussions and priorities, could encourage more active participation by all stakeholder groups.<br>2. The MSWG could ask each stakeholder group to codify their internal nominations and representation procedures to ensure stakeholders not member of the NMNA, PWYP or MECC are empowered to seek representation. |  |   |

3. The MSWG may wish to consider implementing a provision of the draft “EITI Law” that would combine the National Council and MSWG, reduce its membership number, as proposed by several industry stakeholders consulted, and require it to meet more frequently (once a quarter, as per the legislative proposals) without waiting for Parliament to enact the full law.
4. The MSWG should revise the 2016 workplan to reflect national priorities for the extractive sector. .
5. The MSWG may wish to consult with government entities on the feasibility of assigning an officer in each department tasked with EITI reporting, to ensure consistency and capacity building.
6. The MNMA may wish to consider establishing a working group on EITI to ensure greater consultation with companies not on the MSWG or National Council.
7. The MSWG may wish to revisit its ToR to ensure that a quorum is achieved not only when a majority of representatives are in attendance, but also several representatives from each stakeholder group. The revised ToR could also better define the respective roles and responsibilities of the MSWG and the EITIM Secretariat.

## Part II – EITI Disclosures<sup>62</sup>

### 1. Award of contracts and licenses

#### 1.1 Overview

This section provides details on the implementation of the EITI requirements related to the legal framework for the extractive sector, licensing activities, contracts, beneficial ownership and state-participation.

#### 1.2 Assessment

##### Legal framework (#3.2)

###### Documentation of progress

The legal and regulatory framework is described for mining in the 2013 EITI Report: the “Action plan for the Mining Sector 2012 – 2016”, explained on (pp.57-58), the various mining laws (2006 Law, 2014 amendment, 2001 Licensing Law, Land Law, Nuclear Energy Law) are described (on pp.58-60) and the Deposits of Strategic Importance are explained (on p.29). However there is only a very limited mention of the “Law on Prohibiting Mineral Exploration and Extraction Near Water Sources, Protected Areas and Forests” (Long Name Law) on p.28 and p.57, only noting the need for compliance with it. The legal and regulatory framework is described for oil and gas: the Petroleum Law (2014) is described (on pp.64-65). The Law on Petroleum Products is also featured (on p.65). The system of 25-year PSCs is described, including the exemptions of customs duty, VAT for five years and income taxes from sales of oil. The 100% cost recoverability of exploration, operation, development and production costs is explained, as well as the 40% annual cap on cost recovery.

The degree of fiscal devolution and the roles and responsibilities of the relevant government agencies are described (pp.54-55). We understand from secondary sources like the World Bank<sup>63</sup> that local governments are meant to receive 30% of royalties directly for all commodities aside from gold and copper, although this is not mentioned in the 2013 EITI Report. For mining, there is reference to the role of MRAM and governors in the awarding of licenses (pp.59 and 60). For oil and gas, the roles of MRAM, PAM are described (p.65) but only very generally. The role of the National Security Council (NSC) is only mentioned for radioactive materials on p 60 and not for other license or PSC awards. The role of the Nuclear Energy Authority of Mongolia is also not well defined, although it is mentioned (p.64). Yet the NSC holds a veto on all new PSA awards, as we determined from our discussions with oil and gas representatives on the MSWG and PAM, as well as mineral strategic deposits.<sup>64</sup>

The 2013 EITI Report includes information on recently enacted reforms including the 2014 Petroleum Law, the 2014 Amended Minerals Law and the State Minerals Policy (p.58). The project to integrate information registers of the various MRAM departments, funded by Germany, is described on pp.63-64. However it does not note on-going reforms such as the implementing regulations required for these two

<sup>62</sup> Note that all page numbers refer to the English-language version of the 2013 EITI Report available on the EITI Mongolia website (<http://www.eitimongolia.mn/sites/default/files/uploads/final-reports/Final%20report%20EITI%20Mongolia%202013%20en.pdf>)

<sup>63</sup> World Bank (2011), “Implementing EITI at the Subnational Level,” p.13 – accessed on <http://siteresources.worldbank.org/INTOGMC/Resources/EITI-WBMiningSectorWEB.pdf>

<sup>64</sup> See for instance p.86 of “An analysis of mining sector economics in Mongolia,” <ftp://ftp.repec.org/opt/ReDIF/RePEc/ibf/gjbres/gjbr-v4n4-2010/GJBR-V4N4-2010-8.pdf>

laws.

### Stakeholder views

Industry representatives from both the mining and oil and gas industries consulted were surprised at the lack of detailed description of the role of the National Security Council and of the Long Name Law. They noted they had spent more time reviewing the financial reconciliation section of the 2013 EITI Report rather than the contextual information. Upon discussion, there was strong interest from all industry representatives to include more information on deviations in practice from the legal framework, which was noted as changing frequently in the past three years. Several CSOs noted they had asked for more information on the regulatory framework, and the Long Name Law in particular, to be included in the 2014 EITI Report. Several government representatives noted they had not actively participated in preparing the description of the legal framework section and that this had been left to the Independent Administrator.

### Assessment

We consider this requirement to be met. Although the description of the legal framework includes an overview of the laws governing the extractive industries, the EITI Report would benefit from more extensive discussion of the “Long Name Law” (Law on Prohibiting Mineral Exploration and Extraction Near Water Sources, Protected Areas and Forests), which has had a significant impact on exploration and production activities, particularly in gold mining. It would also benefit from a more detailed description of the role of relevant government agencies, most notably the National Security Council. The MSWG may wish to consider including a more complete description of the regulatory framework – and deviations in practice – to use the EITI Reports as a means of clarifying the rules of the game between government and industry.

## License allocations (#3.10)

### Documentation of progress

There were no mining license allocations (either for exploration or production) awarded in 2013 given the moratorium on new licenses from 2010 to 2014, but one oil and gas PSA was awarded in 2013. Equally, there were no license transfers in 2013 since transfers were not allowed under the 2006 Minerals Law (which was only amended in July 2014).

The 2013 EITI Report does not note the existence of a moratorium in new licensing. While it describes the license allocation procedures for mining (pp.58-59) and (on p.65), it does not contain an indication of the general technical and financial criteria used in allocating licenses in either sector nor of any significant deviations in practice. It does not provide any details related to the oil and gas PSA awarded in 2013.

Additionally, there is no additional information on license allocations, such as commentary on the efficiency and effectiveness of the systems, although this is not required under the EITI Standard.

### Stakeholder views

Government representatives noted that technical and financial criteria used for assessing license applications were publicly available on the MRAM website<sup>65</sup>, although there had been a moratorium on new licenses from 2010 to late 2014. The scoring system is as follows: MRAM has a 100-point scoring

<sup>65</sup>[http://www.mram.gov.mn/index.php?option=com\\_content&view=category&layout=blog&id=35&Itemid=53&lang=en](http://www.mram.gov.mn/index.php?option=com_content&view=category&layout=blog&id=35&Itemid=53&lang=en)

system for evaluating bids, with 50 points awarded on the basis of price offered and 50 points allocated on the basis of technical proposals (including the number of years of operation, human resource capacity, number of local staff, plans for cooperating with local communities, environmental protection provisions, ownership of equipment, etc.) The technical proposals are assessed first, followed by the opening of sealed bids for financial proposals, opened in the presence of all bidders. Article 49 of the 2014 amended Minerals Law regulates the transfer of license and it was noted there had been no deviation in practice. Stakeholders did not comment on the procedures for awarding the PSA in 2013.

## Assessment

We consider this requirement to be unmet, with limited progress. Although the EITI Report includes a cursory overview of license allocation procedures, it omits describing the technical and financial criteria for license award, provisions for license transfer, the existence (or not) of bidding for oil and gas licenses, practical deviations from the regulations and the existence of a moratorium on awarding new mining licenses from 2010 to 2014. While this was not applicable for mining in 2013, given the existence of a moratorium on new licenses from 2010 to 2014, the award of one oil and gas PSA in 2013 to Wolf Petroleum, a company included in the scope of reconciliation, means this information should have been included for this license. The MSWG may wish to consider including publicly available information (such as the description of technical and financial criteria available on MRAM's website) on these issues in future EITI Reports.

## License registers (#3.9)

### Documentation of progress

The 2013 EITI Report includes disclosure of licenses. Appendix 13<sup>66</sup> contains a list of license holders in the country (all 250 companies reconciled as well as all license holders; radioactive minerals license holders; petroleum license holders). Section 6.5.3 (p.100) provides an overview of changes in license-holdings in 2013 and some general reasons for the lapsing/withdrawal of licenses. Table 19 (p.36) includes details of the 21 active PSAs, including names of license, date of award, Government of Mongolia resolution governing the PSA, license-holder name, country of origin of license holder and type of license (exploration/production). The information laid out above covers 3029 licenses, which is more comprehensive than the 250 companies included in the scope of reconciliation. However Chart 17 (p.62) notes that there were a total of 3118 active licenses in 2013 (1815 exploration licenses and 1303 mining licenses). The 2013 EITI Report includes only an overview (pp.63-64) of the World Bank funded project to develop a computerized mining cadastre system, which finished in 2014.

However while the 2013 EITI Report does not include a link to the cadastre, the mining cadastre maintained by MRAM (accessible free of charge and without registration for access) includes all information required under Requirement 3.9 aside from the dates of application, award and expiry.<sup>67</sup> The eReporting website<sup>68</sup> includes license information for 1438 licenses, in both mining and oil and gas. This includes date of award, date of expiry, license number, location name, area size, type of minerals covered,

<sup>66</sup> Appendix 13 is published separately from the 2013 EITI Report on the EITI Mongolia website (<http://www.eitimongolia.mn/sites/default/files/uploads/final-reports/2013%20Report%20annex%20EN.zip>) because it is hundreds of pages long.

<sup>67</sup> The MRAM mining and oil and gas cadastre is available on <http://cmcs.mram.gov.mn/cmcs#cid=5>

<sup>68</sup> The eReporting website includes cadastral information mapped on Google Earth, available on <http://e-reporting.eitimongolia.mn/portalMap/1/>

but no coordinates or date of application. The MRAM cadastre and eReporting system use the same license numbers.

### Stakeholder views

Government representatives noted that the date of application is not disclosed on the cadastre, but that this information was available internally (but not available to the public). The cadastre is updated every time a license is awarded. The plan is to publicly list the date of application on the cadastre in future, although no specific date has been set and this would require a new technical assistance agreement with the World Bank.

### Assessment

This requirement is unmet, with meaningful progress. While the 2013 EITI Report includes some information on licenses, no dates of application or license coordinates are included. The list of mining and petroleum licenses included in Appendix 13 is not comprehensive although a cadastre of oil, gas and mining licenses maintained by MRAM is available online and includes all information required under 3.9 aside from the dates of application, award and expiry. The EITIM eReporting website provides dates of award and expiry for all active licenses, using the same codes as the MRAM cadastre. This means only dates of application are not publicly available. The MSWG should work with MRAM to ensure that dates of application, award and expiry for all licenses is freely available on the cadastre.

## Contract disclosures (#3.12)

### Documentation of progress

The 2013 EITI Report includes a detailed description of inconsistencies in government policy on contract disclosures, although a single government policy on contract disclosure is not included. Sections 2.4.3 (p.14) and 8.4 (p.112) refer to contract disclosure and to the confusion between various government bodies (Ministry of Mines, Petroleum Authority) and companies on government policy on contract disclosure. This information only covers PSAs in oil and gas, not mining contracts. The 2013 EITI Report does not include a clear description of government policy on mining contract disclosure. It notes “There is no statutory provision relating to disclosure of petroleum production sharing agreements and licence for oil exploration and exploitation” (p.64). There is no reference in the Report to any contracts disclosed in practice, even though the Oyu Tolgoi Investment Agreement has been published on the Oyu Tolgoi website since 2012. In addition, three oil and gas PSCs are published on the OpenOil website.<sup>69</sup> The 2014 annual activity report however notes (p.11) that the Oyu Tolgoi contract has been published.

The 2013 EITI Report does not include disclosures of any contracts or licenses, nor information on how to access published contracts, although this is not required under the EITI Standard.

The 2013 EITI Report also includes details of community agreements. Appendix 14 (p.114) includes details of 153 agreements with local governments, concluded by 250 companies in the scope of reconciliation. This includes:

- 22 on cooperation
- 27 on social responsibility
- 37 on use of deposit
- 9 the on environmental rehabilitation.

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<sup>69</sup> <http://repository.openoil.net/wiki/Mongolia>

The information on contract disclosure in the EITI Report has been followed up on by the MSWG. As part of the working group on contract disclosures established in January 2015, collaboration with PAM successfully removed the confidentiality clause from new model PSAs developed following the revised Petroleum Law in 2014. The PAM has stated that it is committed to contract disclosure but that confidentiality clauses in old PSAs stopped the government from disclosing them. The Authority also expressed concern to the Working Group over the potential impact of disclosing the terms of the oldest PSAs concluded in the 1990s, which it stated included fiscal terms that were disadvantageous to Mongolia, and the potential for applicants for newer PSAs to demand equivalent terms. The MSWG working group on contract disclosure is meeting all companies holding existing oil and gas PSAs to seek their written agreement to disclose their PSA contracts.

### **Assessment**

We consider this requirement to be unmet, with meaningful progress. Although the EITI Report does not clearly define a consistent government policy on contract disclosure, it notes the contrasting approaches adopted by different government agencies. However it does not document actual practice in contract disclosures, most notably the fact that the Oyu Tolgoi Investment Agreement is published on at least three different websites (that of Oyu Tolgoi, Turquoise Hill and Rio Tinto). The EITI Report's recommendation on clarifying government policy on contract disclosure is being actively followed up on and the former confidentiality provisions have been withdrawn from the new model PSA developed in 2015.

## **Beneficial ownership disclosure (#3.11)**

### **Documentation of progress**

As a first stage to examining beneficial ownership, the scope for the 2013 EITI Report included a requirement to ask companies for details of their legal ownership. The MSWG meeting on 11 March 2014 agreed on the definition of beneficial ownership to reflect article 4.1.26 of the Mongolian Law on Securities.

Using a simple questionnaire, the MSG asked for beneficial ownership information from any entity holding 5% or more of a company holding mining or petroleum licenses. While the survey was essentially voluntary, 215 of the 250 companies that participated in the reconciliation exercise provided information on their equity-holders, often up to the beneficial owner. This is however not complete beneficial ownership information: in some cases the information only pertains to legal ownership. A total of 368 shareholders of the 215 companies were identified, of which 215 were individuals, 144 were corporate entities and 13 were central or local government entities. The responses from reporting companies are included in Appendix-22 (pp.207-220) of the 2013 EITI Report. The results were converted into an interactive infographic on the EITIM website.<sup>70</sup> The MSG is including the same beneficial ownership questions in the 2014 EITI reconciliation and hopes to improve both the quality and coverage of results.

The new Law on Registration of Legal Entities, passed by the Great Khural in May 2015, did not include provision for a public registry of beneficial ownership information that had appeared in early drafts. Information is only available upon specific request and there are grounds for withholding information. However the current draft Law on Transparency in the Mineral Resources Sector includes provisions requiring companies in the sector to disclose their beneficial ownership.

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<sup>70</sup> <http://www.eitimongolia.mn/en/beneficial-owners>



In the 2014 EITI Report the MSWG has included requests for information on three levels of legal ownership as part of the reporting templates for both oil and gas and mining companies. The Independent Administrator, KPMG, agreed with the MSWG during the inception workshop on 7 July 2015 to look into three levels of ownership incorporating a minimum of 5% share owning beneficiaries at the first level, a minimum of 25% share owning beneficiaries at the second level and a minimum of 51% share owning beneficiaries at the third level.<sup>71</sup> The previous “supplementary information” section of the reporting template have been updated for the 2014 EITI Report to comprise schedules and instructions to provide:

- (i) the definition of beneficial ownership
- (ii) the EITI pilot reporting template
- (iii) define the 3-layers of equity ownership thresholds (where applicable)
- (iv) link to the webpage (where applicable for publicly-listed companies)

#### **Stakeholders view.**

Several government representatives noted that while the disclosures required by the EITI Standard had expanded, there was insufficient legal basis for these disclosures. The need for participation from high-level government officials was noted in order to establish a clear legal framework for EITI, particularly given the unlikely passage of the “EITI Law” before the June 2016 elections. Most problematic were disclosures of beneficial ownership and of contracts.

#### **Assessment**

We consider this requirement to be met. Although the BO disclosure is not a requirement, the 2013 EITI Report identified a total of 368 shareholders of the 215 companies, of which 215 were individuals, 144 were corporate entities and 13 were central or local government entities. The results were converted into an interactive infographic on the EITIM website. This is however not complete beneficial ownership information: in some cases the information only pertains to legal ownership, but we consider the requirement as met because the MSWG has clearly considered the issue of beneficial ownership and undertaken work to disclose such information in a phased approach.

### **State-participation (#3.6.a and #3.6.c)**

#### **Documentation of progress**

State participation in Mongolia’s extractive industries gives rise to revenues above the materiality threshold (of MNT 10,000): at least 11 of Mongolia’s 99 SOEs pay dividends, taxes, royalties and other fees to the government. However the 2013 EITI Report discloses the level and change of ownership during 2013 for only 11 of the 99 companies in which the government holds a stake. Minutes of MSWG meetings in 2014 do not reveal any discussion of the barriers to disclosing this information for all 99 companies in which the state holds a stake. The financial relationship between SOEs and government is only partly described in the 2013 EITI Report. The 2013 EITI Report mentions 99 companies with state participation (p.45). There is detailed information on SOEs included in section 3.6 (pp45-52). This includes a categorisation of state participation, in table 25 (p.46)). It also includes a list (table 26, p.46) of 11 state owned mining companies, with share of state ownership, mineral, location. The EITI Report does not

<sup>71</sup> See Topic 3.4 of Appendix 1 and 5 of the KPMG 2014 EITI Mongolia Inception Report.

include an exhaustive list of all 99 SOEs. Section 3.6.1.1.3 (pp.48-51) provides details of the 11 SOEs included in the scope of reconciliation. The rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing are not described in the Report.

The level of SOE and subsidiary ownership is only partly defined. It also does not include an exhaustive list of all subsidiaries of these SOEs. Section 3.6.1.1.3 (pp.48-51) provides details of the 11 SOEs included in the scope of reconciliation. Appendix 15 (pp.167-169) includes the names of the members of the board of directors of the 11 SOEs.

The 2013 EITI Report does not include details of loans and loan guarantees. There is no information about loans or loan guarantees to SOEs or other companies in the extractive industries. There is no mention of Development Bank of Mongolia's USD 200 million debt injection into Erdenes Tavan Tolgoi in 2013.<sup>72</sup> On pp. 47 and 49 there is no mention of the manner in which the government finances/exercises a 34% stake in strategic deposits.

Details of changes in ownership of the 11 SOEs for which information is provided do not include the terms of transactions, although this is not required under the EITI Standard.

### Stakeholder views

Government representatives noted that the State Property Committee, responsible for administering state property, was the agency that would hold information on SOEs, in particular on the rules and practices governing the financial relationship between SOEs and government. No legal barriers to disclosure of this information were noted. In general it was noted that the Company Law would cover the rules and practices governing the financial relationship. The Independent Administrator noted the omission of information on state participation was due to the bureaucracy of government, which presented barriers to access to information on SOEs in practice.

### Assessment

We consider this requirement to be unmet, with limited progress. While the EITI Report considers state participation in the extractive industries, it only discloses limited information provided for under Requirement 3.6. It does not list all 99 companies in which the state holds equity (nor their subsidiaries), the rules and practices governing financial transfers between government and SOEs or any details on loans and loan guarantees from government entities to companies in the extractive industries. A comprehensive assessment of state participation is particularly important for Mongolia given the state's extensive role in the sector and the significant off-budget state funding for SOEs, including in the extractive industries.

### Assessment of timeliness, comprehensiveness and reliability of the information disclosed (#2)

- **Timeliness:** The 2013 EITI Report was published in December 2014 and approved by the National Council on 13 January 2015. The eReporting system, operational since January 2015, has improved the timeliness of disclosures further: by 31 March 2015 some 987 companies and 35 government

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<sup>72</sup> See for instance slide 6 of "An economic assessment of Erdenes Tavan Tolgoi" by the Economic Research Institute in May 2014, available on [http://eri.mn/ERI\\_TT.pdf](http://eri.mn/ERI_TT.pdf). See also IMF (March 2014), Article IV Consultations, (p.6), available on <https://www.imf.org/external/pubs/ft/scr/2014/cr1464.pdf>.

departments had disclosed EITI information used for reconciliation for the year 2014.

- **Comprehensiveness:** Information on licenses and state participation is not comprehensively disclosed.
- **Reliability:** The information provided in the 2013 EITI Report is backed up with data from other sources available on government websites although contextual information is not consistently sourced. Although the reliability of the contextual information does not appear to have been discussed by the MSG, the International Secretariat is not aware of any concerns raised by stakeholders regarding the reliability of the information.

*Table 2 - Summary assessment table: Award of contracts and licenses*

| EITI provisions                         | Summary of main findings   | Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions) |
|---|--|---|
| Legal framework (#3.2)                  | While the 2013 EITI Report includes disclosure of relevant laws, regulations and fiscal regime, it omits several important laws that have significantly affected the development of the sector.  | Requirement met   |
| License allocations (#3.10)             | While this requirement may not have been applicable for mining in 2013, given the moratorium on mining license awards from 2010 to 2014, there is no explanation of the moratorium. There is no description of the license award process for oil and gas and no details on the PSA awarded in 2013.  | Requirement unmet with limited progress   |
| License registers (#3.9)                | Information about dates of application for mining, oil and gas licenses is missing although all other information required under 3.9 is available through the MRAM cadastre and eReporting system (with different information points from each). The MSG should work with MRAM to ensure that dates of application, award and expiry for all licenses is freely available on the cadastre. | Requirement unmet with meaningful progress  |
| Contract disclosures (#3.12.b)          | The EITI Report comments on actual practice on contract transparency and on inconsistent government policy. There has been follow up by the MSG to clarify government policy and amend the model oil and gas PSAs to remove confidentiality clauses.   | Requirement unmet, with meaningful progress   |
| Beneficial ownership disclosure (#3.11) | The MSG has considered beneficial ownership disclosure in detail at several MSG meetings and has conducted initial work on disclosure of legal ownership information   | Requirement met   |

|   |   |   |
|---|---|---|
|   | (which includes significant beneficial ownership disclosures) in the 2013 EITI Report.  |   |
| State-participation (#3.6.a and #3.6.c)   | The 2013 EITI Report includes descriptions of state participation via only 11 of the 99 companies in which it holds equity. It does not describe the rules and practices governing financial relations between the state and SOEs, nor of any loans or loan guarantees to SOEs. | Requirement unmet with limited progress |
| <b>Overall assessment:</b><br>Requirement unmet with meaningful progress.   |   |   |
| <b>Validator's conclusions and recommendations:</b><br><ol style="list-style-type: none"> <li>1. The MSWG could use the description of the regulatory framework – and deviations in practice – in the EITI Reports as a means of clarifying any misunderstanding between government and industry, a desire expressed by several industry stakeholders consulted. Clarifying the application of laws in practice would turn EITI Reports into investment promotion tools.</li> <li>2. The MSWG should include publicly available information on the technical and financial criteria in the license award process in future EITI Reports that cover years after the moratorium on mining licenses was lifted.</li> <li>3. The MSWG should work with MRAM to ensure that dates of application, award and expiry for all licenses is freely available on the cadastre.</li> <li>4. The MSWG should discuss the rules and practices governing financial relations between the state and SOEs (including loans) as this appears as a contentious issue in domestic politics. The EITI Report could thus act as an instrument for improving public oversight of off-budget liabilities, which have grown significantly since 2012.</li> </ol> |   |   |

## 2. Monitoring and production

### 2.1 Overview

This section provides details on the implementation of the EITI requirements related to exploration, production and exports.

### 2.2 Assessment

#### The overview of the extractive sector, including exploration activities (#3.3)

##### Documentation of progress

The 2013 EITI Report includes an overview of the extractive industries. The EITI Report includes an overview of the mining sector (pp.25-31) and of the oil and gas sector (pp.31-37). This includes estimated mineral reserves and major producing mines and PSAs. A description of artisanal and small-scale mining activities (pp.30-31) is also included. Descriptions of significant exploration activities are also included for mining (pp.31) and for oil and gas (pp.32-33). Section 6.5 (pp.98-99) provides an overview of the largest exploration license-holders for mining, not for oil and gas.

##### Stakeholder views

Industry and CSO stakeholders consulted did not express any particular views about the overview of the

extractive industries in the 2013 EITI Report. While the description of such informal activities provided additional information beyond the requirements of the EITI Standard, it does not include an estimate of the share of the sector such activities account for.

### **Assessment**

We consider this requirement to be met.

### **Production data (#3.5.a)**

#### **Documentation of progress**

The 2013 EITI Report includes only partial information on production. Production data for mining is included (p.37) and for oil and gas (p.38). For mining, this includes volumes produced by mineral mined (Table 20, p.37), but not the value of production. The value of production in MNT per mineral commodity (not crude oil) of only the companies included in reconciliation (not total) is listed in Table 44 (p.87). For oil and gas, total oil production in volume is disclosed in graph form, but the low resolution of the graph and the absence of a number for the volumes produced means it is not possible to ascertain the exact volume of total production. The value of oil production is also not disclosed. The figures for production are disclosed on an aggregate national basis, not disaggregated by soum or aimag, although this is not required under the EITI Standard.

#### **Stakeholder views**

Several government representatives noted that MRAM produced weekly data for production volumes and value of the 15 commodities Mongolia produces and that it must thus have been a mistake if the 2013 EITI Report did not include this data. Upon discussion of the definition of production value, it was noted that the production costs of minerals was confidential but that the sale price was available. From 2015 onwards royalties for coal and iron ore are calculated on the contract price, while royalties for all other commodities are determined on the basis of benchmark prices. There would thus not seem to be any obstacles to disclosure of production data. It was agreed that the use of international benchmarks for the calculation of production value was not valid, given the lower sale price of Mongolia's key commodities (in particular coal, which sells at less than half of Australian fob prices).

### **Assessment**

We consider this requirement to be unmet, with meaningful progress. The EITI Report discloses volumes of minerals produced, although not for crude oil. It does not include the value of total production, only for those companies included in reconciliation. The MSWG may wish to include in future EITI Reports information from MRAM, which is published at a much higher frequency (weekly) and in a timelier manner than EITI Reports.

### **Export data (#3.5.b)**

#### **Documentation of progress**

The 2013 EITI Report includes only partial information on exports. Export volumes and values are included for coal, copper, iron ore and crude oil (p.39-40). There is no information on exports of molybdenum, gold, tungsten, zinc or salt, even though their production is reported in volumes (above). The volumes and values of sales per mineral commodity (not crude oil) of only the companies included in reconciliation (not total) is listed in Table 44 (p.87), although it is not clear if these sales are the same as exports (which is unlikely). Indeed we would highlight the fact that a share of thermal coal production is sold to power

plants domestically and not exported, which would indicate that sales and export figures do not match. The value of total mineral exports and of total oil and gas exports is included in Chart 14 (p.40), but this is not disaggregated by commodity. This information is not further disaggregated by state/region of origin, although this is not a requirement of the EITI Standard.

### Assessment

We consider this requirement to be unmet, with meaningful progress. The EITI Report includes only partial information on volume and value of commodity exports. It omits 11 of the 15 commodities produced in Mongolia. It is also unclear whether the sales value included refers to exports or to total sales, including domestic. It also appears that this information is only provided for companies included in reconciliation, rather than total exports. The MSG may wish to include this information sourced from MRAM or the Bank of Mongolia in future EITI Reports.

### Assessment of timeliness, comprehensiveness and reliability of the information disclosed (#2)

- **Timeliness:** The 2013 EITI Report was published in December 2014 and approved by the National Council on 13 January 2015.
- **Comprehensiveness:** Information on production and export data is not comprehensively disclosed, with volumes and values of key commodities lacking.
- **Reliability:** The information provided in the 2013 EITI Report is backed up with data from other sources available on government websites although contextual information is not consistently sourced. Although the reliability of the contextual information does not appear to have been discussed by the MSG, the International Secretariat is not aware of any concerns raised by stakeholders regarding the reliability of the information.

Table 3 - Summary assessment table: Monitoring and production

| EITI provisions  | Summary of main findings   | Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions) |
|--|--|---|
| Overview of the extractive sector, including exploration activities (#3.3) | The 2013 EITI Report includes a detailed description of the extractive industries and of significant exploration activities.   | Provision met   |
| Production data (#3.5.a)   | The EITI Report includes volumes of production in mining, but not of oil and gas. While production data is only included in aggregate for companies included in reconciliation, the low materiality threshold for reconciliation means these account for most of production. | Provision unmet, with meaningful progress   |
| Export data (#3.5.b)   | The information on sales of minerals covers only four of the 15 commodities Mongolia   | Provision unmet, with meaningful progress   |

|   |  |  |
|---|--|--|
|   | produces and it is unclear whether sales refer to exports. |  |
| <b>Overall assessment:</b><br>Requirement unmet with meaningful progress.   |  |  |
| <b>Validator's conclusions and recommendations:</b><br>1. The MSWG should discuss how to include production data from MRAM that is produced at a much higher frequency (weekly) and in a timelier manner than EITI Reports.<br>2. The MSWG should consult with MRAM and the Bank of Mongolia to source the volumes and values of commodity exports. This would be particularly relevant to informing the vibrant domestic policy debate on Mongolia's terms of trade and the impact of lower global commodity prices on Mongolia's balance of payments. |  |  |

### 3. Revenue collection

#### 3.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue transparency, including the comprehensiveness, quality and level of detail disclosed. It also considers compliance with the EITI Requirements related to procedures for producing EITI Reports.

#### 3.2 Assessment

##### Comprehensiveness (#4.1.a, #4.2.a-b)

###### Documentation of progress

The 2013 EITI Report includes a *definition of materiality* but no justification for the materiality threshold. There also appear to have been deviations from the materiality threshold in practice. The materiality threshold for reporting is explained on p.11 and in Section 4.4 (p.70). This is still the same MNT 10,000 (USD 5) threshold set on 24 June 2010.

All *material revenue flows* were included in the scope of reconciliation, the reporting templates were agreed by the National Council on 3 January 2014, which include payments in addition to those agreed on 24 June 2010 (p.70). At the same time personal income tax was omitted despite strong lobbying from companies. Meetings of the MSWG's working group on reporting templates in April, May and June 2015 discussed this issue, but resulted in the continued omission of personal income tax (no CSO was member of the working group). The payment flows included in reconciliation are set out in the diagram on p.68, although there is no description of each flow.

The *materiality threshold for companies* to be included in the scope of reconciliation was set at MNT 40 million in total payments with 250 companies selected for reconciliation on 23 December 2013 (p.70) up from 200 the year before. This means that all companies making aggregate payments to government of more than MNT 40 million were included in the scope of reconciliation and that all payments made by these companies above the MNT 10,000 materiality threshold (per payment) were included in the reconciliation. The EITI Report includes the list of material companies (in appendix 2 (pp.135-146), but notes deviations from the agreed materiality threshold for reporting companies. The list was provided to the IA by the EITIM Secretariat based on a scoping note completed by the Secretariat itself. The IA notes that 91 of the 250 companies making the largest payments to government were not included in the scope of reconciliation (Section 2.4.1.3 on p.11). 91 other companies were selected for reconciliation instead,

with 20 of these below the MNT 40 million materiality threshold for reporting companies set by the National Council. “We did not review the original basis for selection, nor the method for exclusion of the companies by the Secretariat” (p.11) The options considered and the rationale in setting the materiality threshold are not explained in the 2013 EITI Report. The number of companies participating in EITI reporting has grown from 301 in the 2010 EITI Report to 1151 in the 2013 EITI Report. The MSWG has asked all companies making material payments to report, even though less than a quarter of these are included in the scope of reconciliation. All but three of the 250 companies included in the scope of reconciliation in the 2013 EITI Report did not disclose information.

Section 2.4.5 (p.18) of the 2013 EITI Report notes that all companies reported, except for one (Mongolbulgargeo), even though it had reported for the 2011 and 2012 EITI Reports. The 2013 EITI Report does not explain why Mongolbulgargeo did not report, although it notes that several attempts at reaching the company were made. In addition two companies did not respond to requests for explanation of discrepancies between their reports and the government’s. Section 5.2.3.3 (p.86) provides total figures for payments by the three companies that did not provide comprehensive information. Three additional companies are highlighted here because the “information provided is not adequate for reconciliation”. This is because government only provided receipt of customs tax, VAT and customs service charge in total amount, while the companies provided detailed breakdowns.

The EITI Report notes that the lack of reporting by certain companies was not material. The *materiality threshold for discrepancies* was set at MNT 100,000 (pp.70-71). It is not specified whether this refers to discrepancies in total payments or per revenue stream. Based on Mongolbulgargeo’s reporting in 2011 (MNT612 million) and 2012 (MNT 400 million), the Independent Administrator states “On this basis, it does not appear that the company’s omission is material.” (p.18) This judgement of the immateriality of omissions depends on whether the MNT 100,000 materiality threshold refers to aggregate payments to government or per revenue stream. The unresolved differences for the two companies that did not provide clarifications were deemed “not material”: Bujgar ord LLC (MNT 71,845.7) and Ugalzan Tsamhag LLC (MNT 14,879.4). (pp.18-19) The EITI Report does not include an assessment of the share of total revenues that the lack of reporting amounts to. Section 5.2 (pp.82-83) records that unresolved discrepancies account to MNT36.84 million (0.0002% of total government receipts) and is thus not material. Section 2.4.7 (p.19) noted that the overall unresolved differences were not financially material: the share of discrepancies was local governments 67%, General Department of Custom 29% and Ministry of Finance 4%. Also, Section 2.4.9 (pp.19-20) states that difficulties in securing responses from certain government entities and certain companies are detailed in appendixes 16 and 17.<sup>73</sup>

The Independent Administrator only includes an assessment of the materiality of discrepancies rather than an assessment of the comprehensiveness of EITI disclosures and the coverage of reconciliation. While the discrepancies account for 0.0002% of total revenues included in reconciliation (p.82), it does not estimate the share of companies included in reconciliation within total government revenues from the sector.

The list of *government entities* receiving material payments is set out in Section 4.3.1 (p.69). Table 2 (p.7) lists all government entities receiving payments from companies included in the scope of reconciliation, including the share of these revenues included in the 2013 reconciliation. Section 2.4.5 (p.18) states that

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<sup>73</sup> Appendixes 16 and 17 are only published separately from the 2013 EITI Report on the EITI Mongolia website (<http://www.eitimongolia.mn/sites/default/files/uploads/final-reports/2013%20Report%20annex%20EN.zip>).



all government entities included in the reconciliation reported.

However, the EITI Report does not include full disclosure by government entities. While Section 4.3.2 (pp.69-70) notes that 1198 companies submitted reports to the MEITI Secretariat and that the Ministry of Finance submitted reports for 1617 companies, Table 7 (p.16) notes that there were 1691 companies holding mining, oil and gas licenses in 2013. Given that all license-holders must make payments of license fees at least, this would indicate that the government has not provided full disclosure of its revenues. Although Table 3 (p.9) discloses the value of revenues per payment stream, it appears to only include revenues from the 1198 companies disclosing payments since there are almost no discrepancies between companies' and government's disclosures. Table 5 (p.15) includes details of reconciliation of revenue flows, but this does not include full disclosure by government.

The Independent Administrator also notes (p.70) that MRAM and the Ministry of Finance maintain two different company lists, and that these are not identical given that the lists are for different purposes. The IA notes that the MoF list was used for purposes of setting the scope of reconciliation.

The EITI Report provides information that is disaggregated by company, government entity and revenue flow, in Appendix 1B (pp.122-125) and Appendix 1C (pp.126-134) of the 2013 EITI Report. The information by company and by revenue stream and government entity is available in excel spreadsheet format on the EITIM website.<sup>74</sup>

The financial data is not disaggregated by project, although this is not a requirement of the EITI Standard. However the National Council has considered the issue of project-by-project reporting when it constituted a working group to assess the feasibility of disaggregating corporate income tax information between that related to extractive industry activity and other, at its meeting on 13 January 2015. This was seen as a first step to reporting disaggregated by project.

Section 8.2.2 (p.109) includes a recommendation "that the method for selection of companies is reviewed, with a comparison of the licensing and taxation records, and examination of whether the reporting systems can be improved so that extractive sector companies can be more simply identified." The MSWG and the Independent Administrator for the 2014 EITI Report, KPMG, have followed up this recommendation. The inception workshop on 7 July 2015 approved the following risk-based approach<sup>75</sup>:

- Individual reconciliation (national level tranche 1): companies with total key revenue streams of MNT 250 million and above constitute 97.8% of total revenues. There are a total of 183 companies and these companies will be reconciled at the individual level.
- Sampling reconciliation (national level tranche 2): companies with total key revenue streams of more than MNT 100 million but less than MNT 250 million will be sampled using a risk-based approach. There are 130 such companies.

### Stakeholder views

Two government representatives were critical of the current materiality threshold adopted for setting the scope of reconciliation. It was unclear to these stakeholders why, if information was collected from over 1300 companies, this data would not be reconciled with government disclosures. Several industry representatives noted that a proposal had been put forward to revise the materiality threshold on several

<sup>74</sup> [http://www.eitimongolia.mn/sites/default/files/uploads/Companies\\_report\\_2013.xlsx](http://www.eitimongolia.mn/sites/default/files/uploads/Companies_report_2013.xlsx)

<sup>75</sup> The minutes of the 7 July 2015 Inception Workshop are not published on the EITI Mongolia website. We refer to the approved Inception Report.

occasions, most recently at the National Forum on 3 November 2015. The proposal was that there be two different thresholds (for exploration and production license holders) so that the Independent Administrator would not spend time chasing exploration companies making small payments. It was noted that relatively inactive exploration companies only paid license fees and that the licenses were suspended in any case if such payments were not made. Upon discussion, one government representative consulted recognised that the number of companies for which government disclosed its revenues did not match with the total number of companies holding licenses, although this had not been discussed by the MSWG. The representative noted there were no practical barriers to government's disclosing of information on all license-holders.

The number of companies reporting in the 2014 EITI Report through the eReporting system dropped to 987. In our discussions with government agencies like MRAM, it was noted that the reason for the lower level of reporting by companies for 2014 was due to the fact that many companies had stopped operating or had gone into receivership. It was noted that of the more than 1500 companies with licenses, 380 had submitted mining plans to MRAM, of which 300 were approved and 78 were operational and producing. Yet even if license holders were not producing, they still made material payments to government in the form of annual license fees.

Two government representatives called for the introduction of single company identification numbers to be used consistently across all government departments, as this would facilitate identifying company payments across various entities.

### **Assessment**

We consider this requirement to be unmet, with meaningful progress. The 2013 EITI Report includes a definition of the materiality threshold for payments and companies to be included in reconciliation, but no justification for why the threshold was set at this level. The MSWG was involved in setting the materiality threshold for payments in June 2010 and for companies in December 2013. However the materiality threshold for companies was not respected in practice. There is no assessment of the share of total revenues that non-reporting companies amount to. However, we note from the discussions on the inception of the 2014 EITI Report that a detailed discussion of the materiality threshold for companies included in reconciliation was held on 7 July 2015 and that a risk-based approach was adopted. This would indicate that the MSWG is seeking to address these gaps.

There is no description of each revenue flow.

It is also unclear whether the materiality threshold for discrepancies refers to discrepancies per payment stream or in aggregate, per reporting company.

Finally there is no assessment by the Independent Administrator of the comprehensiveness of the EITI report.

### **Data quality**

#### **Documentation of progress**

ToR for the Independent Administrator: The Cabinet Secretariat of the Government of Mongolia approved the ToR for the Independent Administrator in March 2014, following approval by the MSWG at its 12

March 2014 meeting<sup>76</sup> and established an Evaluation Committee.<sup>77</sup> The Committee evaluated bids until the end of May 2014 and selected a consortium of Ulaanbaatar Audit Corporation LLC, Mongolia and Hart Nurse Ltd, UK. A competing bidder, a consortium of Dalaivan Audit LLC and Moore Stephens Ltd UK that had undertaken the 2012 EITI Report, lodged a complaint over the results of the technical evaluation and scoring of the bids. However the Evaluation Committee found that the complaint had not be lodged formally and proceeded with the original selection. The contract was signed in July 2014.

However the ToR for the 2013 EITI Report differs significantly from the template ToR on the EITI International website. It does not refer to international, or national, accounting standards. It does not clearly define the MSG's involvement in sourcing contextual information or in the reporting process. It does not provide any of the information in Annex 1 of the template ToR approved by the EITI Board.

The reporting templates are not revised on an annual basis: they were last agreed by the National Council on 23 December 2013<sup>78</sup> although neither the MSWG nor the National Council discussed the updates to the reporting templates with the Independent Administrator. The process for updating the reporting templates is agreement by the MSWG, approval by the National Council, review and approval by the National Statistics Office (as per the requirements of the National Statistics Law) and final approval by the Ministry of Justice. The process typically takes nine months. In the last update of the reporting templates, the Secretariat told us the National Statistics Office did not bring any amendments to the reporting templates approved and proposed by the MSWG. The templates were revised by the MSWG and approved by the National Council in June 2015 to ensure better quality assurance for disclosures. The MSWG working group on reporting templates met in April, May and June 2015. The National Statistics Office was still reviewing the updated templates in November 2015. This would only be completed in time for the 2015 EITI Report, in 2016.

Company audits: Section 2.4.2.1 (p.13) of the 2013 EITI Report provides an overview of assurance procedures for companies: a letter from a member of company management making representations about the accuracy of the figures provided for the EITI reconciliation. The EITI Report includes a summary of the Independent Administrator's assessment of data reliability. Section 2.4.2.1 (p.13) explains that 35 companies did not send in management letters, which represented 20% of the value of receipts reported by government.

In addition, Section 6.2 (pp.89-90) provides an assessment of prevailing audit procedures by companies included in EITI reconciliation. All 250 reporting companies were asked to send a copy of their audit report. 45 companies (22% of the 250 companies) did not respond to the request. Of the 205 companies that responded:

- 181 had an unqualified audit report
- 16 had a qualified audit opinion
- 2 had a disclaimer of auditors' opinion
- 6 were not audited

<sup>76</sup> Only available in Mongolian - [http://eitimongolia.mn/sites/default/files/uploads/AH\\_35\\_20150312.pdf](http://eitimongolia.mn/sites/default/files/uploads/AH_35_20150312.pdf)

<sup>77</sup> Minutes of the 35<sup>th</sup> meeting of EITIM Multi-Stakeholders Working Group, 11 March 2014 (only in Mongolian on the website [http://www.eitimongolia.mn/sites/default/files/uploads/AH\\_35\\_20150312.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/AH_35_20150312.pdf))

<sup>78</sup> The 2013 EITI Report states that reporting templates were agreed by the National Council at a 3 January 2014 meeting, although this appears to be an error and should refer to the National Council meeting on 23 December 2013.

*Government audits:* On the reliability of government disclosures, Section 2.4.1.2 (p.11) notes that “there was no formal assurance process (see 2.3.2.4), and that the information contained some inaccuracies (see next section), although these were not material.” In Section 2.4.2.4 (pp.13-14) the IA notes: “The government spreadsheet of receipts is signed by State Secretary of the Ministry of Finance. There is, however, no representation or assurance given in respect of the government receipts declared to the Independent Administrator for EITI, and there is no indication of what the government signature signifies.”

Section 8.3 (pp.110-111) provides an overview of audit procedures for government entities, either by National Audit Office or a qualified auditing firm. There is no assessment of whether there were deviations from these audit requirements for government entities in practice

A government representative noted that a certification of quality assurance for government disclosures was only introduced in reporting templates used for the 2014 EITI Report. The mismatch in timeframes was mentioned as a key challenge in previous EITI Reports, including the 2013 EITI Report. The Ministry of Finance was required to submit reports for the 2013 EITI Report on behalf of the government in mid-February 2014 and this information was then stored by the EITIM Secretariat before being transmitted to the Independent Administrator in Q3 2014. However the State Audit Agency only audited accounts of soums and aimags by 20 April, before a consolidated audit of government accounts was undertaken thereafter. It would therefore not have been possible to provide a certification of compliance with State Audits by mid-February 2014.

*Confidentiality of information pre-reconciliation:* Provisions for safeguarding the confidentiality of information prior to reconciliation are not robust in the 2013 EITI Report. The flowchart included in Annex D and in the 2014 handbook for reporting entities clearly reveals the central role played by the EITIM Secretariat in collecting information from both companies and government entities, who themselves centralise their disclosures through the General Department of Taxation and the Ministry of Finance. This has however been resolved in the 2014 EITI Report, where reporting entities (both government and companies) input their information directly into the eReporting system. However, disclosures on the eReporting system are published directly on the website before reconciliation, although no member of the MSWG and no reporting entity seems to have raised any concern over this procedure.

In addition, summary data templates have been posted on the website for all EITI Reports, with government reports<sup>79</sup> and company reports<sup>80</sup>. The standardised summary data template was compiled on this basis by the EITI International Secretariat.<sup>81</sup>

### Stakeholder views

Only two government representatives noted that they had provided input to the ToR for the Independent Administrator for both the 2013 and 2014 EITI Reports. One government representative noted that an official letter had been sent from the Ministry of Finance to the State Audit Agency during the spring of 2015 requesting the agency undertake audits of the government’s EITI disclosures. The agency had responded that this would be possible, but only if included in its future workplan and approved by the Great Khural as part of the national budget. This was not included this in the draft 2016 National Budget.

<sup>79</sup> <http://www.eitimongolia.mn/en/government-reports>

<sup>80</sup> <http://www.eitimongolia.mn/en/companies-reports>

<sup>81</sup> <https://drive.google.com/folderview?id=0B7tEEAf2PsWEUjllV1g2Zy02MFE&usp=sharing&tid=0B7tEEAf2PsWEaF84YkN2MUI4Y0U>

The State Audit Agency also noted that they would only provide full assurance, which would entail a first audit of government submissions and a second audit of the final EITI Report. Government representatives were aware this would pose challenges at Validation given that it has consistently featured as a recommendation of past EITI Reports.

Several government representatives explained that for their purposes a simple signature from a high-level official was sufficient to provide data quality assurance. The challenge with certification statements that refer to audited financial statements was that the State Audit Agency only performed financial audits on government expenditure, not revenues. The GDT is given a revenue target annually and the State Audit Agency only reconciles the reports from the GDT with those from the single Treasury account. It was noted that the eReporting system still posed challenges for MRAM and Customs in particular, given that they did not maintain single identification numbers for companies. Several government representatives also noted that the quality of data disclosed to EITI would be improved if the number of companies included in reconciliation was reduced.

### **Assessment**

We consider this requirement to be unmet, with limited progress. The MSWG's involvement in preparing the ToR for the Independent Administrator, for both 2013 and 2014 EITI Reports, appears to have been limited. While the 2013 ToR differs significantly from the template approved by the EITI Board, the 2014 ToR was not tailored before being published. The reporting templates are not revised in consultations between the MSWG and the Independent Administrator: rather they are reviewed by an ad hoc working group and then agreed by the MSWG and subsequently approved by the National Council, before the Independent Administrator is contracted. There is no evidence in MSWG or National Council meeting minutes of any consultations on the reporting templates with the Independent Administrator. While the procedures for agreeing revised reporting templates differs from that required under the EITI Standard, with final approval from the National Statistics Office and the Ministry of Justice, these two government institutions do not appear to have acted against the wishes of the MSWG and have not amended the reporting templates approved by the MSWG. The 2013 EITI Report includes a review of audit and quality assurance procedures is included, although no assessment of deviations in practice. Based on this review, the Independent Administrator has agreed on the assurance procedures for the 2013 EITI Report with the MSWG (pp.13-14 of the 2013 EITI Report, which includes decisions agreed during the inception phase in August 2014). The 2013 EITI Report includes an assessment of whether the quality assurance procedures were followed, where the Independent Administrator noted that there was no formal assurance for government figures (p.108) and that 35 of the 250 companies included in reconciliation (and accounting for 20% of government extractive industry revenues) did not provide the required assurance certifications (p.111).

The 2013 EITI Report does not consistently source all contextual information.

The provisions for the confidentiality of information pre-reconciliation are not robust for the 2013 EITI Report, although the use of the eReporting system for the 2014 EITI Report have addressed this gap. A significant number of companies did not provide the agreed-upon quality assurance certifications for their disclosures in the 2013 EITI Report, while disclosures by government entities were not certified at all. Despite the improved quality assurance requirements built into the eReporting system used for the 2014 EITI Report, we understand a significant number of companies and government entities did not comply with these in practice. The MSWG may wish to revisit the quality assurance procedures built into the eReporting system to constrain reporting entities' ability to alter quality assurance certifications.

## Taxes and other payments (#4.1.b)

### Documentation of progress

The 2013 EITI Report notes that the MSWG has considered all revenue flows, including:

- Profit oil is listed as parts of payments (p.68), but no further explanation is provided.
- Petroleum revenue of Government of Mongolia as per PSA is included. (p.124).
- Corporate income tax is a type of profit tax and is included in reconciliation (p.68 and p.122).
- Fee for Exploitation of mineral resources (royalty fee) and Fee for Exploitation of petroleum resources (oil royalty fee) are included in reconciliation (p.122).
- Dividends on state property are included in reconciliation (p.122).
- Signature bonuses, bonus on production commencement as part of PSAs, bonus for training as per PSA are all included in reconciliation (p.122).
- License fee for exploitation and exploration of mineral resources, fee for air pollution (coal), social and health insurance fees paid from the companies, customs service fee, land fee, fee for water use, fee for use of mineral resources of wide spread, fee for recruiting foreign experts and workers are all included in reconciliation (pp.123-124).
- Other significant revenue streams to government are included, such as VAT, excise on petrol and diesel and tax on petrol and fuel diesel fuel (p.122).

### Stakeholder views

Industry and CSOs did not express any particular views on the comprehensiveness of revenue flows included in reconciliation. One government representative noted that all revenue streams had been included and that, given the low materiality threshold of MNT 10,000 per payment, the MSWG had clearly demonstrated its desire to include all revenue flows in the scope of reconciliation. Several government representatives expressed frustration at this low materiality threshold and argued for more discussion on the selection of revenue flows to be included in the scope of reconciliation, so that efforts could focus on adequately disclosing all information related to material revenue flows.

### Assessment

We consider this requirement to be met.

## In-kind revenues (#4.1.c)

### Documentation of progress

State participation in the extractive industries gives rise to material in-kind revenues in the oil and gas sector, but not in the mining sector. The 2013 EITI Report mentions profit oil (p.68) as part of the diagram of payments included in reconciliation. The assumption is that this is paid in cash (p.124 refer to Petroleum revenue of GOM from PSA, received in cash) and that the government does not currently collect any revenue in-kind.

### Stakeholder views

One government representative raised the issue of the sale of ETT's production as an example of in-kind revenues, although this would not strictly count as in-kind revenue given the mine is fully government-owned (and in-kind revenue is not derived as a result of an agreement with a private operator). Mining SOEs make material payments to government in line with those from privately-held companies, such as taxes, license fees, etc, as well as dividends (either to Erdenes MGL, which is a part of the Human Development Fund, for four SOEs and to the State Property Commission for all other SOEs) but this does not include revenues derived from the sale of in-kind revenue. State-owned mining companies like ETT

sell their production and pay fees, taxes and dividends to government on the basis of their sales. Despite the absence of legal barriers to disclosing sales of ETT's coal production, in practice these were not disclosed as government representatives were concerned over the information being "misinterpreted" by NGOs.

A government representative on the National Council with jurisdiction over the oil and gas sector explained the provisions for in-kind revenue under Mongolia's PSA system. Oil and gas operators are required to transfer a share of production in kind to the government (the share is variable according to the PSA, which are all different). For the three producing oil and gas PSAs, the two operators take care of commercialising the government's share of profit oil and then transfer the proceeds to PAM (net of marketing fees). The government, through PAM, monitors the volumes of commercialised oil with three separate checks by a customs officer at the well-head.

### **Assessment**

We consider this requirement to be unmet, with meaningful progress. The MSWG does not appear to have considered the issue of in-kind revenue during its meetings and in its finalisation of the 2013 EITI Report. While oil and gas PSAs provide for a share of profit oil to be transferred to the government in kind, the EITI Report does not describe these provisions. While we understand there are no statutory provisions for in-kind revenue in the mining sector, the oil and gas PSAs provide for a (variable) share of profit oil, which is paid in cash rather than in kind. There is no description of these provisions, only a reconciliation of the cash payments of profit oil by the two oil and gas producers to government.

## **Transport revenues (#4.1.f)**

### **Documentation of progress**

Section 7.3 (107) of the 2013 EITI Report notes that "No transportation revenue relating to minerals was reported by State or Government organizations for 2013." It is unclear from the 2013 EITI Report whether this means that there are no transportation revenues linked to the extractive industries received by government, or whether no such transportation revenues were reported through the EITI. There is no consideration of the materiality definition for transportation revenues. There are no additional disclosures beyond this.

### **Stakeholder views**

Industry and government stakeholders consulted noted that the government did not receive any material revenues from the transportation of minerals or oil and gas. CSOs consulted did not express any view on the issue of transportation revenues.

### **Assessment**

We consider that the MSWG has made some attempt at considering whether the government received transport revenue linked to extractive industries in the 2013 EITI Report. Such efforts are only encouraged and are not taken into account in assessing compliance.

## **Barter and infrastructure transactions (#4.1.e)**

### **Documentation of progress**

Section 7.1 (p.101) of the 2013 EITI Report states "Infrastructure expenditure, to the extent that payments were made, was disclosed along with social expenditures and is included in this section." Table 56 (pp.103-104) provides details of investments in public infrastructure. Section 7.1 (p.105) states "There

is no Barter agreement made.” It also explains that all but two companies made infrastructure investments as a grant. It details these two concession agreements between companies (Terra Energy and SouthGobi Sand LLC) and the Government of Mongolia (p.104). The level of detail of disclosures is commensurate with that of other revenue streams (by company and specific investment). There is no definition of materiality included in the 2013 EITI Report.

### **Stakeholder views**

The International Secretariat understands from discussions with industry and government stakeholders that barter agreements exist, particularly used by license-holders for paying their contractors in kind (minerals), and that their use has increased as the availability of USD has declined in Mongolia during the economic downturn since mid-2012. Several industry representatives noted that SOEs in particular used payments in kind to cover the costs of contract mining by private service providers. However, neither industry nor government stakeholders noted the existence of any barter for the payment of taxes or fees to government.

### **Assessment**

We consider this requirement to be met. Although the EITI Report adequately covers infrastructure provisions and barter. While the International Secretariat understands that it is common for license-holders that used contractors to mine their deposits to their contractor fees in kind as retained share of production, no evidence was presented of any company paying taxes or fees to government in kind (either in minerals or infrastructure).

## **Subnational direct payments (#4.2.d)**

### **Documentation of progress**

Table 3 (p.9) of the 2013 EITI Report lists the aggregate value of direct subnational payments to aimags, capital, soum and sub-district. Appendix 18b (pp.173-175) details companies' total contribution at environment and remediation special account to local governments. The EITI Report does not include the MSG's definition of materiality for direct subnational payments. These direct subnational payments have been disclosed in aggregate (p.122) and by aimag and soum (Appendix 20, pp.190-200). The 2013 EITI Report includes reporting by a total of 20 aimags (the total universe of aimags receiving material payments from extractive industry companies) and 120 soums (the total number of soums that host extractive industries).

### **Stakeholder views**

CSO stakeholders place particular importance on direct subnational payments, given dissemination events and subnational MSG meetings have shown strong demand for this information. Industry representatives also see the inclusion of such information as desirable, to ensure better understanding from local communities of the degree of contributions by companies operating in their respective soums. Several government representatives saw the establishment of subnational MSGs as helpful in improving EITI reporting by soums and aimags.

### **Assessment**

The MSGWG has taken considerable steps to include subnational payments in EITI reporting. Although company payments to subnational governments have been disclosed, they are not reconciled with subnational government receipts nor are the disclosures disaggregated by payment streams. Thus, the requirement is considered unmet with meaningful progress.



## Transactions between SOEs and government (#4.2.c)

### Documentation of progress

The 2013 EITI Report describes the payment of dividends by five SOEs to the state (p.48), but does not state whether any of the other 99 companies in which the state holds equity paid dividends or any other payment to the government. Equally, the financing structure of SOEs is not described, even for the 11 SOEs for which a detailed description is provided (pp.49-51).

The 2013 EITI Report does not explicitly state whether any of the mining SOEs collect revenues on behalf of the government, or received financing from the government in 2013. There are no oil and gas SOEs collecting payments on behalf of the State, or receiving payments from the State.

### Stakeholder views

A government representative from Erdenes Mongol noted there were no legal barriers to disclosing the financing structure of SOEs, nor the total universe of company dividends paid to either Erdenes Mongol or to the State Property Commission.

### Assessment

We consider this requirement to be unmet, with limited progress. The role of SOEs operating in the extractive industries is not comprehensively disclosed in the EITI Report. While SOEs have made payments to other government entities in the past, such as the transfer of USD 310 million in ETT funds to the Human Development Fund in 2011, these transactions (and their materiality) has not been considered either in the EITI Report nor in MSGWG meetings. The information on dividends paid by five SOEs is not comprehensive and omits information on dividends paid by the remainder of the 99 companies in which the state holds equity. The MSGWG may wish to include information from Erdenes Mongol, the State Property Commission and the Ministry of Finance, on such transfers to increase the relevance of EITI reporting to national debates over SOEs transactions and their relationship to government. Indeed given plans to eventually transform Erdenes Mongol into a commercially oriented state asset management entity (similar to Temasek), such disclosures would improve the transparency of current practices.

## Assessment of timeliness, comprehensiveness and reliability of the information disclosed (#2)

- **Timeliness:** The 2013 EITI Report was published in December 2014 and approved by the National Council on 13 January 2015.
- **Comprehensiveness:** Information on In-kind revenue, barter and transactions between SOEs and government is not comprehensively disclosed. There is no assurance ensuring the comprehensiveness of unilateral government disclosures.
- **Reliability:** The data used for reconciliation in the 2013 EITI Report is not supported by strong quality assurance for either government entities or companies. The MSGWG does not appear to have discussed the materiality threshold for subnational payments, infrastructure provisions or barter. The International Secretariat is not aware of any concerns raised by stakeholders regarding the reliability of the information.

*Table 4 - Summary assessment table: Revenue collection*

| EITI provisions                      | Summary of main findings   | Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions) |
|--------------------------------------|--|---|
| Comprehensiveness (#4.1.a, #4.2.a-b) | The MSWG has not recently considered justifying the low materiality threshold set for payments in 2010, although it has revised the threshold for companies included in reconciliation in December 2013 and July 2015. The 2013 EITI Report does not include a description of each revenue flow and does not explicitly provide for full government disclosure, even though this is in effect provided by the low materiality threshold. Given that the lack of clarity on what the materiality threshold for discrepancies refers to (individual flow or aggregate) the statements on the immateriality of discrepancies are difficult to assess.   | Requirement unmet with meaningful progress.   |
| Data quality (#5)                    | The MSWG's involvement in developing the ToR for the Independent Administrator appears limited for both 2013 and 2014. Although reporting templates are not approved on an annual basis and the government retains ultimate authority for approving them, it does not appear that the National Statistics Office has ever acted against the wishes of the MSWG. Issues of data quality assurance (for both companies and government) and the confidentiality of information pre-reconciliation are significant in 2013 EITI Report. While the eReporting system used for the 2014 EITI Report has addressed concerns over the confidentiality of EITI financial information pre-reconciliation, it does not appear to have resolved data quality assurance challenges. | Requirement unmet with limited progress.  |
| Taxes and other payments (#4.1.b)    | All revenue flows to government have been included in the 2013 EITI Report.  | Requirement met.  |
| In-kind revenues (#4.1.c)            | The 2013 EITI Report does not describe the provisions for state collection of in-kind revenue.   | Requirement unmet with meaningful progress.   |
| Transport revenues (#4.1.f)          | The MSWG appears to have considered whether government receives transportation revenues, even if it has not set a materiality threshold for such   |   |

|  |   |   |
|--|---|---|
|  | revenues.   |   |
| Barter and infrastructure transactions (#4.1.d)  | The 2013 EITI Report details infrastructure provisions and notes that no barter exist.  | Requirement met.                            |
| Subnational direct payments (#4.2.d)   | The MSWG has considered subnational direct payments and disclosed them in the 2013 EITI Report. However, the data is not disaggregated by revenue flow, nor reconciled with subnational receipts. | Requirement unmet with meaningful progress. |
| Transactions between SOEs and government (#4.2.c)  | The MSWG does not appear to have considered the transactions between SOEs and government.   | Requirement unmet with limited progress.    |
| <b>Overall assessment:</b><br>Requirement unmet with meaningful progress.  |   |   |
| <b>Validator's conclusions and recommendations:</b>  |   |   |
| <ol style="list-style-type: none"> <li>1. The MSWG should consider revisiting the materiality threshold for payments to strike a balance between the comprehensiveness of disclosures and the quality of reporting. The MSG should agree with the National Statistics Office the procedures for updating reporting templates in conjunction with the Independent Administrator, and make these procedures public.</li> <li>2. The MSWG should revisit the quality assurance procedures built into the eReporting system to constrain reporting entities' ability to alter letters of certification required.</li> <li>3. The MSWG should describe the provisions for state collection of in-kind revenue in the oil and gas sector.</li> <li>4. Given plans to restructure government holdings in SOEs into a single state asset management institution, the MSWG may wish to use EITI Reports to disclose current practices and build public support for restructuring efforts.</li> <li>5. Single company identification numbers across all government agencies could also be considered to improve the efficiency of data collection within government reporting entities.</li> </ol> |   |   |

## 4. Revenue management and distribution

### 4.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue management and distribution.

### 4.2 Assessment

#### Sub-national transfers (#4.2.e)

##### Documentation of progress

Mongolia's revised 2011 Budget Law provides for subnational transfers through the General Local Development Fund (GLDF), which receives 5% of mining royalties and 30% of oil, gas and mining license fees, and through provisions of the oil resource levy, of which 20% is allocated to the aimag and 10% to the soum hosting oil and gas exploration or production. Following surveys of needs at the soum and aimag levels, between 60% and 100% of the GLDF funds are then allocated to soum and aimag level development funds (p.56). The GLDF is described in Section 3.8.3 (p.56), and the formula is explained. It

includes a link to information on the State budget amendment for 2013.<sup>82</sup> Section 3.8 on Revenue Allocation (pp.54-55) describes the allocation of fees from the extractive industries in the national budget. While subnational transfers are disclosed according to the formula described above, there is no assessment of discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity. The 2013 EITI Report only provides aggregate sums of the total sum and aimag allocations in the GLDF.

There is no reconciliation of subnational transfers and no reference to any material discretionary or ad-hoc transfers, although these are not requirements of the EITI Standard.

#### **Stakeholder views**

CSOs and industry representatives did not express any views on the approach adopted to subnational transfers. One government representative noted that the MSWG had not discussed including information on the actual level of subnational transfers and any discrepancies with the amounts soums and aimags should receive according to the formula.

#### **Assessment**

We consider this requirement to be unmet, with meaningful progress. While the EITI Report includes a detailed description of the General Local Development Fund, it does not include an assessment of whether there were discrepancies between calculated and actual transfers. However the formula for allocating funds to subnational governments is described and these subnational transfers are disclosed.

### **Distribution of revenues (#3.7)**

#### **Documentation of progress**

The 2013 EITI Report describes the distribution of revenues. Section 3.7 (pp.52-54) provides details of the State budget, the Local budget, the Human Development Fund budget and the Social Security Fund budget. Section 3.5.10 (p.44) describes the Human Development Fund. Section 3.5.11 (pp.44-45) describes the Social Security Fund. Section 3.8 (pp.54-56) provides details of the source of funds and allocations of the Human Development Fund, the General Local Development Fund and the general provisions of the Budget Law. There is no reference to national or international revenue classification systems, although this is not required under the EITI Standard. However, the summary data template, which includes reference to international GFS classifications, was completed.

#### **Stakeholder views**

Stakeholders did not express any views on the MSWG's approach to disclosing information on the distribution of revenues.

#### **Assessment**

We consider this requirement to be met.

### **Information on revenue management and expenditures (#3.8)**

#### **Documentation of progress**

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<sup>82</sup> <http://www.iltod.gov.mn/?p=3095>

The 2013 EITI Report describes earmarked revenues. Section 3.8 (pp.54-56) provides details of earmarked funds in the Human Development Fund, the General Local Development Fund and the general provisions of the Budget Law. There is only a limited description of the methods for ensuring efficiency and accountability in the use of these funds however, which is not required under the EITI Standard. Section 4.6.2 (p.72) includes a (limited) description of audit processes, but no assessment, although this too is not required under the EITI Standard. (“Government entities and companies where the Mongolian government hold part of the capital share are subject to an annual audit carried out on behalf of the Mongolian National Audit Office. The latter should apply working and reporting standards in compliance with international standards”) The MSG has not disclosed any further information related to the budget cycle, production and commodity price assumptions and revenue sustainability, resource dependence, and revenue forecasting, which is not a requirement of the EITI Standard.

### Stakeholder views

Most stakeholders consulted did not have any views on including additional information on revenue management and expenditures and noted they had expected the Independent Administrator to provide this information themselves without the need for MSWG involvement. Several CSOs did note that stakeholders at the subnational level – both local governments and civil society – had expressed interest in gaining more information on how revenues were used at the soum and aimag level. However it was noted that the MSWG had not considered means of extending EITI reporting to include more information on the use of revenues or budget execution.

### Assessment

We consider that the MSWG has made some attempt to including information on revenue management and expenditures in the 2013 EITI Report. Such efforts are only encouraged and are not taken into account in assessing compliance.

### Assessment of timeliness, comprehensiveness and reliability of the information disclosed (#2)

- **Timeliness:** The 2013 EITI Report was published in December 2014 and approved by the National Council on 13 January 2015.
- **Comprehensiveness:** Information on subnational transfers and revenue management needs further elaborating, although information on distribution of revenues is comprehensive.
- **Reliability:** The information in the 2013 EITI Report is supported sources from government websites, although it is not consistently sourced. The International Secretariat is not aware of any concerns raised by stakeholders regarding the reliability of the information.

*Table 5 - Summary assessment table: Revenue management and distribution*

| Summary assessment table:       |   |   |
|---------------------------------|---|---|
| EITI provisions                 | Summary of main findings  | Validator’s recommendation on compliance with the EITI provisions (to be completed for ‘required’ provisions) |
| Sub-national transfers (#4.2.e) | Although three budget laws are omitted, the formula for calculating subnational transfers is disclosed in the 2013 EITI | Requirement unmet, with meaningful progress.  |

|  |   |                  |
|--|---|------------------|
|  | Report. However, discrepancies between actual and calculated transfers are not disclosed. |                  |
| Distribution of revenues (#3.7)  | The 2013 EITI Report discloses how revenues are allocated.                                | Requirement met. |
| Information on revenue management and expenditures (#3.8)  | The 2013 EITI Report discloses the management of earmarked revenues.                      |                  |
| <b>Overall assessment:</b><br>Requirement met.   |   |                  |
| <b>Validator's conclusions and recommendations:</b><br>1. The MSWG may wish to disclose any discrepancies between the funds that should be transferred under the formula and the actual transfers, as a basis for assessing the efficiency of the current system of fiscal devolution.<br>2. The MSWG may wish to consider the efficiency of budget execution by the Human Development Fund and the General Local Development Fund.<br>3. In order to address public discussions around Mongolia's dependence on the extractive sector, the MSG may wish to obtain further information related to the budget cycle, production and commodity price assumptions and revenue sustainability, resource dependence, and revenue forecasting. |   |                  |

## 5. Social and economic spending

### 5.1 Overview

This section provides details on the implementation of the EITI requirements related to social and economic spending (SOE quasi-fiscal expenditures, social expenditures and contribution of the extractive sector to the economy).

### 5.2 Assessment

#### SOE quasi fiscal expenditures (#3.6.b)

##### Documentation of progress

The 2013 EITI Report does not include a definition of materiality of quasi-fiscal expenditures. Quasi-fiscal expenditures are not mentioned in the report.

We note the example of sales by Baganuur and Shivee Ovoo, both SOEs producing thermal coal, of subsidised coal to state-owned power plants as one such examples of quasi-fiscal expenditure<sup>83</sup>. Subsidies from state-owned coal producers are recorded on the State Budget annually, although it is unclear whether these subsidies represent the full cost to government (*see stakeholder views below*). These regulated/subsidised coal prices from SOEs have supported subsidised electricity prices to end consumers.

##### Stakeholder views

<sup>83</sup> See for instance Asian Development Bank (September 2013), "Mongolia: Updating the Energy Sector Development Plan" (p.15), <http://www.adb.org/sites/default/files/project-document/81826/43079-012-tacr-01f.pdf>

Several government representatives noted that there were no legal barriers to disclosing SOEs' quasi-fiscal expenditures. Two government representatives noted that while subsidies for state-owned coal producers were recorded in the annual State Budget, this accounted for only a share of the cost of subsidised coal sales to state-owned power producers. It was noted that the government fixed the domestic sales price of thermal coal but that the subsidies transferred to state-owned coal producers only a part of this subsidy and the coal producers were forced to accept lower margins due to regulation of their sales prices.

### Assessment

We consider this requirement to be unmet, with limited progress. The EITI Report does not mention quasi-fiscal expenditures or subsidies. This is a particularly important issue in relation to thermal coal sales to state-owned power plants (although it may also involve other mineral producers). The MSG may wish to include a more detailed explanation of subsidies in the mining sector and could use the EITI Report as a means of clarifying the different indirect state subsidies to the electricity sector. This could prove particularly useful given the government's reform plans for the power sector.

## Social expenditures (#4.1.e)

### Documentation of progress

The 2013 EITI Report includes information on social expenditure, but there is no distinction made between mandatory and voluntary social expenditures. It does not include the MSG's definition of materiality related to mandatory social expenditures, although it is assumed that the MNT 10,000 materiality threshold is adopted for all payments.

Section 7.1 (pp.104-105) describes social expenditures made by companies to government organisations and local communities. Section 7.2 (pp.105-107) provides details of donations and support by companies to state organisations (7.2.a) and local governments (7.2.b). Appendix 19 (pp.176-188) provides details of donations and support given by companies to both central and local government entities. It is unclear if the EITI Report includes disclosure of voluntary/discretionary social expenditure, since the difference between mandatory and voluntary is not established.

### Stakeholder views

Several government and industry representatives noted that the mis-categorisation of social expenditures was one of the main causes of discrepancies in EITI reconciliations. This was because companies did provide social infrastructure like water supply but, given that donations from companies to government were illegal under Mongolian law, local governments (at both soum and aimag levels) reclassified these receipts as construction or fees.

### Assessment

We consider this requirement to be unmet, with meaningful progress. Although the EITI Report discloses companies' social expenditure, no distinction is made between mandatory and voluntary social expenditure. It does not appear from the MSG meeting minutes that this distinction has been considered. We understand that such mandatory social expenditures do exist and, for instance, the Oyu Tolgoi Investment Agreement clearly mandates certain social expenditures.<sup>84</sup> The MSG, and civil society

<sup>84</sup> Chapter four of the Oyu Tolgoi Investment Agreement (pp.14-15), [http://www.turquoisehill.com/i/pdf/Oyu\\_Tolgoi\\_IA\\_ENG.PDF](http://www.turquoisehill.com/i/pdf/Oyu_Tolgoi_IA_ENG.PDF)

in particular as a basis for their advocacy, may wish to clearly delineate mandatory from voluntary social expenditure to better assess corporate contributions that are discretionary and those required by law.

## Contribution of the extractive sector to the economy (#3.4)

### Documentation of progress

The 2013 EITI Report includes only a limited description of the contribution of the extractive industries to the economy. Section 3.4 (pp.38-39) includes a general description of the economic contribution of mining, but not of oil and gas. This includes mining's share of GDP, but not in nominal terms. Section 3.1.10 (pp.30-31) provides a description of ASM, but not its share of the extractive industries (for either artisanal and small-scale mining or for all informal activities).

The EITI Report includes the total value of exports for mining (in aggregate) and oil and gas (in aggregate) in both nominal terms and as a share of total exports (p.40). For employment figures, Section 3.4.1.3 (pp.40-41) provides information on employment in both absolute terms and as a share of total employment, but only for mining and not oil and gas. Appendix 21 (pp.202-205) includes information on employment by company, disaggregated by full time/contractor and by local/foreign origin.

In terms of the geographic location of extractive industries, Section 3.1 (p.25) provides a map of strategic deposits in mining. Section 3.2.1.1 provides a map of oil and gas blocks. There is no comprehensive map for mining and the 2013 EITI Report only describes where copper production is located, not where other major mineral extraction activities are located.

### Stakeholder views:

One government representative asked whether the description of the artisanal and small-scale mining sector was sufficient as an assessment of informal activity. While the description of such informal activities provided additional information beyond the requirements of the EITI Standard, it does not include an estimate of the share of the sector such activities account for.

### Assessment

On balance, we consider this requirement to be unmet, with meaningful progress. The EITI Report includes a general description of mining's contribution to the economy as a share of GDP, although GDP in nominal terms is missing. This information is not provided for oil and gas. It also only includes a map of strategic mineral deposits and oil and gas blocks, but no comprehensive map of mining activities. Although this is now provided through the eReporting website, no link is included in the 2013 EITI Report. The MSWG has however gone beyond the basic EITI Requirements in disclosing detailed information on employment by mine and nationality, although not for oil and gas. This is an example of how the EITI Report can be used to disclose information that is meaningful and relevant to national debates. The MSWG may wish to consider including more comprehensive information on the contribution of the extractive industries to the economy as a basis for national debates.

## Assessment of timeliness, comprehensiveness and reliability of the information disclosed (#2)

- **Timeliness:** The 2013 EITI Report was published in December 2014 and approved by the National Council on 13 January 2015.
- **Comprehensiveness:** Information on SOEs' quasi-fiscal expenditure and contribution of extractive



industries to the economy is not comprehensive. There is no indication of whether social expenditures include both mandatory and voluntary spending. The MSG does not appear to have considered SOEs' quasi-fiscal expenditures.

- **Reliability:** The information in the 2013 EITI Report is supported sources from government websites, although it is not consistently sourced. The International Secretariat is not aware of any concerns raised by stakeholders regarding the reliability of the information.

*Table 6 - Summary assessment table: Social and economic spending*

| EITI provisions  | Summary of main findings   | Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions) |
|--|--|---|
| SOE quasi fiscal expenditures (#3.6.b)   | The 2013 EITI Report does not disclose quasi-fiscal expenditures. The MSG does not seem to have considered whether such expenditures exist, despite the widespread knowledge of subsidised state-owned coal sales to power plants. | Requirement unmet with limited progress   |
| Social expenditures (#4.1.e)   | Although the MSG has considered social expenditures in detail and disclosed these in the 2013 EITI Report, it does not seem to have considered the distinction between mandatory and voluntary social expenditures.                | Requirement unmet with meaningful progress  |
| Contribution of the extractive sector to the economy (#3.4)  | The 2013 EITI Report discloses the contribution of mining to the economy, although GDP in nominal terms is missing, and oil and gas GDP data is not provided.  | Requirement unmet with meaningful progress  |
| <b>Overall assessment:</b><br>Requirement unmet with meaningful progress.  |  |   |
| <p><b>Validator's conclusions and recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The MSG should consider the existence of subsidies in the mining sector. Given government efforts to reform the power sector, the MSG could use the EITI Report as a means of clarifying the different direct and indirect state subsidies.</li> <li>2. The MSG, and civil society in particular, should consider the distinction between mandatory and voluntary social expenditures.</li> <li>3. It is recommended that the MSG consider the full contribution of the extractive industries to the economy in both absolute terms and relative to GDP. This would support the national debate on means of increasing the economic multiplier effects of the mining industry.</li> </ol> |  |   |

## Part III – Outcomes and Impact

### 1. Overview

This section provides details on the implementation of the EITI requirements related to the outcomes and impact of the EITI process.

### 2. Assessment

#### 2.1 Public debate (#6.1)

##### Documentation of progress

*Communications:* In line with its communications strategy, the EITIM Secretariat contracted Mongol Mass Media LLC in late 2013 to implement a media campaign to increase public awareness about the EITI. Under the contract 12 TV serials and five interviews were broadcast and five articles were featured on the [www.news.mn](http://www.news.mn) website, three events were featured live on TV. Interviews on the EITI were broadcast on key TV channels such as Bloomberg Mongolia TV, TV9, TV8, Eagle TV and Eco TV. The EITIM Secretariat also re-organized the [www.eitimongolia.mn](http://www.eitimongolia.mn) website to make it more user-friendly, to increase the use of EITI Reports and to improve public awareness. It created several info-graphics using 2012 EITI Report and published these both on the EITIM website and on the [www.ikon.mn](http://www.ikon.mn) news website.

In 2015 the EITIM Secretariat contracted Mongolian-language newspaper National Post to publish five articles on the findings of the 2013 EITI Report (one a month from January to July). An interactive infographic on beneficial ownership disclosures in the 2013 EITI Report was also developed in early 2015. A monthly newsletter is also sent out to a database of 400 contacts maintained by the Secretariat, since September 2014.

It has also pursued a social media communication strategy. As of 7 November 2015, the EITIM Facebook page<sup>85</sup> launched in October 2014 had 299 followers, its Twitter account<sup>86</sup> launched in June 2014 had 160 followers, its YouTube page<sup>87</sup> featured 12 videos and its Flickr account<sup>88</sup> featured 19 photo albums. While its Flickr account has only two followers, the EITIM Secretariat primarily uses this medium for uploading pictures and subsequently alerts its contacts via email, so the number of follower likely under-estimates the impact of this medium. The EITIM Secretariat plans to contract local media advisory firm Maxima Media to track the media exposure of EITI communications and analyse the impact. However a survey on improving communications activities, requested by Secretariat and National Council and discussed at the MSG's 34th meeting on 13 December 2013, found that more efforts were needed for dissemination of EITI information. The subnational outreach and implementation strategy has engaged a broader section of mine-affected communities. (see below, on subnational implementation). On 10 November 2015, the EITIM Secretariat and the Mongolian Mining Journal conducted a training workshop for 52 local journalists, including a session on how to read and interpret EITI reports.

*Outreach:* The EITIM Secretariat has led regular training and outreach events in recent years. In 2013, the Secretariat and the MSG, with support from Adam Smith International and the European Bank for Reconstruction and Development (EBRD), held such events in Ulaanbaatar and four aimags (Darkhan-Uul,

<sup>85</sup> <https://www.facebook.com/EITIMongolia/>

<sup>86</sup> <https://twitter.com/eitimongolia>

<sup>87</sup> <https://www.youtube.com/user/eitimongoliamn/videos>

<sup>88</sup> <https://www.flickr.com/photos/123397335@N02/albums>

Khovd, Govi-Altai, Khentii) reaching roughly 700 people from 20 of Mongolia's 21 aimags. In all the Secretariat estimates it trained 25 trainers and 20 journalists at these events.

In 2014 the MSG and the EITIM Secretariat undertook outreach and dissemination events and road shows in nine soums, reaching a total of 619 people in rural areas. This involved the production of aimag and soum-level summary EITI Reports for the first time. In 2014 and 2015 combined, the Secretariat produced four aimag-level summary EITI Reports and 12 soum-level reports, distributing a total of 4800 copies.<sup>89</sup> The German development cooperation agency GiZ developed three soum and aimag level summary reports based on the 2013 EITI Report, contracting the Mongolian Mining Journal to improve the accessibility of publications. The EITIM Secretariat also carried out surveys in 2014 in five of these nine soums (120 respondents), and in 2015 in three soums (102 respondents) asking residents what information on the extractive industries is already available and what would be of most interest. Respondents highlighted the following topics: environmental rehabilitation (20%), donations (25%), job creation (15%), community development agreements (15%), tax (10%), reserves (10%), licenses (5%) and beneficial ownership. In 2015, the EITIM Secretariat and MSG have conducted four subnational EITI Open Days (in three districts and one aimag) and three regional EITI conferences in the West, North and South in 2015, with plans for another regional conference in East in 2016. The conferences were designed to foster peer learning and sharing of information, while the Open Days were designed to be more detailed in providing information about mining activity in the soums and aimags hosting the events.

Debate at the soum and aimag Open Days in 2015 focused on three key areas, according to the Secretariat, with demands for more information:

- Timeframe for specific mining activities and the impact on employment
- License allocation procedures
- Environmental impacts of mining (especially in terms of water uses and the impact on local agriculture) and the government's response to environmental degradation.

The EITIM Secretariat has also participated in and delivered promotional materials at several international and domestic conferences in both 2014 and 2015 including the "Coal Trans" Forum, "Discover Mongolia" Investment Forum, "Open day of Ministry of Mining". The Secretariat has also held training workshops for each stakeholder group in 2015. In April it held a workshop for CSOs (the PWYP and MECC coalitions) on how to extract information from the 2013 EITI Report, using excel spreadsheets. In February and March it held two workshops for government entities and one for companies, which included a briefing on the 2013 EITI Report and training on how to improve the quality of disclosures.

Although Government Resolution 222 of 2012 requires EITI Reports to be presented to Parliament's Standing Committee on Economic Affairs once a year, this has never been done in practice. The EITIM Secretariat claims that this stems from lack of clarity over who would be tasked with presenting the EITI Report to Parliament (State Secretary, Minister of Mining, etc), although some CSOs we spoke to argued that the Prime Minister was clearly empowered to do so as Chair of the National Council. The Natural Resource Governance Institute (NRGI) ran a training programme for parliamentarians from December 2014 to March 2015 on extractive industries governance, which featured one module on the EITI.

*Sub-national implementation:* Government Resolution 222 on 4 July 2012 requires all provinces (aimags)

<sup>89</sup> Interview with Mrs Delgermaa, communications officer at EITI Mongolia Secretariat, and proceedings of the National Forum, 3 November 2015.

and districts (soums) that host extractive industries to establish EITI sub-councils. All 21 of Mongolia's aimags host extractive industry activities, as do 103 of its 329 soums. As of mid-2015, some 20 aimags and 14 soums had established operational sub-councils according to PWYP, although the Secretariat had not received official notification of all directives establishing these councils (all 20 aimags but only seven soums). The Resolution clearly defines the roles and responsibilities of local governments in establishing these sub-councils and provision 11.2 states that representation of the three stakeholder groups should be equal in number. The role of the sub-national councils at both aimag and soum levels is to assist in EITI reporting, advancing EITI at local level and promoting consultations between local authorities, community and companies, with a particular focus on resolving local development issues. The Resolution does not specify the functions of the subnational councils, or the relation between subnational councils and the National Council and MSWG, as well as sources of funding. However it does regulate disclosures of information beyond that defined in the reporting templates and includes environmental reclamation funds and expenditure. The meeting practices differ according to the soum and aimag. Some sub-national councils meet monthly, others far less frequently, although the 20 sub-national council representatives we met noted the ease of organising such meetings given the small size of the communities involved.

Despite the organisational challenges however, the 20 representatives of both local governments and local civil society we met spoke of a change in attitudes of central government entities and companies. While they were previously perceived as not caring about the impact on local communities, it was noted there was now more respect and attention paid to the needs and interests of local communities. Local residents now had access to information on the number of licenses active in their soum and aimag, where previously only the local governor had access to this information. The representatives noted the key areas of discussion and interest on the sub-national councils, which were similar to those related by the EITIM Secretariat:

- License allocation procedures
- Local cooperation agreements between companies and local governments

### **Stakeholder views**

A high-level government official closely involved in the EITI noted that EITI Reports were systematically distributed to all members of parliament but that it was not formally presented at parliament. Thus it was seen as unlikely that members of parliament actually read the EITI Report because of lack of time and the fact it was so big. It was noted that EITI Reports did not generate debate. It was recommended that the EITIM Secretariat should extract the information from EITI Reports by contracting the services of a think tank, but that this was not possible due to lack of funds. Two industry representatives noted the proposal that either the Secretariat or the MSWG should provide a prioritisation of the information contained in EITI Reports and make more use of infographics, in order a greater section of the general public to access and use EITI information. Industry representatives noted the NMNA did not use the EITI Reports itself given its lack of capacity, noting its staff had been downsized to four since the mining downturn since 2012. It was noted that the Oyu Tolgoi quarterly brochures launched in 2014 used some EITI data alongside the company's own "scorecard" disclosures. There was a perception of excessive focus in the EITI on the process of reporting and the numbers, rather than analysis of the information. In the face of long tables of data, the impression amongst the general public was that the mining industry was still opaque. There needed to be better analysis of the EITI data and more visually appealing summary reports and brochures.

Representatives of sub-national councils consulted noted that the only time they received information on the EITI was during the EITI Open Day outreach events. Members of the media consulted stated that most media did not consult the EITIM website unless specifically instructed to do so. It was noted that there were few channels of dissemination of EITI information to the public. Although EITI Reports were published and publicised once a year there was little follow up. Mongolia had one of the highest per capita media use in the world, particularly online social media. It was noted this could be used more actively to disseminate EITI information and engage the public in debating EITI disclosures. It was also noted that networks of journalists existed in various fields and it was recommended that the EITI and PWYP should develop such a network to feed through EITI information to the public. Several members of civil society highlighted the difference between the public “frenzy” surrounding the annual publication of asset declarations by politically exposed persons in February each year to the lack of public discussion of the EITI Reports when published (despite the fact that only 200 of the roughly 10,000 asset declarations by PEP are disclosed to the public).

A number of CSOs lamented the lack of civil society representation on some soum-level councils. However, representatives of subnational councils noted that in some cases no dedicated CSOs exist to take part in the sub-national council. In such cases, it was noted that alternative CSOs (not part of the PWYP or MECC coalitions) were invited to participate, such as associations of the elderly, youth and women. Members of the media consulted noted that there were significant discussions and debates at the local level and recommended that more efforts should focus on the local Citizens Representatives’ Khurals (subnational parliaments). Under the Minerals Law approval for new mining licenses was required to be granted in consultation with local Khurals, which met infrequently. This was seen as an opportunity for local Khurals to use the EITI in consultations with companies over mining license applications, which rarely happened.

### Assessment

We consider this requirement to be met. The MSWG has taken steps to ensure that the EITI report is comprehensible, actively promoted and publicly accessible. Through the organisation of subnational dissemination events and workshops, as well as the establishment of subnational MSGs, EITIM has ensured that the EITI has also contributed to public debate, particularly at the aimag and soum levels. Public debate has been generated by specific data from EITI Reports, such as information on licenses, social expenditure and environmental provisions, but the EITI has also provided a platform for discussions and debates about how the mining sector is managed. The MSWG may wish to consider establishing more formal mechanisms for subnational MSGs to provide input to national EITI discussions, to ensure discussions at the local level are reflected.

## 2.2 Data accessibility (#6.2)

### Documentation of progress

The EITIM Secretariat has long made machine-readable excel spreadsheets of EITI data available on its website: summary data templates for all EITI Reports are available for both government reports<sup>90</sup> and company reports<sup>91</sup>. The EITI International Secretariat compiled the standardised summary data template

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<sup>90</sup> <http://www.eitimongolia.mn/en/government-reports>

<sup>91</sup> <http://www.eitimongolia.mn/en/companies-reports>

on this basis, which include GFS classification.<sup>92</sup> Summary reports based on the 2013 EITI Report have also been produced for four aimags and 12 soums (*see above*).

The NRGI is also working with PWYP to establish a contracts portal, initially hosted on [www.resourcecontracts.org/](http://www.resourcecontracts.org/), to host the 20 PSAs in the oil and gas sector that are expected to be disclosed as a result of work by the MSWG working group on contracts.

The EITIM has also been supported by the EBRD in developing an eReporting<sup>93</sup> platform aimed at automating EITI disclosures and improving accessibility of the data to the general public. In turn, this is meant to empower users with more accessible information to engage with mining companies and the government. The first phase of the project was undertaken by Adam Smith International in cooperation with local software developer Interactive LLC and was completed in August 2014, before being publicly launched in January 2015. The aim of the project was to improve the efficiency of the reporting process, in particular compilation and submission by both companies and government entities. The system stores data in a codified, electronic format in a single secure location. The eReporting system provides for the following:

- Online submission of EITI Reports both companies and government
- Cadastral map of licenses on Google satellite image
- Online submission module for extractive companies
- Online submission module for government entities
- Reconciliation module for the Independent Administrator to compare reports and input adjustments
- Publicly accessible data portal to show and analyse EITIM data

The eReporting system was used for the first time in for the 2014 EITI Report, with 987 companies and 35 government entities submitted their reports via the eReporting system by the deadline of 31 March 2015. The government entities provided information on 1570 companies. Once submitted, all reports are publicly available via the portal and end users are able to find reports by company name, mineral type, license numbers and so on. This has thus already improved the timeliness of data available to the public and increased the accessibility to general users.

The second phase of the eReporting project was launched in August 2015 and will be completed by December 2016. The main aims of the second phase, whose inception report was approved by the MSWG in October 2015, include:

- A publishable, high quality case study on the e-Reporting pilot phase – this will be the first step in replicating the system in other EITI implementing countries.
- Redesigned reporting forms, field/definitions (online help files), and alternative submission proposals.
- On-going on-demand support during the 2015 reporting period.
- Upload of available historical data to demonstrate selected tools.

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<sup>92</sup><https://drive.google.com/folderview?id=0B7tEEAf2PsWEUjllV1g2Zy02MFE&usp=sharing&tid=0B7tEEAf2PsWEaF84YkN2MUI4Y0U>

<sup>93</sup> <http://e-reporting.eitimongolia.mn>

- Integration of data feeds and automated updating of e-Reporting database. Approval has already been secured for integrating the General Department of Taxation database through the National Data Centre. The integration of MRAM's four separate database, which are not interoperable, will take longer, although we note a feasibility study supported by the World Bank on the integration of the four MRAM databases onto the NDC was on-going in November 2015.
- Modifications to the reconciliation process to include an option to 'drill down' into the details of any one transaction, with automatic reporting by exception and/or analysis of reports selected by the Reconciler.
- Upload of available additional datasets, including environmental data.
- Demonstrable export of all data (or selected subset) in XML/XSD software.
- Selection, acquisition and implementation of demonstrator tools, integration guide for manipulation and generation of reports for tabular, graphical and cadastral data.
- Design documents for disaggregating data to explain the process, the templates in Excel, import via XML/XSD and acceptable demonstration of the process/software.
- Training plan, description of training curricula, training materials and training feedback.
- Enhancements to the reporting part of the admin module, with automatic generation of tables, graphs and maps (showing user locations).

### Stakeholder views

Several government representatives noted they did not use EITI information in their work. It was noted that following the implementation of the July 2014 Law on Glass Accounts a scandal erupted when an illegal payment was found in early 2015, but that no such scrutiny took place as a result of the publication of an EITI Report. One government representative noted he did use EITI information in his work, as a means of comparing and confirming the statistics his own department produced.

Members of the media noted while EITI reports contained much useful data for citizens, they were difficult to make sense of with so many data tables. The EITIM efforts to develop subnational (suum and aimag) summary EITI reports were very helpful in making relevant information accessible to the public. It simplified the information, made it more reader-friendly (presenting information in graphs and infographics) and was tailored to the specific interests of local citizens according to their location.

### Assessment

We consider the MSWG has made significant progress in making data in EITI Reports accessible, provided in machine readable format, includes reference to international GFS classifications and actively disseminated. The eReporting system is a significant improvement in rendering this data accessible to the broader population, notably in a way that provides for location-based queries.

## 2.3 Lessons learned and follow up on recommendations (7.1)

### Documentation of progress

The MSWG and the Independent Administrator have systematically followed up on discrepancies in the

financial reconciliation section of the 2013 EITI Report. The MSWG has clearly stated at several meetings<sup>94</sup> that one of the main goals of EITI implementation was to eliminate discrepancies, which explains the significant attention devoted to following up on discrepancies. During discussions of the draft 2013 EITI Report at its meeting on 10 October 2014, the MSWG discussed discrepancies in detail. The MNT 55 billion discrepancy recorded in PetroChina Daqing Tamsag's disclosures for 2013 were explained by the fact that PetroChina booked revenue from oil sales through its Chinese subsidiary rather than its Mongolian subsidiary, but that following the July 2014 Petroleum Law it would be obliged to account for such sales through its Mongolian subsidiary.<sup>95</sup> The other discrepancies are mostly due to lack of clarification from the customs service on the disaggregation of customs tax, VAT on imported goods and customs service fees as well as the lack of reporting by three companies (p.80 of the 2013 EITI Report).

The issue of following up on past EITI recommendations has been one of the main points of discussion on the MSWG and the National Council since 2013 in particular. Two CSOs – the Center for Human Rights and Development and the Zorig Foundation – completed a “Monitoring Report on the Implementation Status of Recommendations Provided by the EITI National Reconciliation Reports” in 2014. Evaluating the follow up of recommendations in the 2006-2011 EITI Reports, the study surveyed 89 recommendations included in these six EITI Reports, of which 40 were distinct recommendations. There were several repeated recommendations: three were included in five EITI Reports, 28 were included in two to four EITI Reports and 12 were included in only one EITI Report. The recommendations were all focused on the EITI reporting process itself, rather than including broader suggestions for sector reform. The study found five key types of recommendations:

- Recommendations on reporting templates
- Recommendations on reporting scope
- Recommendations on reporting parties
- Recommendations on arranging reporting processes
- Recommendations on improving EITI importance and effectiveness

It noted that EITI Report recommendations were discussed at eight of the 11 meetings of the National Council between 2006 and 2014. While the study noted that the EITIM Secretariat estimated 27 of the 40 distinct recommendations were implemented, the study estimated a lower number of eight recommendations implemented. The main reasons for this lack of implementation of 32 recommendations were the lack of actionable recommendations and lack of clarity in the parties responsible for implementation. Further, the study noted four key challenges in following up on recommendations:

- Recommendations were too general, sometimes unclear and in some cases contravened legislation
- Lack of resources for effective implementation of the recommendations
- Long process and absence of responsibility for implementation of the recommendations
- Insufficient cooperation between EITI stakeholders in implementing recommendations

<sup>94</sup> Most recently at its 10 October 2014 meeting.

<sup>95</sup> MSWG meeting minutes, 10 October 2014, p.4.



In the 2011, 2012 and 2013 EITI Reports, the respective Independent Administrators evaluated the implementation of previous EITI recommendations, albeit in general terms.

In the case of the 2012 EITI Report, the EITIM Secretariat found that 17 of the 22 recommendations had not been implemented. The main reasons for this lack of implementation were:

- No need to implement four of the recommendations
- Impossible to implement five of the recommendations
- Lack of clarity of two of the recommendations
- Implementation of five recommendations was categorised as planned and at the implementation stage as of May 2014.

In the latest EITI Report, covering 2013, all eight recommendations have been followed up on even if full implementation of all recommendations is still pending or deemed to be not applicable by the MSWG. The National Council meeting of January 2015 endorsed the 2013 EITI Report and established five working groups to follow up on specific recommendations. These five working groups focus on, respectively:

- Contracts disclosure.
- Provisioning for environmental rehabilitation.
- The basis for calculations of royalties.
- Updating the reporting templates.
- Disaggregation of the extractive industries component of revenue flows like corporate income tax and VAT.

Focusing specifically on the follow up on the eight recommendations of the 2013 EITI Report:

1. "The process for collecting government information should be examined, including main ministries providing data for the EITI Report." This has been discussed and examined in the context of the first phase of the eReporting system.
2. "The selection process of companies for Reconciliation should be improved." This was addressed by KPMG in the inception phase of the 2014 EITI Report, with a risk-based approach adopted for selecting companies for reconciliation.
3. "The materiality should be re-defined focusing for more financial cost and number of participating companies." This was addressed in the inception of the 2014 EITI Report when two separate materiality thresholds were selected – one for payments to local governments and one for payments to central government.
4. "The scoping study should be carried out before 2014 EITI reporting process." The scoping study for the 2014 EITI Report was included in KPMG's inception report.
5. "The EITI Report of government entities should be verified by signature of senior officials, the government should be verified by National audit office." This was followed up on in the process of the quality assurance certifications provided through the eReporting system. However, we understand a number of government entities provided only amended letters of certification that omit the reference to audited financial statements.
6. "For companies, their EITI Reports should be accompanied with declaration of companies senior

managers on reliability of presented data.” This was followed up on in the process of the quality assurance certifications provided through the eReporting system. However, we understand a number of companies provided only amended letters of certification that omit the reference to audited financial statements.

7. “Contract disclosure should be established and Contract database should be created for public.” This was followed up on with the constitution of an ad hoc working group on contract disclosure in January 2015, although results of the working group were still pending in November 2015.
8. “Additional and refreshing training should be provided as much as possible.” The EITIM Secretariat held training workshops for government entities (two) and companies (one) in February and March 2015.

### Stakeholder views

One government representative noted that the main recommendation they were partly responsible for implementing was that covering quality assurance of government EITI disclosures and that this had yet to be implemented. An official letter had been sent to the State Audit Agency during the spring of 2015 requesting the agency undertake audits of the government’s EITI disclosures. The agency responded that this would be possible, but only if included in its future workplan and approved by the Great Khural as part of the national budget. This was not included in the draft 2016 National Budget. The State Audit Agency also noted that they would only provide full assurance, which would entail a first audit of government submissions and a second audit of the final EITI Report. Several government representatives were aware the issue of data quality assurance would pose challenges at Validation given that it has consistently featured as a recommendation of past EITI Reports.

Two government representatives noted that the EITI recommendations were useful and that it was attempted to incorporate them into the various Ministries’ activities. However the challenge was that individuals responsible for implementing recommendations were not identified in the EITI Reports. It was expected that the five working groups constituted by the MSWG in January 2015 would lead to more actionable recommendations however. A high-level government official closely involved in the EITI conceded that recommendations would be better implemented if high-level government officials were more involved in the process. However the Prime Minister was consistently briefed on EITI developments. Two industry representatives noted that EITI recommendations never made it to the top of the government’s list of priorities. All industry representatives noted that the lack of implementation of recommendations had been discussed in detail since 2013, with no clear results. They had not considered the use of EITI Reports as instruments for lobbying government on areas of regulatory uncertainty however. One CSO noted that the impact of EITI Reports had been low due to the lack of implementation of past recommendations. Given the membership of high-ranking officials on the National Council, it was noted that the follow-up on recommendations should be feasible but that lack of political will was the cause of poor implementation.

### Assessment

We consider this requirement to be met. While recommendations of EITI Reports are not consistently implemented, the MSWG has held consistent debates over the recommendations, particularly over the past two years. The MSWG has established ad hoc working groups to follow up on specific recommendations.

## 2.4 Outcomes and impact of implementation (#7.2)

### Documentation of progress

While both the National Council and MSWG have discussed the need for an assessment of the outcomes and impact of EITI implementation in Mongolia, most recently at the National Forum in November 2015, a review of meeting minutes shows that no attempt at wider stakeholder consultations or a formal impact assessment has been made.

The National Council approved the 2014 annual activity report at its 13 January 2015 meeting, which makes this the first-published 2014 AAR of all EITI implementing countries. However the 2014 annual activity report only complies partly with requirement 7.2.a of the EITI Standard. It includes general markers of progress in implementing EITI and an overview of activities as well as an assessment of progress in meeting each of the seven EITI Requirement. The annual activity report includes information on the MSG's implementation of recommendations of past EITI Reports but it does not cover recommendations from the 2013 EITI Report. This is likely due to the fact the annual activity report was being prepared at the same time as the 2013 EITI Report was being finalised, in December 2014, although this is not stated in the annual activity report. It also provides welcome updates on meeting workplan objectives, but does not examine the impact or outcomes of these activities. The 2014 annual activity report mentions the need for more stakeholder engagement but does not detail efforts to improve participation. A narrative assessment of efforts to strengthen EITI implementation, focusing in particular on specific actions undertaken to expand and strengthen stakeholder participation, is not included.

The International Secretariat did not find evidence of wider consultations around the development of the 2014 Annual Activity Report and gathered that the MSWG and National Council approved the 2014 annual activity report with very few comments. More generally, there was little evidence of discussions or feedback provided on the EITI process and the impact of the EITI in general beyond the MSWG.

However CSO representatives have made noticeable efforts to assess and advise on strengthening EITI implementation in Mongolia. In May 2014 NRGi published a gap analysis on the EITI process in Mongolia. The gap analysis based on EITI Report 2012 identified significant gaps between reporting practices and the new Standard and provided recommendations for the 2013 EITIM Report. NRGi made a presentation of the study to mining companies, CSOs and government representatives in July 2014 and also sent it to the EITIM Secretariat, but did not believe the gap analysis had been shared more widely with stakeholders. NRGi itself had two meetings with the Independent Administrator in 2014 to share the outcomes of the analyses and provide advice on ways of addressing specific gaps. The Independent Research Institute of Mongolia (IRIM) has developed a model of impact assessment for EITI. The development of the model was the first stage but the second stage – an actual impact analysis – has not yet been approved and implemented as of November 2015. The model shows how EITI principles supported a theory of change, and highlights questions such as why Mongolia was implementing the EITI, the potential impact of implementation and the need to focus not on inputs but on outputs and outcomes of EITI for the country.

### Stakeholder views

One government representative noted that the EITI had had a definite impact in that many people in local communities and local government now understood the mining sector and its contribution to the economy much better. Protests over mining, which they admitted had a poor reputation, continued but the level of understanding had grown.

## Assessment

We consider this requirement to be unmet, with meaningful progress. While the MSWG has held regular discussions on the impact and outcomes of EITI implementation in Mongolia, these have tended to remain ad hoc and informal. However civil society produced a monitoring report on the implementation of EITI recommendations in 2014, assessing the impact of the EITI Process on policies and practices. The MSWG has also considered undertaking an impact assessment by each stakeholder group in its development of the 2015 workplan, although this has yet to be undertaken. However the 2014 annual activity report is not used as a means of assessing the impact of EITI implementation. Given that workplan objectives do not reflect national priorities for the extractive industries, tracking progress against the workplan does not yield an assessment of the broader impact of the EITI. The MSWG may wish to consider using the annual activity report as a means of measuring progress against national objectives and assessing the impact of EITI implementation.

Table 7 - Summary assessment table: Outcomes and impact

| EITI provisions  | Summary of main findings   | Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions) |
|--|--|---|
| Public debate (#6.1)   | The MSWG has sought to ensure the EITI Report is comprehensible, accessible and actively promoted, particularly through aimag and soum level reports. EITI information has generated public debate, particularly at the subnational level. | Requirement met   |
| Data accessibility (#6.2)  | EITI data is accessible, references international classifications, machine-readable and actively disseminated through the eReporting website.  |   |
| Lessons learned and follow up on recommendations (7.1)   | Recommendations of EITI Reports are followed up on by the MSWG, even if they are not consistently implemented.   | Requirement met   |
| Outcomes and impact of implementation (#7.2)   | The MSWG has produced annual progress reports documenting progress and outcomes of implementation. Further work on assessing impact should be considered.  | Requirement unmet, with meaningful progress   |
| <b>Overall assessment:</b><br>Requirement met.   |  |   |
| <b>Validator's conclusions and recommendations:</b>  |  |   |
| <ol style="list-style-type: none"> <li>1. The MSWG may wish to consider establishing more formal mechanisms for subnational MSGs to provide input to national EITI discussions, to ensure discussions at the local level are reflected.</li> <li>2. The MSG should consider discussing the role the EITI could play in achieving national priorities in reform of the extractive industries as part of its annual review of the workplan.</li> </ol> |  |   |

3. The MSG could consider establishing clear public reporting mechanisms for ad hoc working groups that follow up on EITI recommendations and set timeframes for completing their work.
4. The MSWG may wish to undertake an impact assessment with a view to identify opportunities for increasing the impact of implementation.

### 3. Impact analysis (not to be considered in assessing compliance with the EITI provisions)

#### Documentation of progress

*Impact:* The EITI process in Mongolia has had some impact, even if stakeholders agree it has been limited to awareness raising and focused on the reporting process. As part of the International Secretariat's assessment of the impact of the EITI in Mongolia in its ten years of implementation, all stakeholders were asked why Mongolia was implementing the EITI. The large majority of stakeholders consulted did not answer the question. One government stakeholder noted that Mongolia had decided to implement the EITI in 2005 when the extractive industries were opaque and at a time when the government was seeking to attract foreign investment in the mining sector. The EITI was thus seen as a tool to attract investment. One of CSO representative noted that the end-goal of implementing EITI was to reduce poverty in Mongolia.

Several CSOs noted that before the EITI (pre-2006), no communities knew how much money the government was getting from the sector. People now have access to this information and the level of national and subnational debate over the governance of the extractive industries has grown, even if this was seen as due to the mining boom since 2009. Now that local communities had access to information on how much money their local governments were receiving from extractives companies, they were now eager to know more on issues of licenses (including their allocation), employment, environmental issues, etc. The number of NGOs focused on transparency has also grown, and transparency is now a regular topic of discussions among parliamentarians, students and government officials. CSOs also noted the government used Mongolia's compliance status as a sign of prestige, even if they were concerned over the lack of meaningful support for the process and disclosures required under the EITI Standard. Civil society also considered their campaigning for a mining legislation and on specific deals, like the Erdenes Tavan Tolgoi deal halted in early 2015, as a concrete outcome of the EITI in the sense that CSOs could now refer to the government's commitment to its EITI compliance status in their lobbying and as a means to ensure public oversight of mining deals. While government representatives noted that EITI compliance status reflected their commitment to transparency and securing a social license to operate for companies, industry did not highlight a significant impact of implementation.

Several government, industry and CSO representatives noted that the most significant evidence of the impact of the EITI was the formation of subnational councils, which had brought much closer ties between government agencies like MRAM, companies and local communities and local governments and was starting to build trust amongst stakeholders. However it was noted that the main interaction was at specific events and follow-up contact was entirely conducted through the EITIM Secretariat. A few CSOs noted that the EITI could yield more benefits to citizens by, in particular, disclosing more information on beneficial ownership, which could reduce the risk of conflict of interest and corruption, and publishing contracts, to enable citizens to judge the "fairness" of deals.

*Sustainability:* The EITI process also faces significant risks to its sustainability, both financially and in terms

of consistency of engagement. A draft Law on Mineral Resource Sector Transparency (the “EITI Law”) has been in preparation for almost three years now. Originally drafted by Adam Smith International together with a multi-stakeholder working group and the Ministry of Mining, the draft law was approved by the Ministry of Justice in May 2014 and presented to Parliament in October 2014.<sup>96</sup> The law is designed to require all extractive industry companies to participate in EITI reporting and to disclose their beneficial ownership. It also contains provisions to reduce the membership of the National Council from ten to eight members from each stakeholder group and for the frequency of MSWG meetings to be increased to quarterly, from twice a year. The Minister of Mining presented the draft law to the Parliament’s Standing Committee on Economic Affairs in November 2014 and January 2015, as well as to a full session of Parliament on 2 February 2015. The Parliament accepted to deliberate on the draft law and constituted a working group of five members of parliament to provide input to the legislation. The group met twice, in March and May 2015, and proposed including service providers and contractors in the scope of EITI reporting, although the Parliament had yet to hold a first reading of the draft law as of November 2015 (the draft law does not feature on the autumn schedule of parliamentary deliberations).

The financial sustainability of the EITI process also poses a risk. The EITIM has had to operate without funds for several months at a time on an annual basis in recent years, due to delays in accessing MDTF funding. While disbursement of MDTF grants covered expenses retroactively, the transition to the Extractive Industries Global Programmatic Support (EGPS) fund from January 2016 may lead to a short-term gap in funding for the EITI Secretariat. The EITIM Secretariat had not finalised a draft 2016 workplan as of 10 November 2015, although we understand the MSWG and National Council were expected to approve a workplan at their respective meetings in December 2015. This may not allow for sufficient time to secure bridge financing from other donors in time for January 2016 however. At the political level, the sustainability of the EITI process faces some risks given the potential impact of June 2016 parliamentary elections on government representation and chairing of MSWG meetings, given experience of the lack of National Council meetings in 2014 as a result of political changes.

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<sup>96</sup> The October 2014 version of the law is available on Parliament’s website <http://www.parliament.mn/files/download/128068>

## Annexes

### Annex A - List of MSG members and contact details

#### List of National Council members and contact detail

| Members of EITIM National Council |   |                    |                            |
|-----------------------------------|---|--------------------|----------------------------|
|                                   |   |                    | as of March 10, 2015       |
|                                   | Position  | Name               | E-Mail                     |
| 1                                 | Prime Minister of Mongolia, Head of the National Council                      | Mr.Ch.Saikhanbileg | saikhanbileg@parliament.mn |
| 2                                 | Minister for Mining, Deputy head of National Council                          | Mr.R.Jigjig        | jigjid@mm.gov.mn           |
| 3                                 | Member of Parliament, Minister for Finance                                    | Mr.J.Erdenebat     | erdenebat_ja@parliament.mn |
|                                   |   |                    | oyunerdene_o@mof.gov.mn    |
| 4                                 | Member of Parliament, Minister for Tourism, Environment and Green Development | Mrs.D.Oyunkhorol   | oyunkhorol@parliament.mn   |
| 5                                 | Chairman of Standing Committee on State Budget of Parliament                  | Mr.B.Bolor         | davaasurents@parliament.mn |
|                                   |   |                    |                            |
| 6                                 | General Auditor of Mongolia   | Mr.A.Zangad        | a_zangad@yahoo.com         |
|                                   |   |                    | -                          |
| 7                                 | Chairman of National Statistical Committee                                    | Mr.S.Mendsaikhan   | mendsaikhan@nso.mn         |
|                                   |   |                    | -                          |
| 8                                 | Chairman of Independent Authority Against Corruption                          | Mr.N.Ganbold       | bat-otgon@iaac.mn          |
|                                   |   |                    | b.lkhagvasuren@yahoo.com   |
| 9                                 | Governor of Tuv aimag   | Mr.D.Bayarbat      | chagaa_0602@yahoo.com      |
|                                   |   |                    | -                          |
|                                   |   |                    | -                          |
| 10                                | President of the MNMA   | Mr.N.Alгаа         | algaa@miningmongolia.mn    |
| 11                                | Vice President of Mongolyn Alt MAK LLC  | Mr.G.Tsogt         | mak@mak.mn                 |
|                                   |   |                    | tsogt@mak.mn               |
| 12                                | Head of Marketing Department, Erdenet LLC                                     | Mr.D.Galbaatar     | galbaatar@erdenetmc.mn     |
|                                   |   | 99351485           | -                          |
| 13                                | President and Chief Executive Officer, Oyu Tolgoi LLC                         | Andrew Woodley     | OtgonbatS@ot.mn            |
|                                   |   |                    |                            |
|                                   |   |                    | lkhamaakh@ot.mn            |
| 14                                | Chairman of the Board of Directories, Mongolian Coal Association              | Mr.L.Davaatsedeb   |                            |
|                                   |   |                    | davaatsedev16@yahoo.com    |
| 15                                | Chief Executive Officer, Energy   | Mr.G.Battsengel    | -                          |

|    |   |                    |                              |
|----|---|--------------------|------------------------------|
|    | Resources LLC   |                    |                              |
|    |   |                    | sugarmaa.z@mmc.mn            |
| 16 | Chief Executive Officer, Monpolymet LLC                             | Mrs.S.Enkhtuya     | monpolymet@mongol.net        |
|    |   |                    | -                            |
| 17 | Advisor to the General Director, Mongolrostsvetmet LLC              | Mr.M.Boldbaatar    | boldbaatar66@yahoo.com       |
|    |   |                    | -                            |
| 18 | President of Mongolian Gold Producers Association                   | Mr.T.Ganbold       | -                            |
|    | Director, Petrochina Dachin Tamsag                                  | Mrs.B.Delgerbayar  | deli@datamo.mn               |
| 19 | Executive Director of Open society forum                            | Mrs.P.Erdenejargal | jargal@forum.mn              |
|    |   |                    | -                            |
| 20 | Head of Human rights and Development Center                         | Mrs.G.Urantsooj    | urantsooj@mongolnet.mn       |
|    |   |                    | gurantsooj@rocketmail.com    |
| 21 | Head of Step without Border NGO                                     | Mrs.N.Bayarsaikhan | Swb.ngo@gmail.com            |
|    |   |                    | -                            |
| 22 | Institute of Natural Resources Governance                           | Mr.N.Dorjdari      | dorjdari@forum.mn            |
|    |   |                    | -                            |
| 23 | Khongor nutgiin duudlaga movement                                   | Mr.B.Batzorig      | mongolsutra@gmail.com        |
| 24 | Member of Board, Initiative for Responsible Mining NGO              | Mrs.L.Dolgormaa    | dolgormaa-ehc@live.com       |
| 25 | Head of Owners of Khuvsul Lake Movement                             | Mrs.B.Bayarmaa     | khuvsulguldainezed@yahoo.com |
| 26 | Head of Sacred Stupa Movement                                       | Mr.G.Chagnaadorj   | ariunsuvraga@mail.mn         |
| 27 | Member of Board, Mongolian Environmental Civil Council              | Mr.J.Gombojav      | Subo0215@yahoo.com           |
| 28 | Member of Board, Mongolian Environmental Civil Council              | Mr.B.Batbold       | Tadaa_uba@yahoo.com          |
| 29 | Senior Advisor to the Prime Minister, Secretary of National Council | Mrs.B.Delgermaa    | norovbanzadsan@yahoo.com     |

### List of MSWG members and contact detail

|   |  |                  |   |
|---|--|------------------|---|
|   | Members of EITIM Multi Stakeholder Working Group               |                  |   |
|   |  |                  | as of March 10, 2015                        |
|   | <b>Position</b>  | <b>Name</b>      | <b>E-mail</b>                               |
| 1 | Senior advisor to the Prime Minister of Mongolia, Head of MSWG | Mrs. B.Delgermaa | norovbanzadsan@yahoo.com                    |
| 2 | Chief of General Department of Taxation                        | Mr. B.Ariunsan   | -   |
|   |  | Focals           | enkhee0524@yahoo.com,<br>enkhtuya.da@mta.mn |



|    |  |                    |                            |
|----|--|--------------------|----------------------------|
|    |  |                    | ch.batchimeg@yahoo.com     |
| 3  | Chairman of General Agency for Specialized Inspection  | Mr.D.Batmunkh      |                            |
|    |  | Focals             | 91918528                   |
| 4  | Chairman of Mineral Resources Authority  | Mrs.D.Uuriintuya   | uuganbaatar@mram.gov.mn    |
|    |  | Focals             | byambadagva@mram.gov.mn    |
|    |  |                    | oyogo68@yahoo.com          |
| 5  | Chairman of Petroleum Authority of Mongolia  | Mr. G.Ulziiburen   |                            |
|    |  | Focals             | bazarvaani_oyun@yahoo.com  |
| 6  | Senior Officer of Cabinet Secretariat of Government of Mongolia                              | Mr.E.Sumiya        | sumiya_e@cabinet.gov.mn    |
| 7  | Head of Enlightenment and Prevention Department, Independent Authority Against Corruption    | Mrs.B.Bat-Otgon    | bat-otgon@iaac.mn          |
|    |  | Focals             | sarangerel@iaac.mn         |
| 8  | Head of Accounting Policy Department, Ministry of Finance                                    | Mr.Kh.Purevsuren   | purevsuren_kh@mof.gov.mn   |
|    |  | Focals             | zulai_g@mof.gov.mn         |
| 9  | Head of Strategic Policy and Planing Department, Ministry of Mining                          | Mr.Ch.Otgochuluu   | otgochuluu@mm.gov.mn       |
|    |  | Focals             | zuk_mn@yahoo.com           |
|    |  |                    | khulan@mm.gov.mn           |
|    |  |                    | nergui@mm.gov.mn           |
| 10 | Head of Natural Resources Department, Ministry of Tourism, Environment and Green Development | Mr.G.Nyamdavaa     |                            |
|    |  | Focals             | saraa_bor@yahoo.com        |
| 11 | Deputy governor of Selenge aimag   | Mr.N.Batdorj       | batdorj89@yahoo.com        |
|    |  | Focals             | munkhbat_sel@yahoo.com     |
| 12 | Head of Finance and economic division Baganuur JSO   | Mrs.Ch.Ochirikhram | enkh1990@yahoo.com         |
|    |  |                    | uranbileg@baganuurmine.mn  |
| 13 | Tax manager, Boroo Gold LLC  | Mr.B.Gankhuleg     | ganhuleg.b@centerragold.mn |
|    |  | Focals             | bolormaa.p@centerragold.mn |
| 14 | Executive Director of MNMA   | Mr.Enkhbold        | enkhbold@miningmongolia.mn |
|    |  | Focals             |                            |
| 15 | Stakeholders Engagement Supervisor of Oyu Tolgoi LLC   | Mrs.Kh.Lkhamaa     | lkhamaakh@ot.mn            |
| 16 | Head of Working team, Mongolian Gold Producers Association                                   | Mr.S.Burentogtoh   | burnee@mongoliagold.org    |

|        |   |                    |  |
|--------|---|--------------------|--|
| 1<br>7 | Officer, Erdenes Tavan Tolgoi LLC                                     | Mr.I.Batmunkh      | batmunkh.i@erdenestt.mn                |
| 1<br>8 | Government relations manager, CJBEM LLC                               | Mr.Ch.Byambasuren  | byambasuren@mongoliaminerals.com       |
| 1<br>9 | Chief Legal Officer of Areva Mongol LLC                               | Mrs.B.Oyunchimeg   | oyunchimeg.bordukh@areva.com           |
| 2<br>0 | Head of Government and Public relation division, South Gobi Sands LLC | Mr.B.Altanbagana   | altanbagana.bayarsaikhan@southgobi.com |
| 2<br>1 | Director of Petrochina Dachin Tamsag                                  | Mrs.B.Delgerbayar  | deli@datamo.mm                         |
| 2<br>2 | Director of Petromatad  | Mrs.Amarzul        | amarzul@petromatad.com                 |
|        |   |                    | oyunchimeg@petromatad.com              |
| 2<br>3 | Institute of Natural resources governance                             | Mr.N.Dorjdari      | dorjdari@revenuewatch.org              |
| 2<br>4 | Head of Owners of Khuvsul Lake Movement                               | Mr.B.Bayarmaa      | khuvsugdalainezed@yahoo.com            |
| 2<br>5 | Executive Director of Transparency Foundation                         | Mr.D.Tserenjav     | tseren@mail.mn                         |
|        |   | Focals             | osuren2002@yahoo.com                   |
| 2<br>6 | Head of Steps without border NGO                                      | Mrs.N.Bayarsaikhan | swb.ngo@gmail.com                      |
| 2<br>7 | Head of My Mongolia Land Movement                                     | Mr.B.Otgonsaikhan  | onomooooonoo@yahoo.com                 |
| 2<br>8 | Head of Sacred Stupa Movement   | Mr.G.Chagnaadorj   | ariunsuvarga@mail.mn                   |
| 2<br>9 | Hongor nutgiin duudlaga NGO   | Mr.B.Batzorig      | mongolsutra@gmail.com                  |
| 3<br>0 | Center of Human rights and Development                                | Mrs.N.Baigalmaa    | chrd@mongolnet.mn                      |
| 3<br>1 | Initiative for Responsible Mining NGO                                 | Mrs.L.Dolgormaa    | dolgormaa-ehc@live.com                 |
| 3<br>2 | Mongolian Environmental Civil Council                                 | Mrs.Jargalsaikhan  |  |
| 3<br>3 | Ik Bayan Sharga NGO   | Mrs.L.Bor          | bayanshargatbb@yahoo.com               |
| 3<br>4 | Secretary of Working group, Coordinator of EITIM Secretariat          | Mr.Sh.Tsolmon      | eiti.secretariat.mn@gmail.com          |

## Annex B - List of stakeholders consulted

### Government

Delgermaa Banzragch, senior advisor to the Prime Minister of Mongolia and Chair of the MSWG

B.Bolormaa and G.Zulai, Department of Accounting Policy Department, Ministry of Finance

Damba Dorj, senior officer, division of mining policy, Ministry of Mining

Enkhbayar Nemekhbayar, director general, strategic policy and planning department, Ministry of Mining

Chinbaatar Nachin, director of cadastre division, Mineral Resources Authority of Mongolia (MRAM)

Battulga Sosorbaram, head of mining division, MRAM

Byambadagva Bayaraa, head of reserve and economic research subdivision, MRAM

Amraa Tsengemaa, vice chairman, Petroleum Authority of Mongolia (PAM)

Sunderiya Batjargal, chief legal officer, Erdenes Mongol

Tumurpurev Jamtsaa, mining project director, Erdenes Mongol

### Industry

Baigalmaa Shurka, General Manager of Communities, Oyu Tolgoi

Brian White, Principal Advisor Communications, Oyu Tolgoi

Lkhamaa Kh., advisor stakeholder engagement, Oyu Tolgoi

Enkh-Ariunaa Oidovdanzan, Principal Advisor Compensation Agreement, Oyu Tolgoi

Graeme Hancock, President and Chief Representative in Mongolia, AngloAmerican

Sunjidmaa Jamba, manager for corporate affairs and sustainability, AngloAmerican

N. Alгаа, president of the MNMA

D. Enkhbold, executive director of the MNMA

B. Boldbaatar of Mongolrstsvetmet

Mrs Z. Sugarmaa, general manager of community relations department of Energy Resources LLC

Amarzul Tuul, executive director of Petromatad

Batmunkh Iderkhangai, foreign relation, local community, public relation officer, Erdenes Tavan Tolgoi

Gerelmaa Darambazaar, CSR officer, Erdenes Tavan Tolgoi

Naranzaya T., CEO, Mongolian Gold Producers Association

### Civil Society

D. Tserenjav, executive director of Transparency Foundation NGO

Ts. Otgonsuren, journalist with Transparency Foundation NGO

Batbold B., member of the board of the MECC and head of the Green Parliament, Mongolian Environmental Civil Council

Jana Ganbaatar, chairman of the inspection committee, Mongolian Environmental Civil Council

G. Chagnaadorj, head of Ariun Suvraga Movement NGO

Namsrai Bayarsaikhan, member (and former National Coordinator) of PWYP Mongolia (+976 8872 4869)

Erdenechimeg Dashdorj, National PWYP Coordinator for Mongolia (+976 88077077)

B.Oyunchimeg, journalist at the Mongolian National Broadcaster

Dorjdari Namkhajantsan, National Coordinator for Mongolia, Natural Resource Governance Institute

Bayarsaikhan Namsrai, member (and former National Coordinator) of the PWYP Mongolia coalition

Bolormaa L., founding editor, Mongolian Mining Journal

L.Tur-Od, Transparency International- Mongolian National Chapter

N.Narantsetseg, Head, Mother Nature Save Foundation

O.Narangerel, Head, Khangaikhan Network for Regional Environment Conservation

E.Byambajav, Alumni Association of Irkutsk Economics University

Ts.Tuyatsetseg, Deputy Head, Mongolian Lawyers' Association for Environment

Otgontsetseg, Onon and Ulz River NGO

S.Tserenpurev, CEO, New Administrative Initiative NGO

Ch.Tuya, Head, Khan Khentii Mountain and Khatan Onon River Protection Association NGO

### **Sub-national council members**

Kh.Baasankhuu Secretary of EITI Sub-national council, Khovd aimag Governor's Office

D.Natsagdorj, Deputy Mayor of Umnugobi aimag

B. Tuulaikhuu, Speaker, Airag soum Citizens' Representative Khural, Dornogobi aimag

Ts.Aldarmaa, Secretary, Luus soum Citizens' Representative Khural, Dundgobi aimag

S.Sukhdorj, Speaker, Khuld soum Citizens' Representative Khural, Dundgobi aimag

B.Munkhbat, Member sub-national council, Governor's Administration of Selenge aimag

Ts.Ganbat, Speaker, Shinejinst soum Citizens' Representative Khural, Bayankhongor aimag

Kh.Enkhtur, Deputy Governor, Administration of Shinejinst soum, Bayankhongor aimag

Kh.Otgonmunkh, Speaker, Ulziit soum Citizens' Representative Khural, Dundgobi aimag

E.Nandintsetseg, Ikhkhet soum, Dornogobi aimag

D.Batzul, Officer for Mining and Environment, Administration of Uvs aimag

O.Badarch, Tradition and Future NGO, Umnugobi aimag

P.Batsaikhan, Speaker, Galuut soum Citizens' Representative Khural, Bayankhongor aimag

D.Sondor, Lawyer Center NGO

S.Battulga, Governor, Galuut soum, Bayankhongor aimag

N.Enkhjargal, Enkh Uran Itgel partnership

### **Others**

Mark Eberst, partner at KPMG Audit Mongolia

Osorgarav Bookhuu, general director partner, Ulaanbaatar Audit Corp.

Erdenetsog Natsadorj, audit manager, Ulaanbaatar Audit Corp.

Nancy Foster, development consular at the Canadian Embassy

Oyunbileg P., communications manager, Australia-Mongolia Extractives Program (AMEP), Adam Smith International

Patience Singo, Project Director, "Sustainable Artisanal Mining" Project, Swiss Agency for Development Cooperation

Daniel Valenghi, head of programme, Swiss Agency for Development Cooperation

James Anderson, Country Manager, World Bank Mongolia

Tuyen D. Nguyen, Resident Representative (Mongolia), International Finance Corp. (IFC)

## Annex C - List of reference documents

### Workplans and Annual activity reports:

- PLAN OF ACTION OF EITIM FOR 2015 (EITIM 2015 workplan)  
<http://www.eitimongolia.mn/sites/default/files/uploads/EITIMActioPlan2015en.pdf>
- PLAN OF ACTION FOR THE YEAR OF 2014 OF EITIM IMPLEMENTATION (EITIM 2014 workplan)  
[http://www.eitimongolia.mn/sites/default/files/uploads/en/EITIM\\_POA\\_2014en.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/EITIM_POA_2014en.pdf)
- The EITIM mid- term strategy 2010- 2014  
[http://www.eitimongolia.mn/sites/default/files/uploads/en/Mongolia\\_EITI\\_Strategy\\_2010-2014.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/Mongolia_EITI_Strategy_2010-2014.pdf)
- EITIM 2014 annual activity report, January 2015  
<http://www.eitimongolia.mn/sites/default/files/uploads/EITIMWorkReport2014en.pdf>
- EITIM 2013-2014 annual activity report, July 2014  
[https://eiti.org/files/document/Mongolia\\_EITI\\_Activitie\\_report\\_2013\\_half\\_2014\\_half\\_last.pdf](https://eiti.org/files/document/Mongolia_EITI_Activitie_report_2013_half_2014_half_last.pdf)
- Action Plan of preparation for the EITI international validation, approved by the Prime Minister and Chairman of the EITI National Council, HE Ch.Saikhanbileg, 28 August 2015  
<http://www.eitimongolia.mn/mn/node/4872>

### EITI Reports, Summaries, Validation Report and Secretariat Review:

- Mongolia eighth EITI Reconciliation Report 2013  
<http://www.eitimongolia.mn/sites/default/files/uploads/final-reports/Final%20report%20EITI%20Mongolia%202013%20en.pdf>
- Mongolia 2012 EITI Summary Report (ОУИТБС-ын 2012 оны нэгтгэлийн тайлан)  
[http://www.eitimongolia.mn/sites/default/files/uploads/Summary\\_report\\_2012.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/Summary_report_2012.pdf)
- Mongolia 2009 Validation Report  
<https://eiti.org/files/Mongolia%20Final%20Validation%20Report.pdf>
- EITI International Secretariat Review of Mongolia, September 2010  
<https://eiti.org/files/Secretariat%20Review%20-%20Mongolia.pdf>
- The Monitoring Report on Implementation status of recommendations provided by the EITI National Reconciliation Reports, prepared by the Center for Human Rights and Development, in partnership with the Zorig Foundation, in 2014.

### Legal documents and ToRs related to EITI implementation:

- The Statute of EITIM Secretariat, order 62, 2007.06.27  
[http://www.eitimongolia.mn/sites/default/files/uploads/en/Statute\\_of\\_Mongolia\\_EITI\\_secretariat.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/Statute_of_Mongolia_EITI_secretariat.pdf)
- Law of Mongolia on Minerals (revised), 8 July 2006  
[http://lrcm.mn/wp-content/uploads/2014/10/06e4ce\\_b4da5304144d40f68772950fe7eafeef.pdf](http://lrcm.mn/wp-content/uploads/2014/10/06e4ce_b4da5304144d40f68772950fe7eafeef.pdf)  
Mongolian version of the 2006 Law on Minerals (revised)

[http://www.eitimongolia.mn/sites/default/files/uploads/Tsomiin\\_energii\\_tuhai\\_huuli.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/Tsomiin_energii_tuhai_huuli.pdf)

- Government resolution number 1, on 3 January 2006, on Mongolia's intention to implement the EITI (Mongolian) (Олборлох үйлдвэрлэлийн ил тод байдлын тухай санаачилгыг дэмжих тухай)

<http://www.eitimongolia.mn/sites/default/files/uploads/1%20-%202006.01.04.pdf>

- Terms of Reference of the National Council committed to coordinate and monitor the Implementation of the Extractive Industries Transparency Initiative in Mongolia, 2012.11.28  
[http://www.eitimongolia.mn/sites/default/files/uploads/en/EITI\\_National\\_Council\\_TOR\\_in\\_English.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/EITI_National_Council_TOR_in_English.pdf)
- Terms of Reference of the Multi-Stakeholders' Working Group committed to implement Extractive Industries Transparency Initiative, 2012.11.09  
[http://www.eitimongolia.mn/sites/default/files/uploads/en/ToR\\_of\\_MSWG\\_Mongolia\\_EITI.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/ToR_of_MSWG_Mongolia_EITI.pdf)
- Tripartite Memorandum of Understanding on effective implementation of Extractive Industries Transparency Initiative and partnership between Government of Mongolia, companies and NGO coalition [http://www.eitimongolia.mn/sites/default/files/uploads/en/MoU\\_Mongolia\\_EITI.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/MoU_Mongolia_EITI.pdf)
- Terms of Reference for Independent Administrator, 2014 EITI Report  
<http://www.eitimongolia.mn/sites/default/files/attachments/ToR%20for%20IAuditor%20en.pdf>
- Handbook for business entities on reporting to EITI, March 2014 (in Mongolian only) (ОЛБОРЛОХ ҮЙЛДВЭРЛЭЛИЙН ИЛ ТОД БАЙДЛЫН САНААЧИЛГЫН ХЭРЭГЖИЛТИЙГ ОРОН НУТАГТ ХАНГАХ ҮҮРЭГ БҮХИЙ ДЭД ЗӨВЛӨЛИЙН ГАРЫН АВЛАГА)  
[http://www.eitimongolia.mn/sites/default/files/uploads/EITI\\_sub\\_council\\_guide\\_%2020140423.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/EITI_sub_council_guide_%2020140423.pdf)

#### Other documents online:

- EITIM eReporting system  
<http://e-reporting.eitimongolia.mn/>
- EITIM beneficial ownership interactive infographic <http://www.eitimongolia.mn/en/beneficial-owners>
- Open Society Forum (2013), "Extracting data: Analysis of EITI National Reports from 2006-2011,"  
[http://www.forum.mn/res\\_mat/OSF/Data%20Mining\\_eng.pdf](http://www.forum.mn/res_mat/OSF/Data%20Mining_eng.pdf)

#### Meeting minutes:

- Minutes of meeting of National Council of Mongolian Extractive Industry Transparency 3 March 2010  
[http://www.eitimongolia.mn/sites/default/files/uploads/en/NC\\_6\\_20100305.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/NC_6_20100305.pdf)
- Minutes of meeting of National Council of Mongolian Extractive Industry Transparency 24 June 2010  
[http://www.eitimongolia.mn/sites/default/files/uploads/en/NC\\_7\\_20100624.pdf](http://www.eitimongolia.mn/sites/default/files/uploads/en/NC_7_20100624.pdf)
- Minutes of EITIM National Council Meeting (10 November 2011)

[http://eitimongolia.mn/sites/default/files/uploads/en/NC\\_8\\_2011.11.10.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/NC_8_2011.11.10.pdf)

- Minutes of meeting of Mongolia Extractive Industry Transparency Initiative National Council, 8 May 2012 [http://eitimongolia.mn/sites/default/files/uploads/en/NC\\_9\\_2012.05.08.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/NC_9_2012.05.08.pdf)
- Minutes of EITIM 10th National Council Meeting (28 November 2012) [http://eitimongolia.mn/sites/default/files/uploads/en/NC\\_10\\_2012.11.28.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/NC_10_2012.11.28.pdf)
- Minutes of 11th meeting of National Council of Mongolian Extractive Industry Transparency 23 December 2012  
[http://eitimongolia.mn/sites/default/files/uploads/en/NC\\_11\\_2013.12.23.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/NC_11_2013.12.23.pdf)
- Minutes of Mongolia Extractive Industries Transparency Initiative Multi-Stakeholder Working Group (29 April 2011) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_22\\_20110429.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_22_20110429.pdf)
- Minutes of Meeting of Multi-Stakeholder Working group of Mongolia Extractive Industries Transparency Initiative (2 June 2011) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_23\\_20110602.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_23_20110602.pdf)
- Minutes of Meeting of Mongolia Extractive Industry Transparency Initiative Multi-Stakeholder Working Group (23 December 2011) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_24\\_20111223.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_24_20111223.pdf)
- Minutes of Meeting of Mongolia Extractive Industries Transparency Initiative Multi-Stakeholder Working Group 24 January 2012 [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_25\\_20120124.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_25_20120124.pdf)
- Minutes of Meeting of Mongolia Extractive Industries Transparency Initiative Multi-Stakeholder Working Group (12 October 2012) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_26\\_20121012.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_26_20121012.pdf)
- Minutes of meeting of Mongolia Extractive Industries Transparency Initiative Multi Stakeholder Working Group (18 October 2012) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_27\\_20121018.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_27_20121018.pdf)
- Minutes of meeting of Mongolia Extractive Industries Transparency Initiative Multi-Stakeholder Working Group (9 November 2012) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_28\\_20121109.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_28_20121109.pdf)
- 29th meeting of EITIM MSWG (14 December 2012) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_29\\_20121214.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_29_20121214.pdf)
- Minutes of 30th meeting of Mongolia Extractive Industries Transparency Initiative Multi Stakeholder Working Group (6 March 2013) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_30\\_20130306.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_30_20130306.pdf)
- Minutes of meeting of Mongolia Extractive Industries Transparency Initiative Multi Stakeholder Working Group (27 March 2013) [http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_31\\_2013.03.27.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_31_2013.03.27.pdf)
- Minutes of EITIM MSWG Meeting (15 May 2013)



[http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_32\\_2013.05.15.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_32_2013.05.15.pdf)

- Minutes of Meeting of Mongolia Extractive Industries Transparency Initiative Multi-Stakeholder Working Group (3 December 2013)  
[http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_33\\_2013.12.03.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_33_2013.12.03.pdf)
- Minutes of meeting of EITIM Multi-Stakeholders Working Group (13 December 2013)  
[http://eitimongolia.mn/sites/default/files/uploads/en/AH\\_34\\_2013.12.13.pdf](http://eitimongolia.mn/sites/default/files/uploads/en/AH_34_2013.12.13.pdf)

**Not on the website in English yet (but available in Mongolian):**

Minutes of 13<sup>th</sup> meeting of National Council of Mongolian Extractive Industry Transparency, 2015.06.04 (Mongolian, Not translated yet)

Minutes of 12<sup>th</sup> meeting of National Council of Mongolian Extractive Industry Transparency, 2015.01.13 (Mongolian, Not translated yet)

Minutes of 12<sup>th</sup> meeting of National Council of Mongolian Extractive Industry Transparency, 2013.12.23 (English)

Minutes of meeting of EITIM Multi-Stakeholders Working Group 2015.10.08 (Mongolian, Not translated yet)

Minutes of meeting of EITIM Multi-Stakeholders Working Group 2015.05.25 (Mongolian, Not translated yet)

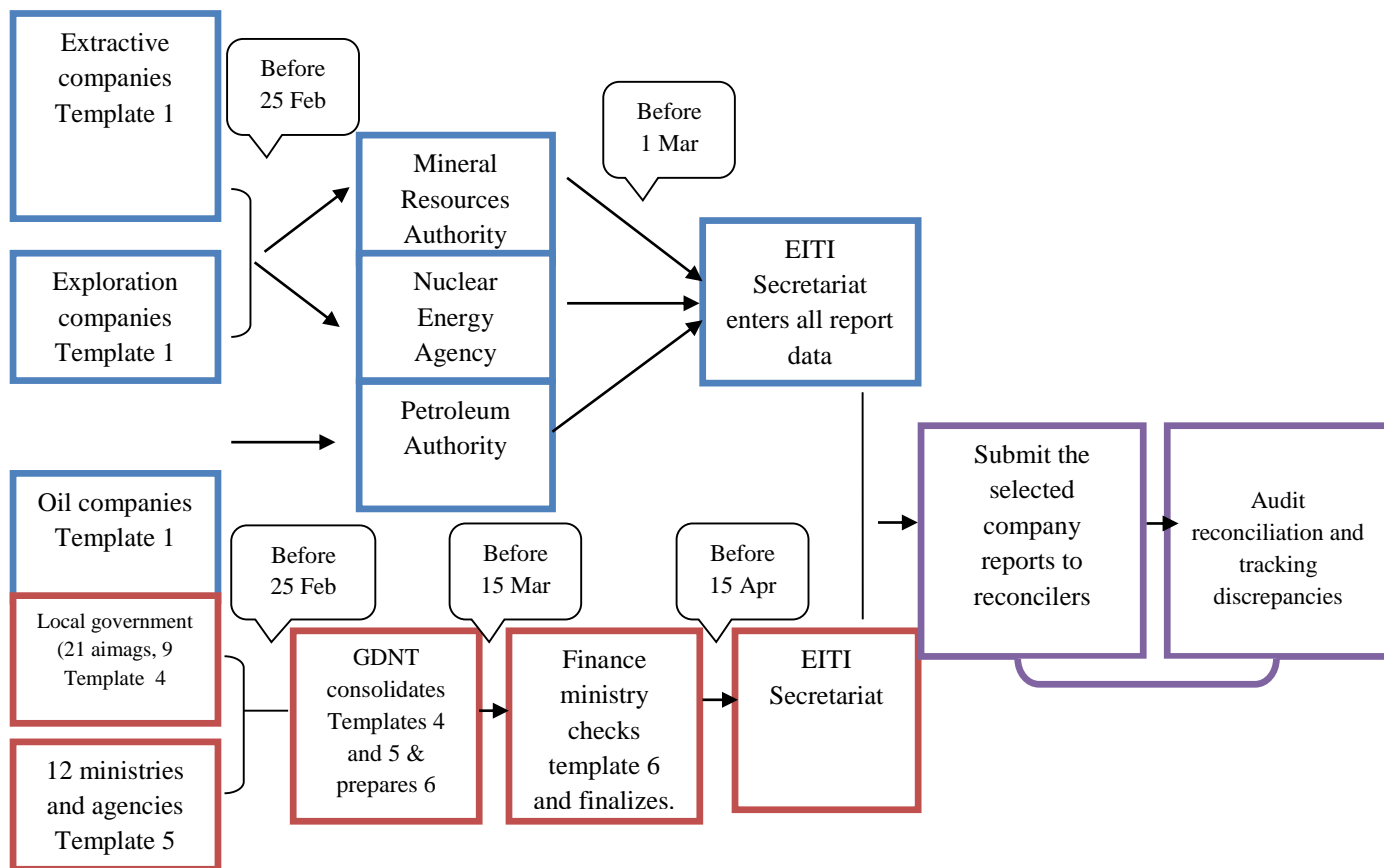
Minutes of meeting of EITIM Multi-Stakeholders Working Group 2014.10.10 (Mongolian, Not translated yet)

Minutes of meeting of EITIM Multi-Stakeholders Working Group 2014.03.11 (Mongolian, Not translated yet)

**Other Documents in draft form:**

- Draft appendix to the 2014 annual activity report.
- Draft Mongolia Plan of Action 2016 (EITIM 2016 workplan – Draft)

## Annex D - Flowchart of the reconciliation and disclosure process for EITI reporting



Source: Handbook for extractive companies for preparation of EITI reports, p. 6, 2014.

**Annex E - Details of Mongolia's EITI and Validation Reports**

|  | <b>Contract amount (USD)</b> | <b>Contract amount (MNT)</b> | <b>Name of Independent Administrator</b>  | <b>Date of Publication</b> | <b>Company disclosures - number of company</b> | <b>Government disclosures - number of companies</b> | <b>Number of companies reconciled</b> | <b>Unresolved discrepancy</b> |
|--|------------------------------|------------------------------|---|----------------------------|--|---|---------------------------------------|-------------------------------|
| Mongolia 1st Reconciliation Report 2006      | 101,564.40                   | N/A                          | Crane and White Associates (Australia)  | May-08                     | 64   | 137   | 25                                    | 4 billion MNT                 |
| Mongolia 2nd EITI Reconciliation Report 2007 | 121,000.00                   | N/A                          | Consortium of Mongolian and Malaysia audit firms Ernst and Young                  | Nov-09                     | 102  | 184   | 38                                    | 775 million MNT               |
| Mongolia 3rd EITI Reconciliation Report 2008 | 94,501.00                    | N/A                          | Consortium of Mongolian Ulaanbaatar Audit Corporation and British firm Hart Nurse | Jun-10                     | 115  | 184   | 46                                    | 425 million MNT               |
| Mongolia 4th EITI Reconciliation Report 2009 | 132,165.00                   | N/A                          | Consortium of Mongolian Ulaanbaatar Audit Corporation and British firm Hart Nurse | Jun-11                     | 129  | 363   | 101                                   | 58 million MNT                |

|  |            |                |  |                  |      |      |     |                  |
|--|------------|----------------|--|------------------|------|------|-----|------------------|
| EITIM Validation Report 2009                 | 65,747.00  | N/A            | Consortium of British Coffey International Development and Mongolian audit firm Dalaivan | Mar-10           | 274  | 477  | 150 |                  |
| Mongolia 5th EITI Reconciliation Report 2010 | 144,860.03 | 202,278,203.00 | Consortium of Mongolian Ulaanbaatar Audit Corporation and British firm Hart Nurse        | Jan-12           | 301  | 518  | 200 | 360 thousand MNT |
| Mongolia 6th Reconciliation Report 2011      | 139,777.12 | 194,583,734.00 | Consortium of Mongolian Ulaanbaatar Audit Corporation and British firm Hart Nurse        | Nov-12           | 1529 | 1829 | 200 | 75 million MNT   |
| Mongolia 7th Reconciliation Report 2012      | 109,603.30 | 181,294,812.00 | Consortium Moore Stephens and Dalaivan Audit LLC   | Dec-13           | 1180 | 1617 | 200 | 360 million MNT  |
| Mongolia 8th Reconciliation Report 2013      | 116,727.69 | 220,101,739.00 | Consortium of Mongolian Ulaanbaatar Audit Corporation and British firm Hart Nurse        | Dec-14           | 1197 | 1617 | 250 | 36 million MNT   |
| Mongolia 9th Reconciliation Report 2014      |            |                | Consortium of KPMG France and KPMG Mongolia  | Dec-15 (planned) | 990  | 1570 | 236 |                  |

|              |                     |                            |  |  |  |  |  |  |
|--------------|---------------------|----------------------------|--|--|--|--|--|--|
| <b>Total</b> | <b>1,025,945.55</b> | <b>798,258,488.<br/>00</b> |  |  |  |  |  |  |
|--------------|---------------------|----------------------------|--|--|--|--|--|--|

Source: EITIM Secretariat

## Annex F – Assessment card for Mongolia

| EITI REQUIREMENTS           |                                       | LEVEL OF PROGRESS |            |            |              |        | DIRECTION OF PROGRESS |
|-----------------------------|---------------------------------------|-------------------|------------|------------|--------------|--------|-----------------------|
|                             |                                       | No                | Inadequate | Meaningful | Satisfactory | Beyond |                       |
| <b>Categories</b>           | <b>Requirements</b>                   |                   |            |            |              |        |                       |
| MSG oversight               | Government engagement                 |                   |            |            | ■            |        | -                     |
|                             | Industry engagement                   |                   |            |            | ■            |        | -                     |
|                             | Civil society engagement              |                   |            |            | ■            |        | -                     |
|                             | MSG governance                        |                   |            |            | ■            |        | -                     |
|                             | Workplan                              |                   | ■          |            |              |        | ←                     |
| Licenses and contracts      | Legal framework                       |                   |            |            | ■            |        | -                     |
|                             | License allocations                   |                   | ■          |            |              |        | -                     |
|                             | License register                      |                   |            | ■          |              |        | →                     |
|                             | Policy on contract disclosure         |                   |            | ■          |              |        | →                     |
|                             | Beneficial ownership                  |                   |            |            |              | ■      | →                     |
|                             | State participation                   |                   | ■          |            |              |        | -                     |
| Monitoring production       | Exploration data                      |                   |            |            | ■            |        | -                     |
|                             | Production data                       |                   |            | ■          |              |        | -                     |
|                             | Export data                           |                   |            | ■          |              |        | -                     |
| Revenue collection          | Taxes and revenues                    |                   |            |            | ■            |        | -                     |
|                             | In-kind revenues                      |                   |            | ■          |              |        | -                     |
|                             | Barter agreements                     |                   |            |            | ■            |        | -                     |
|                             | Transportation revenues               |                   |            |            | ■            |        | -                     |
|                             | SOE transactions                      | ■                 |            |            |              |        | ←                     |
|                             | Direct subnational payments           |                   |            | ■          |              |        | -                     |
|                             | Data timeliness                       |                   |            |            | ■            |        | →                     |
|                             | Data comprehensiveness                |                   |            | ■          |              |        | -                     |
|                             | Data quality                          |                   | ■          |            |              |        | ←                     |
|                             | Disaggregation                        |                   |            |            | ■            |        | -                     |
| Revenue allocation          | Subnational transfers                 |                   |            | ■          |              |        | -                     |
|                             | Distribution of revenues              |                   |            |            | ■            |        | -                     |
|                             | Revenue management and expenditures   |                   |            |            | ■            |        | -                     |
| Socio-economic contribution | SOE quasi-fiscal expenditures         | ■                 | ■          | ■          | ■            | ■      | ←                     |
|                             | Mandatory social expenditures         |                   |            | ■          |              |        | -                     |
|                             | Discretionary social expenditures     |                   |            | ■          |              |        | -                     |
|                             | Economic contribution                 |                   |            | ■          |              |        | -                     |
| Outcomes and impact         | Public debate                         |                   |            |            | ■            |        | →                     |
|                             | Data accessibility                    |                   |            |            | ■            |        | →                     |
|                             | Follow up on recommendations          |                   |            |            | ■            |        | -                     |
|                             | Outcomes and impact of implementation |                   |            | ■          |              |        | -                     |
| <b>Overall assessment:</b>  |                                       |                   | ■          |            |              |        |                       |