

**Extractive Industries Transparency Initiative (EITI)**

**Validation of Tajikistan**

**Report on initial data collection and stakeholder consultation by the EITI International Secretariat**

**3 October 2016**

## Abbreviations

BO	Beneficial ownership
CSO	Civil Society Organisation
EITI	Extractive Industries Transparency Initiative
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
IA	Independent Administrator
ICNL	The International Center for Not-for-Profit Law
MDTF	Multi Donor Trust Fund
MoE	Ministry of Energy
MoF	Ministry of Finance
MoJ	Ministry of Justice
MSG	Multi-Stakeholder Group
OSI	Open Society Institute
PSA	Production-Sharing Agreement
PWYP	Publish What You Pay
SOE	State-Owned Enterprise
TJS	Tajikistani somoni
ToR	Terms of Reference
USD	United States Dollar
VAT	Value Added Tax

## Contents

<b>Abbreviations .....</b>	<b>2</b>
<b>Contents .....</b>	<b>3</b>
<b>Executive Summary .....</b>	<b>4</b>
<b>Introduction .....</b>	<b>10</b>
<b>Part I – MSG Oversight .....</b>	<b>14</b>
<b>Part II – EITI Disclosures .....</b>	<b>39</b>
<b>Part III – Outcomes and Impact .....</b>	<b>78</b>
<b>Annexes .....</b>	<b>92</b>
<b>Annex A - List of MSG members and contact details .....</b>	<b>92</b>
<b>Annex B - List of stakeholders consulted .....</b>	<b>93</b>
<b>Annex C - List of reference documents.....</b>	<b>95</b>

## Executive Summary

The government of Tajikistan committed to implement the EITI in August 2012 by issuing Presidential Decree 449 on Accession of Tajikistan to the EITI of 2012. An EITI Council was formed in 2012, and the country was accepted as an EITI Candidate in February 2013. Tajikistan was suspended in April 2015 as it was unable to produce its first EITI Report in accordance with the reporting deadline of 26 February 2015. Subsequent to the publication of the 2014 EITI Report in November 2015, the country's suspension was lifted.

On 1 June 2016, the Board agreed that Tajikistan's Validation under the 2016 EITI Standard would commence on 1 July 2016. This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures<sup>1</sup> and applied the Validation Guide<sup>2</sup> in assessing Tajikistan's progress with the EITI Standard. While the assessment has not yet been reviewed by the EITI Council or been quality assured, the Secretariat's preliminary assessment is that requirements 1.2, 1.3, 2.2, 2.3, 2.4, 2.6, 3.2, 3.3, 4.1, 4.2, 4.3, 4.5, 4.9, 5.2, 6.1, 6.2, 7.1 and 7.4 are unmet.

The major areas of concern relate to civil society engagement and company engagement. However, the assessment shows that actually the space for the civil society engagement has increased since the EITI launch in Tajikistan and interruption of the process might have a negative effect on CSOs. Other concerns are related to reporting requirements such as transparency in license allocations and license registers, state participation in extractive industries and SOEs, production and export data, in-kind contributions, barter and infrastructure transactions, and social payments. Corrective actions for each sub-requirement are suggested below.

## Overall conclusions

Implementation in Tajikistan got off to a slow start due to funding constraints and lack of a national secretariat to support EITI implementation on a day to day basis. Although discussions between the government and the World Bank related to the MDTF grant started in April 2013, the grant was not disbursed until January 2015. Delays in establishing the national secretariat and well as other administrative issues contributed to the lengthy process of concluding the grant agreement. There were limited efforts to secure alternative funding. In addition, the four month EITI leadership vacuum in the aftermath of the presidential elections in November 2013 contributed to the slowdown of the EITI process and EITI Council activities. Although the Council continued to meet and was able to hire a consultant to undertake a scoping study to prepare for the first EITI Report, it was only in Q2 2015 that implementation really picked up speed. As a consequence of the delays in the early stages of implementation, Tajikistan was not able to deliver on the 26 February 2015 deadline for producing the first EITI Report<sup>3</sup>, and was suspended in April 2015. The suspension was lifted in November 2015.

Since 2015, implementation efforts have been relatively stable. The commitment of the government, in particular the Ministry of Finance which is the government entity in charge of implementation, has been

<sup>1</sup> <https://eiti.org/document/validation-procedures>

<sup>2</sup> <https://eiti.org/document/validation-guide>

<sup>3</sup> In accordance with the transitional arrangements of the 2013 EITI Standard, Tajikistan was given 2 years to produce its first EITI Report, rather than 18 months as stipulated by the EITI Standard.

consistent and crucial in coordinating actions across ministries in order to deliver the first EITI Report. Other government entities including the Main Geology Department, the State Tax Committee, the State Committee for Investments and State Property Management, the Ministry of Justice, the Ministry of Energy and Water, and the Ministry of Industry and New Technologies have become increasingly engaged as the benefits of EITI implementation was made more apparent through the publication of the first EITI Report, and awareness of the process improved. Civil society has been a strong advocate of the EITI process since the beginning, and actively contributes to the work of the EITI Council. Both government and civil society have been actively involved in networking, exchanging experiences and consultations with other implementing countries in the region including Azerbaijan, Kazakhstan, Kyrgyz Republic and Ukraine. The EITI Council has hosted two regional trainings for MSGs and national secretariats from Kazakhstan and Kyrgyz Republic in November 2015 and in June 2016.

Despite these strengths and continuous maturing of the EITI Council, there is room for improvement in particular in terms of engaging with industry. All stakeholders expressed concern about the limited company participation in the process, and it is clear that this also affected the quality and availability of data in the 2014 EITI Report. Furthermore, the EITI Council relies considerably on the national secretariat whose responsibilities go beyond coordination to also include drafting of major documents and communications. Although these are normal secretariat functions, there was a noticeable slowdown in EITI Council activity at the beginning of 2016 due to the end of the World Bank's funding of the national secretariat staff. There is a need to ensure a more sustainable functioning of the secretariat and the government should consider financing some of the secretariat's positions.

Although there is a relatively limited number of large extractive companies operating in Tajikistan, the EITI Council faced some challenges in terms of putting together the 2014 EITI Report. As with most first EITI reports, a key challenge was the limited awareness among companies and government entities of the purpose of the EITI process, leading to an initial reluctance to provide data to the Independent Administrator. As a result, the report has several discrepancies for which the Independent Administrator was not able to resolve or clarify. Furthermore, the EITI Council faced time constraints leading to a decision to separate the work on the contextual report from the financial report. A working group comprising external experts as well as some Council members wrote the contextual part of the EITI Report. Although this clearly helped build capacity and understanding of the extractive sector and the EITI process, and created stronger ownership of the EITI Report on behalf of the EITI Council, it also contributed to some inconsistencies and gaps in the data.

While the 2014 EITI Report revealed the need for improvements in terms of disclosure of information about the extractive sector, it has also underscored some of the legal, regulatory and administrative opportunities for improving the management of the sector. It highlights ambiguities and potential conflicts of interests in the way that licenses and contracts are allocated. It also shows the need for streamlining and strengthening government systems for collecting taxes and other payments associated with the extractive sector. It is encouraging that the EITI Council has discussed these findings and put forward a set of recommendations on natural resource management that were included in the draft Law on Subsoil Use currently discussed in the Parliament. EITI implementation prompted the Main Geology Department, for the first time, to make the register of exploration licenses publicly available online. The EITI Council is currently urging the two other government entities overseeing licenses to do the same. The EITI Council also signed up to the EITI beneficial ownership pilot and while the report only covered a limited number of non-listed private companies, efforts are now underway to make beneficial ownership reporting mandatory by law. The government and the EITI Council should be commended for these

efforts, and continue to implement reforms highlighted by the EITI process in order to deliver on the national objectives of increasing foreign investment and improve public awareness and participation in decision making related to the extractive sector.

In light of the economic downturn in the country, questions about the development of the extractives sector, foreign investment, and benefits from mining are increasingly high on the country's agenda. The EITI's contribution to this debate has mainly been through a limited number of dissemination events in Dushanbe. Civil society has played an important role in starting to take the findings from the EITI reports to the regions, produce materials that is more easily accessible and comprehensible to the wider public, and ensure collaboration with media. Several stakeholders noted that although there was still considerable room for improvements, the environment for media and freedom of expression was slowly becoming more enabling. The EITI was seen as a tool to help civil society in creating more space for public discussion of topics related to the extractive sector. At the same time, stakeholder consultations also revealed relatively high degrees of self-censorship by civil society. This raises concern as to what extent the EITI can ensure an open and free discussion of natural resource governance.

In terms of the future of EITI implementation in Tajikistan, stakeholders highlighted that the main objective behind the EITI implementation in Tajikistan was to attract foreign direct investment in the mining sector. Although there had been important benefits from the EITI, there was still no evidence that it had delivered a major impact on the investment climate. Nonetheless, the EITI process has highlighted a number of issues in the management of the extractive sector that, if improved, could ensure a more attractive investment climate. Stakeholder consultations highlighted issues such as cumbersome, lengthy and discretionary licensing procedures, unclear fiscal regime where in particular the bonus system was regarded as unattractive, hidden company ownership, and the lack of up to date geological data as some of the issues deterring investment. There is ample opportunity for the EITI to continue to be a driving force for such reforms. In addition, stakeholders highlighted opportunities for the EITI to contribute to deliver information on environmental practices, payments and impacts associated with mining, improving company standards and transparency with regards to social expenditures, and potential application of the EITI methodology to the hydropower sector, which has the potential to yield substantial revenues for the government in the future.

## Recommendations

The International Secretariat makes the following overall recommendations for improving implementation in Tajikistan. Detailed recommendations are provided in the assessment tables throughout the report.

1. The EITI Council should consider establishing closer links between implementation of technical aspects of EITI reporting and the overarching national objectives of EITI implementation as set out in the workplan in order to increase opportunities for the EITI to have an impact on attracting investment and ensuring greater awareness and public participation in decision making related to the extractive sector. As part of this work, the EITI Council should pay particular attention to following up the recommendations from EITI reporting and Validation.
2. The government should ensure full, active and effective engagement of companies in the EITI process. It is recommended that the government initiates an outreach and awareness raising campaign targeted at industry representatives.

3. The government should ensure that civil society is able to speak freely on transparency and natural resource governance, be able to operate freely and express opinions about the EITI without restraint, coercion or reprisal.
4. The initial assessment highlighted concerns regarding licence allocation. The government should revisit the current policy on license allocations and implement measures to ensure that the process for awarding licenses is transparent. It is required that the government establishes an open public register of all exploration and production licenses.
5. The government is encouraged to continue its work on embedding beneficial ownership transparency in legislation. The production of the EITI roadmap on beneficial ownership transparency is an important opportunity for designing a plan for the legal and institutional reforms that are required to ensure full beneficial ownership transparency by 2020.
6. The EITI Council should pay particular attention to ensuring transparency in the operations of state-owned enterprises (SOEs). This should include clarifying the financial relationship between the state and SOEs including any changes in government ownership in SOEs or their subsidiaries during the year under review, and providing a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil and gas companies. The EITI Council should consider the existence of subsidies in the mining sector and quasi-fiscal expenditures undertaken by SOEs in the extractive industries.
7. In preparing the next EITI Report, the EITI Council should ensure that production and export volumes and values are disclosed in accordance with the EITI Standard.
8. The government and the EITI Council are encouraged to continue discussing possibilities for full or partial disclosure of license agreements, investment agreements and product sharing agreements
9. The government and the EITI Council should clarify the existence of any barter and infrastructure transactions. Where these exist and are material, the EITI Council should design and implement an appropriate disclosure framework.
10. The government and the EITI Council should clarify the current arrangements regarding social expenditures, including the extent to which these are mandatory by agreement with the government. Where mandatory and material, the EITI Council should design and implement an appropriate disclosure framework.
11. The EITI Council should intensify its communications and data analysis efforts with a view to increasing the EITI's contribution to public debate.
12. The government and the EITI Council are encouraged to explore opportunities for increasing the impact of the EITI by focusing on issues that stakeholders have identified as relevant to Tajikistan. This could include revenue management, environmental issues, artisanal and small scale mining, analysis of the current policy on signature bonuses, and applying the EITI methodology to the hydropower sector.

Figure 1 – assessment card

EITI REQUIREMENTS		LEVEL OF PROGRESS				
		No	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)				Green	
	Industry engagement (#1.2)			Yellow		
	Civil society engagement (#1.3)			Yellow		
	MSG governance (#1.4)				Green	
	Workplan (#1.5)				Green	
Licenses and contracts	Legal framework (#2.1)				Green	
	License allocations (#2.2)		Orange			
	License register (#2.3)			Yellow		
	Policy on contract disclosure (#2.4)			Yellow		
	Beneficial ownership (#2.5)	Grey	Grey	Grey	Grey	Blue
	State participation (#2.6)		Orange			
Monitoring production	Exploration data (#3.1)				Green	
	Production data (#3.2)		Orange			
	Export data (#3.3)		Orange			
Revenue collection	Comprehensiveness (#4.1)			Yellow		
	In-kind revenues (#4.2)	Red				
	Barter agreements (#4.3)		Orange			
	Transporation revenues (#4.4)	Grey	Grey	Grey	Grey	Grey
	SOE transactions (#4.5)		Orange			
	Direct subnational payments (#4.6)	Grey	Grey	Grey	Grey	Grey
	Disaggregation (#4.7)				Green	
	Data timeliness (#4.8)				Green	
Data quality (#4.9)			Yellow			
Revenue allocation	Distribution of revenues (#5.1)				Green	
	Subnational transfers (#5.2)	Grey	Grey	Grey	Grey	Grey
	Revenue management and expenditures (#5.3)	Grey	Grey	Grey	Grey	Grey
Socio-economic contribution	Mandatory social expenditures (#6.1.a)		Orange			
	Discretionary social expenditures (#6.1.b)	Grey	Grey	Grey	Grey	Grey
	SOE quasi-fiscal expenditures (#6.2)	Red				
	Economic contribution (#6.3)				Green	
Outcomes and impact	Public debate (#7.1)			Yellow		
	Data accessibility (#7.2)	Grey	Grey	Grey	Grey	Grey
	Follow up on recommendations (#7.3)				Green	Blue
	Outcomes and impact of implementation (#7.4)			Yellow		
<b>Overall assessment:</b>						



## Introduction

### Brief recap of the sign-up phase

The Republic of Tajikistan started preparations for joining the EITI in June 2011. In August 2011, 21 civil society organizations demonstrated their interest in the EITI and in natural resource governance issues by establishing a coalition of civil society organizations entitled “Transparency for Development”. A working group of representatives of relevant government ministries, civil society organizations and extractive companies was established to prepare the candidature application. The Presidential Decree #449 on Accession of Tajikistan to the EITI was issued on 31 August 2012. Based on the Resolution the multi-stakeholder EITI Council was formed and on 26 February 2013, Tajikistan was accepted as an EITI Candidate country.

### Objectives for implementation and overall progress in implementing the work plan

The work plan contains two objectives of the EITI implementation in 2016-2017 that appear linked to national priorities:

1. To attract high-quality investment in the extractive sector through improvements to the legislative framework in order to achieve sustainable economic development and social growth.
2. To raise awareness about activities in the extractive sector by making information available to the public and involve them in the process of improving the sector.

Implementation of the current 2016 work plan activities is on track. In terms of previous work plans, the majority of the 2015 work plan activities were implemented. Given that the objectives for 2015 the work plan focused mostly on technical aspects of the EITI process such as reporting, Validation and report dissemination, most of them were successfully accomplished. There were some delays in delivering work plan activities in 2015 due to funding constraints. Furthermore, some activities were conducted in a very short timeframe due to the late allocation of funding. There were several delays in the implementation of the 2013 and 2014 work plans mainly because of lack of funding. This led to failure to meet important deadlines such as the original 26 August 2014 deadline for the publication of the first EITI Report.

### History of EITI Reporting

Tajikistan’s first EITI report covering 2014 data was produced in November 2015, almost 2,5 years after achieving EITI candidate status. The main reason for this delay was the lack of available funding and a national secretariat to support implementation. Tajikistan was suspended for these delays, but the suspension was lifted in 2015. The EITI Council has started preparations for the 2015 EITI Report by commissioning a new scoping study. The report will be published in late 2016.

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

The current EITI Council operates under Terms of Reference that were initially approved in August 2012 on the basis of Government Decree # 449 “On the signing up of the Republic of Tajikistan to the Extractive Industries Transparency Initiative”. The EITI Council has developed and approved a new ToRs according to the 2016 EITI Standard, but the TORs have not yet come into force as they need to be enshrined in government decree in order to replace the TORs set out in Decree #449.

Members of the EITI Council meet four to five times annually. Minutes of these meetings are published on the EITI Tajikistan (TJ-EITI) [website](#). A list of current Council and members is included in Annex A. The EITI Council has also constituted several ad hoc working groups, e.g., the working group on contextual

information, and the working group on recommendations and preparation for Validation. The Council is currently establishing a working group on beneficial ownership.

As noted above, EITI implementation in Tajikistan got off to a slow start because of lack of funding. Even though current funding from the World Bank, GIZ and OSI Tajikistan covers 2016 and 2017 activities, the EITI Council should consider a more sustainable funding model to ensure efficient implementation in the future. However, the commitment of government and civil society has been consistent from the beginning and these stakeholders have broadly continued to drive EITI implementation forward even at times of little funding. A key challenge has been to engage industry in the process, and this affected the quality and data available for the first EITI Report.

### Key features of the extractive industry

Despite reportedly rich geological potential, Tajikistan's extractive sector remains relatively undeveloped. The 2014 EITI Report shows that more than 600 deposits are explored and prepared for industrial development, however there has been a lack of international investors interested in these deposits. The contribution of extractive industries to the country's GDP is relatively insignificant, representing 3.7% of GDP. Another sector with promising potential is hydro power.

Tajikistan's licensing system is complex, bureaucratic and widely reported to be a major impediment to investment. All license applications are considered and allocated by the Government Committee headed by the Vice Prime Minister of Tajikistan. The EITI can make an important contribution in terms of making license information available, explaining how the procedures work, and reduce suspicion around why certain companies were awarded certain licenses.

Tajikistan is reported to have the world's second large deposit of silver - the Konimansur<sup>4</sup>. The bidding negotiations that started in 2009<sup>5</sup> ended unsuccessfully in 2015<sup>6</sup> as all companies withdrew from the process. It has been claimed that the reason was a signing bonus that was considered too high. The largest foreign companies operating in Tajikistan – Total and CNPC (China National Petroleum Corporation) sought arbitration in dispute<sup>7</sup> with Tethys Petroleum over a dispute concerning Bokhtar oil and gas field. In addition to this, the government set a big fine to Total due to unpaid taxes in relation to purchase of Tethys Petroleum. As a result, the companies ceased their operations and will leave the country. Another big foreign investor – Gazprom International after 6 year of exploration drilling had submitted its two oil and gas exploration licenses<sup>8</sup> claimed the reserves were not financially attractive due to the commodity prices.

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

The EITI International Board agreed at its 33rd Board meeting in Oslo 2016 that fifteen countries, including Tajikistan will undergo validations starting July 1, 2016.

**1. Validation** is an essential feature of the EITI process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. The Validation report will, in addition, address the impact of the EITI in the country being validated, the implementation of activities encouraged by the EITI Standard, lessons learnt in EITI

<sup>4</sup> [Unlocking Tajikistan's Mining Potential](#). International Finance Corporation, World Bank Group.

<sup>5</sup> [Special State Committee will decide the fate of the silver deposit "Big Konimansur"](#). Regnum News.

<sup>6</sup> [Large Konimansur. Protracted "casting" or unsuccessful "bride"?](#) Media Group Tajikistan.

<sup>7</sup> [Total and CNPC seek arbitration in dispute with partner at Tajik oil and gas field](#). BNE Intellnews.

<sup>8</sup> [Russian state-controlled gas company leaves Tajikistan](#). Media Group Tajikistan.

implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI.

**2. Validation procedure.** In February 2016 the EITI Board approved a revised Validation system. The new system has three phases:

1. Data collection undertaken by the International Secretariat
2. Independent quality assurance by an independent Validator who reports directly to the EITI Board
3. Board review.

In May 2016, the Board agreed the [Validation Guide](#), which provides detailed guidance on assessing EITI Requirements, and more detailed [Validation procedures](#), including a standardised procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of reference for the Validator. As previously, there are extensive opportunities for stakeholder participation, as set out below.

The Validation Guide includes a provision that: “Where the MSG wishes that validation pays particular attention to assessing certain objectives or activities in accordance with the MSG work plan, these should be outlined upon the request of the MSG”. The EITI Council in Tajikistan did not request any activities or objective for particular attention during the Validation.

**3. Data collection by the International Secretariat.** In accordance with the [Validation procedures](#), International Secretariat’s work was conducted in three phases:

**1. Desk Review.** In the period 01 July to 12 August 2016 the Secretariat conducted a detailed desk review of the available documentation relating to the country’s compliance with the EITI Standard, including but not limited to:

- \* The EITI work plan and other planning documents such as budgets and communication plans;
- \* The multi-stakeholder group’s Terms of Reference, and minutes from multi-stakeholder group meetings;
- \* EITI Reports, and supplementary information such as summary reports and scoping studies;
- \* Communication materials;
- \* Annual progress reports; and
- \* Any other information of relevance to EITI implementation and Validation.

This work included initial consultations with stakeholders, who are invited to submit any other documentation they consider relevant. In accordance with the [Validation procedures](#), the Secretariat did not take into account actions undertaken after the commencement of Validation on 01 July 2016.

**2. Country visit.** The country visit took place from 15-19 August 2016. All meetings took place in Dushanbe. The secretariat met with the multi-stakeholder group and its members, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group.

In addition to meeting with the MSG as a group, the Secretariat met with government, companies and civil society representatives either individually or in constituency groups, with appropriate protocols to ensure that stakeholders were able to freely express their views and that requests for confidentiality are respected.

The list of stakeholders consulted was prepared by members of the Tajikistan EITI Council, with inputs

and suggestions from the national and the International Secretariat. The International Secretariat's view is that the report covers views of the key stakeholders engaged in the EITI process.

**3. Reporting on progress against requirements.** Based on these consultations, the International Secretariat has prepared this report making an initial evaluation of progress against requirements in accordance with the Validation Guide. In accordance with the [Validation procedures](#) the report will not include an overall assessment of compliance. The report will be made available to multi-stakeholder group for comment prior to quality assurance by the Independent Validator.

The International Secretariat's team comprised: Sam Bartlett, Dyveke Rogan, and Oliana Valigura.

**4. Independent Validation.** In accordance with the EITI Standard, the EITI Board will appoint a Validator<sup>9</sup>, who will report to the Board via the Validation Committee. The Validator will assess whether the Secretariat's initial data gathering has been carried out in accordance with the Validation Guide. This will include: a detailed desk review of the relevant documentation for each requirement and the Secretariat's initial evaluation for each requirement, and a risk-based approach for spot checks, and further consultations with stakeholders. The Board may request that the Validator undertake spot checks on specific requirements. The Validator will amend or comment on the Secretariat's report as needed. The Validator then prepares a short summary (the Validation Report) for submission to the Board. This will include the Validator's assessment of compliance with each provision, but not an overall assessment of compliance. The multi-stakeholder group will be invited to comment on the Validation Report.

**5. Board Review and decision.** The final stage in the process is the review by the EITI Board. The Validation Committee will review the Validator's assessment and any feedback from the multi-stakeholder group. The Validation Committee will then make a recommendation to the EITI Board on the country's compliance with the EITI Requirements. The EITI Board will make the final determination of whether the requirements are met or unmet, and on the country's overall compliance in accordance with provision 8.3.a.ii of the EITI Standard. There is an appeal process, as per requirement 8.8.

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<sup>9</sup> At the time of writing, the procurement process was oCSOing, see <https://eiti.org/node/7118>

## Part I – MSG Oversight

### 1. Oversight by the MSG

#### 1.1 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.

#### 1.2 Assessment

##### Government oversight of the EITI process (#1.1)

###### Documentation of progress

The Government of the Republic of Tajikistan represented by First Deputy Prime Minister Asadullo Gulomov and First Deputy Chairman of the State Committee on Investments and State Property Management Shuhratjon Rahmatboev first expressed interest in implementing the EITI on 11 July 2011 during a high-level workshop supported by the World Bank<sup>10</sup>. President Emomali Rakhmon confirmed the commitment to implement the EITI by signing Decree 449 on Accession of Tajikistan to the EITI on 31 August 2012 (Supplementary 2014 EITI Report, p.4). Since then, there have been several public statements of government support, including at the launch of the 2014 EITI Report in November 2015<sup>11</sup>.

The Ministry of Finance (MoF) is in charge of EITI implementation. The EITI Council, the multi-stakeholder group, is chaired by the Deputy Minister of Finance, a position held by Ms. Mekhrinamo Dzhonmamadova since March 2014. Ms. Dzhonmamadova has attended all meetings of the EITI Council since her appointment. The Ministry of Finance established a national secretariat in 2013 to support EITI implementation<sup>12</sup>. The functions of the national secretariat were established in Decree 449 (Decree 449, p.1).

Other government entities are represented on the EITI Council at a senior level, including the Executive Office of the President, the Ministry of Justice, the Ministry of Industry and New Technologies, the Ministry of Economic Development and Trade, the State Committee for Investments and State Property Management and the Main Department of Geology.

The government's engagement in the design, implementation, monitoring and evaluation of the EITI process has been mostly consistent. Minutes from EITI Council meetings show that government representatives have been engaged in core activities such as reviewing EITI work plans and annual activity reports, EITI reporting templates and EITI Reports (EITI Council minutes, 5 meetings in 2015). Minutes from EITI Council meetings also confirm that most government representatives usually attend Council

<sup>10</sup> [Tajikistan's Candidate Application to the EITI](#), p. 9.

<sup>11</sup> [Press Release on the 2015 national EITI Conference](#). National EITI Tajikistan country page.

<sup>12</sup> Order of the Ministry of Finance on the establishment of the national secretariat.

meetings. Government representatives have also participated in national and international capacity building events<sup>13</sup> and conferences<sup>14</sup>.

There have been periods of lower government engagement, in particular in the lead up to and in the aftermath of the November 2013 elections, which effectively brought implementation to a standstill for about six months. Implementation has also largely stalled twice – in 2013 and in early 2016 – due to lack of funding and limited engagement by the government to secure funds for implementation.

### **Stakeholder views**

Some stakeholders noted that government representatives on the Council change often as people move positions within the Ministries. This was considered a challenge as it took time to build the capacity of new Council members. Government representatives on the other hand could not recall major changes in the government representation, although highlighted the change of national coordinator Timur Afganov who left the Ministry of Finance and accepted position at the state owned bank, AmonatBank.

In terms of government leadership, no stakeholder expressed discontent or mistrust in the current EITI champion. One representative from the international community commented that the Chair of the EITI Council was engaged and committed to the EITI process. It was noted that government support during the EITI reporting process had been crucial, in particular in terms of providing formal letters requesting other government agencies and companies to provide the necessary data.

Other stakeholders said that civil society was the main driver of the process and there was a need for the government to assume more responsibility for implementation and ensure liaison with other government efforts. For example, a council on improving the investment climate had been established under the President's Office and the government should take more initiative to explore synergies. Several stakeholders also referred to oCSOing discussion regarding whether the Ministry of Finance would be the appropriate Ministry to continue to lead EITI implementation. Some noted that they believed that the EITI would achieve positive results if the MoF continued to lead the process. Others commented that the background to this discussion was related to funding opportunities and the increasing popularity of the EITI resulting in other ministries gaining more interest. However, most stakeholders agreed that the EITI process would suffer from a change in lead ministry. National secretariat representatives explained that the roles and functions of the secretariat had recently been updated and included in the final draft MoU on EITI implementation developed by the EITI Council. Representatives from the international community commented that there was a need to build capacity of the national secretariat staff.

### **Initial assessment**

Evidence such as EITI Council meetings minutes show that government is actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI. The Ministry of Finance hosts a national EITI secretariat funded by the World Bank. The Ministry continued to maintain the secretariat even during a gap in funding from January till April 2016. Government representatives are taking part in all meetings of the EITI Council. The International Secretariat's initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement.

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<sup>13</sup> [EITI Council study tour to Kyrgyz Republic](#). National EITI Tajikistan country page.

<sup>14</sup> [EITI National conference in Dushanbe](#). National EITI Tajikistan country page.

## Company engagement (#1.2)

### Documentation of progress

Despite the relatively underdeveloped extractive sector, there are 154 extractive companies operating in Tajikistan, of which 21 are partially or majority state-owned (Supplementary 2014 EITI Report, p.46). These companies hold a total of 366 active oil, gas and mineral exploration and production licenses (2014 EITI Report, pp.119-137). Extractive companies have six seats on the EITI Council and are currently represented by TA LLC JV "Anzob", Ltd JV "Zeravshan", STK LLC "Aprelevka", LLC "Bohtar Operating Company BV", LLC "Pakrut" (China Nonferrous Gold Limited) and the American Chamber of Commerce.

Tajikistan does not have laws to mandate companies to report under the EITI Standard. At the same time, there is no evidence that there have been legal or regulatory obstacles to company participation in the EITI process. According to the implementation of the "Programme to improve the investment attractiveness of the sphere of subsoil use in the Republic of Tajikistan for 2012-2015" a draft Law "On Subsoil and Subsoil Use" is being developed that incorporates mandatory reporting under the EITI Standard for extractive companies (Supplementary 2014 Report, p.21).

For the purpose of EITI reporting, 14 companies were considered material covering approximately 87% of all payments made by extractive companies (2014 EITI Report, p.51). All 14 companies submitted data for the 2014 EITI Report. Despite this achievement, industry engagement in the design, implementation, monitoring and evaluation of the EITI has been inconsistent. Minutes from the EITI Council meetings show that companies have attended meetings, although the minutes from 2012-2014 do not indicate which company representatives were present (2012-2016 EITI Council meeting minutes). The minutes do not provide detail on which particular issues the company representatives have commented on. According to the minutes of the EITI Council meetings from 22 May 2015 and 22 July 2015, company representatives did not attend. In January-June 2016, only representatives from China Nonferrous Gold Limited and JV "Anzob" attended the meetings. No company representatives joined the working group to draft the contextual part of the 2014 EITI Report, nor the working group on the assessment of the 2014 report and compiling of recommendations.

### Stakeholder views

A company representative expressed frustration with the lack of company participation in Council activities: "Usually, I am the only private sector representative at meetings. We don't really have participation from private sector in the MSG. Once in a while I meet another company representative at an EITI training, but then I never see them again".

Several company representatives confirmed that they had participated in EITI trainings in Tajikistan as well as regional trainings and conferences. These were considered useful capacity building activities. When asked about participation in Council working group, none of the company representatives could recall having being invited to participate in the working groups although they were aware that they existed.

None of the companies consulted had faced any legal, regulatory or practical obstacles in relation to EITI implementation. With regards to the proposal to make EITI reporting mandatory through the Subsoil Use Law, one company representative said that "we have to submit reports on our activities and payments to the government anyway, so including the EITI in the subsoil law would not significantly impact the amount of work for the companies. It is not a bad idea. It would make the companies that are not willing

to disclose comply". Other company representatives expressed similar support noting that a level playing field is what they expected from the EITI and that there was a need for communities to know what the companies are doing in their areas and the results of the company's activities.

When asked how to improve company engagement, one company representative suggested to establish a mining association. Currently, the only business association was the American Chamber of Commerce which would soon not have any extractive company members as Tethys Petroleum was leaving the country. Another company representative stressed the need to communicate the importance of the EITI and the benefits to companies. Many companies may not understand the full potential of the EITI, and this could be a reason why it was difficult to involve companies. It was also suggested that there be a private sector conference on the EITI to raise awareness. Company representatives engaged in the EITI in other countries could be invited.

Other stakeholders confirmed that mostly it was the representatives of the companies that did not attend Council meetings, and even if they attended, their participation was not active and views and positions were not articulated. It was noted that many companies were based in the regions and this could present a challenge with regards to their physical participation in Council meetings. There was also a need to engage with state-owned enterprises. According to the Supplementary 2014 Report there are 21 enterprises considered state-owned (p.46). However, neither EITI Report, nor the Supplementary 2014 EITI Report specifies details about the projects of SOEs and the terms attached to the equity stake. SOEs are not represented at the EITI Council except for Ltd JV "Zeravshan", where government holds 25%.

The Independent Administrator explained that their main role was to liaise with the companies. In doing so, it became clear that there was a lack of awareness and understanding of the EITI. Companies were reluctant to hand over the data on their tax payments without a clear legal basis for doing so. It was only after the Independent Administrator presented a letter from the Ministry of Finance, and followed up with phone calls and meetings, that the companies eventually responded. The Independent Administrator also provided instructions to the companies on how to fill in the reporting templates and invited the companies to attend training on this work. Only 3 or 4 companies subsequently participated in the training.

### **Initial assessment**

EITI Council meeting minutes show that despite there being no legal obstacles preventing company participation in the EITI, companies are not actively engaged in the design and implementation of the EITI process. Awareness of the EITI among company representatives is weak. None of the company representatives joined the working group to draft contextual part of the 2014 EITI Report, nor the working group on assessment of the report and compiling of recommendations.

The International Secretariat's initial assessment is that Tajikistan has made meaningful progress in meeting this requirement.

### **Civil society engagement (#1.3)**

#### **Documentation of progress**

There are about 3000<sup>15</sup> civil society organisations registered with the Ministry of Justice in Tajikistan. Civil society organisations engaged in the EITI process in Tajikistan are represented by the CSO Coalition

<sup>15</sup> [Civic Freedom Monitor](#): Tajikistan. The International Center for Not-for-Profit Law.

“Transparency for Development”, hereinafter ‘the Coalition’<sup>16</sup>. The Coalition was formed in August 2011 by the signing of a Memorandum of Understanding between 21 CSOs that aim at improving transparency and accountability in extractives industries, ensuring active public participation in the EITI, and promoting collaboration with the government and extractive companies. Since then, the Coalition has grown to include 31 CSOs. Since December 2013, the Coalition has been affiliated with the Publish What You Pay global network. It does not seem that CSOs outside the coalition are actively involved in the EITI process. However, minutes of the Coalition meetings<sup>17</sup> indicate that the coalition conducted outreach seminars in Dushanbe and other regions, organized capacity building workshops for potentially interested CSOs, and training for media.

*Expression:*

Reports by several international organisations point to a limiting environment for freedom of expression in Tajikistan. According to the Human Rights Watch 2016 World Report<sup>18</sup>, Tajikistan is violating rights to freedom of expression because of restrictions on media freedoms and access to independent information, including on the Internet, and the intimidation of journalists and CSOs. Other international non-governmental organisations, such as Amnesty International, confirm restrictions on freedom of expression and state that access to information is controlled by the authorities<sup>19</sup>. Moreover, Presidential Decree 765 establishes a “Unified Electronic Communications Switching Centre”<sup>20</sup> – a system that requires all communication traffic including mobile devices and PCs to be filtered through a government-administered information gateway run by state-owned telecommunications company Tojiktelecom<sup>21</sup>. This limits access to websites, social media and search platforms such as Facebook, Vkontakte, YouTube and Twitter. Websites like Asia plus carrying widely shared articles critical of the government were blocked<sup>22</sup>, as were social media platforms being used to circulate them. In some instances, mobile phone networks have been partially deactivated of independent mass media and social networks. The United Nations Special Rapporteur on the right to freedom of opinion and expression, notes in his report on Preliminary observations<sup>23</sup> on Tajikistan: “Reducing access to information undermines not only public debate but the innovation necessary to build a free and growing economy”.

Despite these reports, few of the stakeholders consulted could point to any specific examples of cases where civil society representatives had faced restrictions as a result of public expressions on the EITI or mining issues. Minutes from EITI Council meetings show that civil society representatives initiated discussions in particular on the EITI reporting process, preparation of the annual activity report and work plan, and provided recommendations on improving the EITI Report.

Beyond the EITI Council, civil society has also publicly commented on the EITI process for example the Coalition publishes its annual activity report<sup>24</sup> that is widely disseminated including among the ministries. The Coalition has a [website](#) where the members present their views and raise issues. The Coalition is also

<sup>16</sup> “Transparency for Development” CSO Coalition, [website available in Russian](#).

<sup>17</sup> Meeting minutes of the CSO Coalition “Transparency for Development” and its governance body - the Coalition Council meetings for 2011-2015, [available in Russian](#).

<sup>18</sup> [World Report 2016](#). Human Right Watch.

<sup>19</sup> [Tajikistan 2015/2016](#). Amnesty International Annual Report.

<sup>20</sup> [Tajikistan: Data Gateway Deals Blow to Internet Freedom](#). EuarasiaNet.

<sup>21</sup> [Tajik Government Stakes Out Expanded Power Over Media](#). Radio Free Europe.

<sup>22</sup> [Asia Plus](#) online news outlet was blocked after publishing a critical article on state budget procurement. [[Article 1](#); [Article 2](#)]

<sup>23</sup> [Preliminary observations by the United Nations Special Rapporteur on the right to freedom of opinion and expression, Mr. David Kaye at the end of his visit to Tajikistan](#)

<sup>24</sup> Coalition activity report, [available in Russian](#).

working extensively with journalists by conducting a series of trainings, encouraging analytical and investigative articles, and summarising the EITI data. The coalition members take part in conferences<sup>25</sup>, radio programmes and other public events<sup>26</sup> where they can express their views on natural resource governance, although as noted below, not without a certain degree of self-censorship. An independent media outlet [Asia Plus](#) usually publishes news regarding the coalition's events<sup>27</sup>. The analysis of the licensing system in [infographics](#) prepared by the Coalition was shared with key licensing government bodies and the Main Geology Department uploaded it to its website. The coalition prepares press releases<sup>28</sup> and publishes info bulletins<sup>29</sup> on its website.

At the same time, stakeholder consultations revealed that civil society representatives practice considerable self-censorship (see stakeholder comments, below).

#### Operation:

Reports by several international organisations point to restrictions on civil society operations in Tajikistan. In terms of freedom to access funds for CSO operations, the government recently passed new regulations which may cause legal and regulatory barriers for civil society. On 31 March 2016 the government approved the Regulation on Humanitarian Aid that requires CSOs to register foreign funding in the Registry of Humanitarian Aid and notify the Ministry of Justice about received foreign funding within 10 days<sup>30</sup>. No civil society organisations substantively engaged in the EITI have reported that these amendments have practically affected their work on EITI. The Coalition receives funding from locally based foreign donors such as OSI and GIZ. As with any funding received, the Coalition needs to notify the MoJ of such grants.

There are more than 3000 registered CSOs in Tajikistan. CSOs need to register with the Ministry of Justice. According to ICNL<sup>31</sup>, "registration procedures for public associations are overly bureaucratic, with excessive documentation requirements". There is no evidence of restrictions on registration of CSOs involved in the EITI process.

The 2016 UN Universal Periodic Review report<sup>32</sup> states that "since the 2011 UPR, numerous CSOs experienced inspections of their activities by the Tax Committee and security agencies, in some cases resulting in warnings and sanctions. The trend had intensified in 2015. The environment for human rights defenders deteriorated and activists, lawyers and journalists were under pressure from the Government to drop or refrain from addressing specific politically sensitive issues." ICNL notes the following barriers on CSO activities: "First, the Law categorizes public associations by territorial range of activity. This territorial principle consequently restricts the operation activities of local public associations outside the region where they are registered. Second, the Law authorizes governmental authorities to engage in highly intrusive means of supervision of public associations"<sup>33</sup>. However, there are no suggestions that such restrictions are affecting civil society groups participating in the EITI.

<sup>25</sup> [Tajikistan begins process public discussion of the EITI](#). Coalition of CSO of Tajikistan.

<sup>26</sup> [A presentation of companies' map directory will be held in Dushanbe](#). Coalition of CSO in Tajikistan.

<sup>27</sup> [Tajikistan intends to disclose data on company ownership under the EITI](#). Media Group Tajikistan.

<sup>28</sup> Press release on the first EITI Report, available in Russian [here](#).

<sup>29</sup> Example of the recent info bulletin of the Coalition, available [here](#).

<sup>30</sup> [Civic Freedom Monitor: Tajikistan](#). The International Center for Not-for-Profit Law.

<sup>31</sup> *Ibid.*

<sup>32</sup> Universal Periodic Review, 2-13 May 2016, Human Rights Council Summary on Tajikistan, available [here](#).

<sup>33</sup> [Civic Freedom Monitor: Tajikistan](#). The International Center for Not-for-Profit Law.

Association:

The Freedom House 2016 Report on Freedom in the World assesses Tajikistan as ‘not free’ and notes that “the government limits freedoms of assembly and association”<sup>14</sup>. ICNL reports that there are “no legal barriers to international contact”, but that in terms of barriers to assembly there is a “15 day advance notification requirement and long list of sites where assemblies are not permitted; foreigners and stateless persons are not allowed to participate in assemblies, marches, and demonstrations”<sup>34</sup>. However, civil society organisations engaged in the EITI process are freely collaborating with each other as well as with other local CSOs not directly represented on the EITI Council and with international groups. Launched in 2011 to support preparations for EITI implementation, and counting 31 local members since April 2016, the CSO Coalition “Transparency for Development” has been affiliated with the Publish What You Pay global network since December 2013. The Coalition is governed by a Council consisting of six members that hold meetings at least four times a year. The 2015 Report on activities<sup>35</sup> of the CSO Coalition provides an overview of coalition’s activities, projects, training and capacity building, media involvement and membership. The minutes of the Coalition Council meetings from 2015<sup>36</sup> point to a number of outreach activities in the regions including workshops with local communities, CSOs and activists in Dushanbe, Sugd, Khatlon and Kurgan Tyupe, and active involvement of journalists in trainings and article contests as a means of engaging with wider civil society.

Engagement:

The Coalition is actively involved in the design, implementation, monitoring and evaluation of the EITI through participation in the EITI Council meetings, CSO forums, dissemination events etc. The minutes of the EITI Council meetings as well as the 2015 Annual Progress Report and the CSO Coalition Activity Report<sup>37</sup> for 2015 confirm comprehensive input from civil society to the work plan, the EITI reporting process, the annual self-assessment of the EITI process, preparation for Validation, and efforts to address recommendations from EITI reports. There is substantial evidence that civil society regularly participate in the EITI Council meetings, MSG working groups and other EITI events<sup>38</sup>, and their views are documented in the EITI Council minutes as well as Coalition meetings minutes.

Civil society members of the EITI Council were the drivers behind the working group that, in April 2016, produced a pre-Validation analytical report outlining a comprehensive set of recommendations for improving the EITI reporting process. Civil society also initiated a working group to draft the contextual part of the 2014 EITI Report and, in April 2016, the Supplementary 2014 EITI Report addressing shortcomings in the 2014 EITI Report.

Coalition members have sufficient capacity to carry out their duties, and have also organised trainings not only for Coalition members but also other CSOs, journalists and activists interested in the EITI, especially in extractive regions<sup>39</sup>. For example, in December 2015 the Coalition hosted a training on "Promotion of the EITI and informing the public on the EITI in the Republic of Tajikistan for journalists and other media representatives, bloggers and public activists."<sup>40</sup>

<sup>34</sup> [Civic Freedom Monitor: Tajikistan](#). The International Center for Not-for-Profit Law.

<sup>35</sup> 2015 Activity Report, CSO Coalition “Transparency for Development”, available in Russian [here](#).

<sup>36</sup> Coalition Council meetings minutes, available in Russian [here](#).

<sup>37</sup> 2015 Activity Report, CSO Coalition “Transparency for Development”, available in Russian [here](#).

<sup>38</sup> New EITI Requirements were discussed in Dushanbe. News item in Russian is available [here](#).

<sup>39</sup> Coalition annual activity report for 2015, see ref. 17.

<sup>40</sup> 2015 Activity Report, CSO Coalition “Transparency for Development”, available in Russian [here](#).

*Access to public decision making:*

Civil society is able to use the EITI process to promote public debate through public events (conferences, round tables, and public hearings), workshops and regional outreach events, organised by or with participation of civil society to inform about the EITI process. Civil society representatives have also conducted analysis, used EITI data and communicated findings of the EITI report to citizens and media, and organised advocacy and knowledge sharing campaigns. Examples of this includes the summary EITI Report produced by the Coalition as well as an infographic explanation of the licensing process in Tajikistan. The CSO Coalition has a website [www.tfd.tj](http://www.tfd.tj) and a Facebook page [www.facebook.com/eiti.tajikistan](http://www.facebook.com/eiti.tajikistan).

There seems to be no legal or practical barriers beyond self-censorship limiting civil society's engagement in advocacy or public policy activities. According to Article 24 of the Law on Public Associations, civil society has the right to "participate in policy-making by government and regulatory authorities in the manner and within the scope established by this Law and other laws"<sup>41</sup>. In practice, civil society representatives in the EITI Council actively taken part in proposing amendments to e.g. the draft law on Subsoil Use. The recent proposals by civil society included the creation of public beneficial ownership registers and mandatory EITI reporting<sup>42</sup>. One of the Coalition members has developed the Company Directory<sup>43</sup>, that for the first time gathered information on major extractive companies operating in Tajikistan. The directory was presented publicly<sup>44</sup>. It includes details on over 40 companies and continues to be updated. Journalists commented on using the company directory in their work.

**Stakeholder views**

With regards to freedom of expression, some civil society representatives said that civil society did not face any pressures or restrictions imposed by the government because of their statements on the EITI or natural resource governance. Although such restrictions existed, for example with regards to human rights issues, it was considered too early for the EITI to reach the level of being restricted. It was noted that there might be further limitations as the EITI increasingly focus on sensitive topics such as beneficial ownership. Some said that the civil society in Tajikistan only started to develop in 2000. The many years of soviet occupation followed by years of civil war had significant influence on people, and can explain the limited capacity of CSOs and a certain level of self-censorship. Nonetheless, the EITI has led to enabling environment for CSOs.

It was noted that mass media and journalists were facing challenges with freedom of speech, but no Coalition members were aware of any journalists being prosecuted for commentary on the EITI or natural resource governance. Some said that although there were challenges with media freedoms, there was no negative trajectory. One civil society representative commented that one media outlet had recently published an article on non-tax paying companies that had been widely distributed without any consequences for the journalist. Another civil society representative noted that CSOs and media can questions that were once considered as "no-go topics" and that, to some extent, the EITI had helped to push the boundaries. For example, topics like license allocation, license register and production data used to be closed for discussion, but since the 2014 EITI Report was published touching upon all of these issues

<sup>41</sup> ICNL, CSO Law Monitor: Tajikistan, <http://www.icnl.org/research/monitor/tajikistan.html#analysis>

<sup>42</sup> Civil society recommendations to the draft subsoil law, unpublished.

<sup>43</sup> Company Directory, <http://tfd.tj/directory/>

<sup>44</sup> Press release on the company directory, available in Russian and Tajik [here](#)

more journalists wrote on license process, contract negotiation, gold production, etc. At the same time, other civil society representatives highlighted certain no-go topics. It was mentioned that if civil society representatives would dig too much into certain contracts or public procurement processes, or stick their nose into government spending, in particular on the public sector, they would almost certainly be prosecuted. The same applied to topics such as beneficial ownership, corruption, or general criticism of the government. It was noted that there were no restrictions on speech at Council meetings and everyone were open about their opinions and ideas.

Some CSOs commented that access to internet was an issue and that sometimes some websites were blocked permanently or temporarily as a means of restricting debate. However, it was pointed out that more and more youth use smartphones to access internet and social networks, and that there were ways of getting online even with these restrictions.

Some journalists that work on natural resources talked about high levels of self-censorship. “The red line is instinctive. It is constantly with us. It is self-censorship that for so many years is so in our blood that we know when it is not worth pushing it further”. One journalist explained that having written an article the government called eight times to ask why the article was written and who had paid for it. “They think I did it to discredit the government”. Another journalist explained that “Until January 2016, we didn’t have a problem with accessing production data on gold. But then somebody reported on it widely, and the national security service started chasing those that disclosed the information. That’s why data on gold is no longer available”. Other journalists explained that “I once wrote an article on state procurement in the mining sector that I couldn’t finish because of pressure”, and that “Once I visited a mining company, the company official subsequently got calls from the national security service, asking why I was allowed to ask questions”.

However, journalists noted that despite the fear of restrictions they had to continue their work. another journalist noted that in terms of consequences, at the very least the government could revoke a journalist’s work license. One journalist had experienced prosecution 2-3 times, noting that there was a larger risk of pressure at the preparation stage than after the article had been published. Another journalist commented that if a journalist included an international reference in the article, there was less chances of prosecution but one could be sure that no government official would ever speak or provide information again. It was also noted that if an investigation is thorough and backed up with reliable evidence there would be no further questions from the government. For example, a recent article on calculating signing bonus and pre-paid taxes<sup>45</sup>, which has been a sensitive topic, raised debate among public and did not lead to any consequences for the journalist.

On the ability of civil society to operate freely in relation to the EITI process, civil society representatives confirmed that all Coalition members were registered even if the Coalition itself was not a legal entity. Nonetheless, the Coalition still had to develop and follow its Statute and elect its governing body – the Council. To follow the Statute, the Coalition needs to gather at least once a year for the member meeting. CSOs cannot function without being registered. All CSOs have to submit annual reports to the MoJ before 1 April every year. One civil society representative said that this year, the MoJ cancelled registration of CSOs that had not submitted their annual reports on time. However, no coalition members were affected.

There were no restrictions on access to funds, although it was noted that the recent amendments to the

<sup>45</sup> [What frightens investors from coming to Tajikistan?](#) Media Group Tajikistan.

CSO law (August 2015) required all CSOs to inform the Ministry of Justice of the receipt of funding within 10 days. Some considered this a bureaucratic hurdle and noted that the necessity of this procedure was not clear given that the Ministry of Justice did not have capacity to handle this information. The MoJ does not make decisions on whether to allow CSOs to receive funding but only collects the information about the receipt of the grant, and this does not prevent CSOs from receiving funding. One civil society representative said that the changes to the legislation was in response to the events in Ukraine. Another civil society representative commented that although the reporting requirements became more complicated, it was not overly burdensome for civil society. "Once a year we file a report with the MoJ where we reflect the amount received, sources of funding etc. It is not too difficult".

It was also noted that CSOs need to notify local authorities in order to conduct any events in the region, including explaining the target groups, topics to be discussed etc. It was noted that this was required for gatherings of more than ten people, but in practice CSOs always did it for any event. Some commented that donors as well are required to notify authorities on any events and the government appoints a focal point to coordinate locally. If an CSO does not notify of its upcoming events, the authorities might prevent the CSO from holding what was planned. Some explained that when they invited a foreign expert to come, the Ministry of Foreign Affairs should be informed. Civil society was not aware of any cases where the Coalition has been refused the organization of such events at local level as the Coalition was careful to always include official letters from the Ministry of Finance confirming the government's role in the EITI. However, Coalition members lamented the very existence of these rules. One civil society representative said: "In our work, without participation and involvement of the government, we cannot achieve successful results. So if we want to be effective and get results we need to involve central and local governments."

Another civil society representative highlighted an example in the Khatlon region where local authorities used to have a negative attitude towards CSOs. In particular, when CSOs submitted tax declarations to local tax office showing zero income, they have been pressured to close down since it was believed that an organisation cannot work without funding. Such misunderstanding lead to a pressure for local CSOs and the Khatlon government organised a public meeting where CSOs could present their work. At that meeting the civil society was debating the government's attitude towards CSOs with zero income and the pressure to close down. As a result, the head of the local tax authority admitted there was no provision in legal framework to force CSOs close down when they had no funding. Local authorities were both surprised and impressed by the amount of work that CSOs were doing and admitted it was useful. Consequently, the Khatlon authorities wrote a letter to clarify a misperception of laws applied to CSOs and shared it among local tax offices. Local CSOs that monitored the situation noted that such letter enabled their environment in the region and the pressure has stopped and CSOs were no longer asked to close down.

With regards to collaboration and coordination, it was noted that some civil society organisations were based in the regions and it was important to find ways of engaging them and/or hold more regional meetings. One civil society representative commented that although quality was more important than quantity, it was sometimes difficult to attract new CSOs to the Coalition. The EITI was considered a narrow themes, and CSOs consider it interesting but on the other hand, find it hard to involve because of technical input and knowledge it requires. The Coalition had therefore focused on attracting economists,

lawyers, statisticians etc. Recently, there had been outreach and training for parliament<sup>46</sup>.

The Coalition maintains membership criteria but the Coalition members admitted these were not considered strict. CSOs that want to join the coalition need to submit a resume explaining what they can contribute, and proof that they are registered. The Coalition then votes to accept the applicant. Since the establishment of the Coalition in 2011, some members had decided to leave but that was considered normal.

According to stakeholders, communication among coalition members was well organised. The Chairman of the Coalition maintains a distribution list and shares all information with Coalition members. At the last Coalition Council session, members had agreed on a division of labour for various areas. For example, some were responsible for collecting articles on mining and EITI for distribution to other Coalition members, others are updating the website and keep in touch with international civil society, etc.. It was also considered helpful that the Coalition had some members based in the regions as this enabled contact with the grassroots and dissemination of information to communities.

Several civil society representatives confirmed that they did not face any restrictions in terms of collaboration either with national or international stakeholders.

On engagement in the EITI, all stakeholders expressed their appreciation and admiration of the civil society engagement in the EITI process, highlighting their active participation and input. Capacity was considered high, but further capacity development was still needed. One priority was to train bloggers, investigative journalists and academia in preparing more in-depth analysis and making use of tools to analyse data.

With regards to access to public policy making, civil society confirmed that they had opportunities for contributing to shaping policy. For example, with regards to the recent amendments to the CSO law, civil society had submitted proposals arguing that it would be unreasonable to require that each grant be registered with the MoJ. This recommendation was taken into account and as a consequence, the law did not require registration but rather required that the CSO inform the MoJ upon receipt of funding. Also, CSOs had been successful in convincing the MoJ to establish a working group with CSOs to adjust and simplify the reporting template with information about the grant.

Another example of influencing public policy was the current engagement of civil society in drafting and proposing amendments to the Subsoil Use Law. Although not yet approved, the ability to contribute to elaborating the draft Subsoil Use Law was considered an important example of civil society input to policy making, in particular as it addressed sensitive topics such as beneficial ownership transparency and contract disclosure.

Few civil society members commented that used the EITI as a platform to talk to the government, table and openly discuss issues related to resource governance, and provide recommendations on improving existing policies. It was noted that the civil society achieved a lot within last years by building a comprehensive dialogue with the government. In particular, CSOs convinced the government that used to be completely against to include a provision on disclosure of beneficial ownership into the draft Law on Subsoil Use, along with other recommendations such as partial contract transparency and mandatory EITI reporting. This was only possible because of the trust that was built within last few years in frames of the EITI implementation. It was underlined that advocating for a change of policy in a critical form used in

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<sup>46</sup> [Press release](#) of the Coalition on planned events in 2016.

other countries like Kyrgyzstan and Ukraine would not lead to any achievements in Tajikistan. The civil war in 1990<sup>th</sup> was heavily imprinted in minds and behaviour of Tajik citizens not only in terms of unspoken censorship but also in instinctive thrive to avoid any potential conflict or express indignation. It was only in early 2000 when civil society started to emerge in Tajikistan and if comparing with the space at that time and now, in 2016 – it has very much progressed in a positive way.

The civil society learnt to influence the government decision making by holding a comprehensive dialogue, presenting evidence-based arguments and facts and recommendations on how to improve things. The criticism is not perceived when delivered in a negative and aggressive way but it should rather point at a way forward in a form of recommendations on how to improve weaknesses and gaps. Another approach in civil society ability to debate on natural resource governance issues should not be taken against the civil society in Tajikistan and should not mean they are not fully engaged in the process.

### **Initial assessment**

Civil society organisations represented by the CSO Coalition “Transparency for Development” are fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process. It is clear that civil society participates on an equal footing with other consistencies in EITI Council meetings and are able to influence and drive the EITI process forward. There is no evidence of any major restrictions on civil society representatives substantively engaged in the EITI process.

In terms of the broader environment for civil society, there have been a few legislative amendments that could be perceived by some to create a slightly more restrictive environment for civil society. However, it is clear that in practice this legislation is not preventing or significantly affecting civil society operations. The main issue of concern is therefore related to the ability of civil society to freely express opinions on natural resource governance without fear of repression. Even though several stakeholders noted that the environment for media and freedom of expression was not good, there was a perception that it was moving in the right direction and that the EITI was helping civil society in creating more space for public discussion of topics that had previously been considered “no-go topics”. Although there are few cases of journalists or other civil society representatives substantively engaged in the EITI facing pressure due to statements about natural resource governance, it seems that this is caused by the relatively high degrees of self-censorship that is practiced among civil society. This raises concern as to what extent the EITI can ensure an open and free discussion of natural resource governance. However, a bold criticism targeting government that is used in other countries would not be effective or lead to any achievements in Tajikistan. In this regard, the civil society learnt to influence the government decision making by initiating a comprehensive dialogue with evidence-based arguments pointing at recommendations on how to improve current weakness. An interruption of the EITI process in Tajikistan can actually cause a negative effect on civil society participation and ability to take part in decision making.

In light of this, the International Secretariat’s initial assessment is that Tajikistan has made meaningful progress in meeting this requirement.

## **MSG governance and functioning (#1.4)**

### **Documentation of progress**

#### MSG composition and membership:

The EITI multi-stakeholder group in Tajikistan (the EITI Council) was established on 31 August 2012 on

the basis of Government Decree # 449 “On the signing up of the Republic of Tajikistan to the Extractive Industries Transparency Initiative”<sup>47</sup>.

The composition of the EITI Council is set out in the Decree #449 in Annex 3 on Statute of the Council of the Extractive Industries Transparency Initiative of the Republic of Tajikistan, which was approved on 31 August 2012. The Statute currently serves as the Terms of Reference (ToRs) for the Council. Provision #5 of the Statute stipulates that: “In accordance with Appendix 3 to this Decree, the EITI Council shall include representatives of the state authorities, civil society organisations and extractive enterprises and shall be established through an open and transparent procedure.”<sup>48</sup>. It should be noted that at the time of the data collection for Validation, the existing ToRs and composition of the EITI Council was being reviewed and a new final draft MoU was approved by the Council in August 2016<sup>49</sup>.

The EITI Council officially endorsed its 19 members on 17 September 2012<sup>50</sup>. The **government constituency** consists of seven members including the Chair of the Council – Deputy Minister of Finance Ms. Mekhrinamo Dzhonmamadova: one representative from Executive Office of the President, one from Ministry of Justice, one from Ministry of Industry and New Technologies, one representative from Ministry of Economic Development and Trade, one from State Committee for Investments and State Property Management and one from the Main Department of Geology. The International Secretariat understands that in terms of the initial nomination to the EITI Council, the Ministry of Finance sent a letter to each government agency listed in the decree asking them to nominate their representatives. The composition of the EITI Council remains unchanged in terms of the government entities represented on the Council as changes in institutions can only be initiated through revisions of the Government Decree. The EITI Council is currently working on revisions to the Decree and expect a revised Decree to be adopted by the end of 2016.

Nonetheless, there has been some changes in government representation since sign-up. The EITI Council meetings minutes from 2015<sup>51</sup> point to low attendance of government representatives which resulted in the Ministry of Finance sending out letters asking government entities to nominate new representatives. Apart from Ms. Abdullayeva Markhabo from the Main Department of Geology and Mr. Kassirov Abduvokhid from the Ministry of Industry and New Technologies, other government representatives have been reshuffled as government representatives have changed positions. Furthermore, on 13 March 2015 the EITI Council decided to include a representative of the State Tax Committee to the government constituency<sup>52</sup>. The meeting minutes do not clearly explain the status of the State Tax Committee at the EITI Council, nor the rationale behind such decision. However according to stakeholders, including the representative of the Committee himself, the Committee currently has the status of observer. Most key government agencies seem to be represented on the Council apart from the Ministry of Energy and Water Resources. The Supplementary 2014 EITI Report explains that in 2014 the government reformed the state management system and the existing Ministry of Energy and Industry was split into the Ministry of Energy and Water Resources and the Ministry of Industry and New Technologies (p. 20). According to stakeholders, the new Ministry of Industry and New Technologies took over the representation of the old Ministry of Energy and Industry, whilst the new Ministry of Energy and Water Resources remained

<sup>47</sup> Government Decree #499 from 31 August 2012, available in English.

<sup>48</sup> Minutes of Tajikistan EITI Council meeting, 22 July 2015, available in Russian [here](#).

<sup>49</sup> The new MoU has not been taken into account in this assessment.

<sup>50</sup> EITI Council meeting minutes from 17 September 2012, available in Russian [here](#).

<sup>51</sup> The EITI Council meeting minutes, 13 March 2015, available in Russian [here](#).

<sup>52</sup> See reference 24.

unpresented. The latter expressed interest to be more actively involved in the EITI process, and the EITI Council has held discussions on including the Ministry in the government constituency.

The initial selection process for **civil society** was managed by the CSO Coalition “Transparency for Development” that was formed on 19 August 2011<sup>53</sup> following a seminar to raise civil society awareness on the EITI in July 2011<sup>54</sup>. The Coalition Council was notified of the government Decree #449 to sign up for the EITI and according to that Decree civil society had to nominate six members to the EITI Council. The nomination was carried out during the meeting of the Coalition Council on 10 September 2012. The Coalition Council discussed possible nominees that would be suitable to represent civil society on the EITI Council and selected six members from the Coalition to be at the EITI Council from the CSOs constituency. The discussion and decision is reflected in the minutes<sup>55</sup> to the meeting. Civil society is currently represented by six members who are all members of the Coalition: CSO Jahon, Association of Energy Engineers, Centre for CSO Support, Association of Internet Providers, the Coalition coordinator and one external expert.

There have been some changes in CSO representation since sign up. At the Coalition’s general meeting in April 2016, civil society renewed its members except for Ms. Shakhlo Dzhurayeva – CSO Jahon and CSO Coalition “Transparency for Development” coordinator – Ms. Azizova Tojinisso who have served on the EITI Council since 2012. According to CSOs representatives, the Coalition decided to refresh 60% of the constituency members in order to keep the expertise and capacity of ‘older’ members. The process for renewal of CSO representatives in 2016 was held by online nomination and vote among the Coalition members. According to stakeholder consulted, the process was held in an open and transparent way. However, the International Secretariat could not find any documentation of this process. Apart from this renewal, there have been two cases where civil society MSG representatives have been replaced: one of the CSOs members representing the Association of Internet providers moved to work abroad in mid-2016 and his position was replaced with Bakhrom Makhmadaliev; and one of the CSO members representing the Union of Professionals also moved abroad in mid-2015. It is not clear who replaced this representative. There is no suggestion of coercion or other attempts to influence the civil society election process.

The initial selection of **industry representatives** to the EITI Council took place after an industry workshop in November 2012 for some 25 mining companies<sup>56</sup>. It is not clear how industry organised their initial nomination process, but it appears that the selection resulted from this workshop. The candidature application submitted in December 2012 lists six company representatives as the EITI Council members: TA LLC JV “Anzob”, Ltd JV “Zeravshan”, STK LLC “Aprelevka”, LLC “Bohtar Operating Company BV”, LLC “Pakrut” and the American Chamber of Commerce in Tajikistan. There have been only limited changes in industry representation since then. The EITI Council meeting minutes of 1 September 2015 notes the change of composition of company representation by replacing “Beijing Broadtec Investment Company LTD” with “Bohtar Operating Company” due to the low attendance and termination of the license. It is not clear what the procedures are for changing industry representation.

According to the minutes from the EITI Council meetings, it seems like a general refreshment of the whole Council was organised in July-September 2015. However, the minutes do not clearly document how the

<sup>53</sup> “[About Us](#)” Coalition of CSO of Tajikistan.

<sup>54</sup> Tajikistan’s Candidate application form, p.6

<sup>55</sup> The Coalition Council meeting minutes, 10 September 2012, available in Russian [here](#).

<sup>56</sup> Tajikistan Candidate application, p.8, available in English, training agenda Annex J.

selection process was conducted. It is noted in the minutes of 22 July 2015 that each constituency had to submit its list of new members by 25 July 2015, but minutes<sup>57</sup> of the next EITI Council on 1 September do not mention the change of composition except for a replacement of “Beijing Broadtec Investment Company LTD” with “Bohtar Operating Company” due to the low attendance and termination of the company’s license.

In terms of the operational and policy independence of civil society, the following is worth noting:

- According to the stakeholders the CSO Coalition “Transparency for Development” receives most of its funding from Open Society Institute Tajikistan.
- According to the Coalition meeting minutes<sup>58</sup>, observers are invited to attend the Coalition meetings. Besides OSI and the World Bank, this includes representatives from Ministry of Economy and Ministry of Justice. Meeting minutes are also publicly available.
- One of the CSO MSG members receives funding from Dushanbe municipality for a women support program. However, this is unrelated to EITI work and the CSO also receives funding from other sources.
- Another two members from civil society had served as high level civil servants and Members of Parliament. However, this was 7-10 years ago and the Coalition considers this acceptable, noting that the CSO sector in Tajikistan is very young and almost all CSO representatives have had other jobs in the past.
- One of the CSO representatives works at the National Bank of Tajikistan and used to be EITI National coordinator. He is considered an external expert in the CSO constituency.

There is no evidence to suggest that these issues are affecting the independence of the CSO EITI Council members. No political affiliations or potential conflicts of interests affecting civil society’s independence has been brought to the International Secretariat’s attention.

#### Terms of reference:

The ToRs for the EITI Council in Tajikistan are part of the Government Decree #449, and were adopted on 31 August 2012. The ToRs outline the objectives for the EITI Council which include development, revisions and approval of annual EITI work plans; oversight of the EITI Reporting process, such as the appointment of the Independent Administrator and approval of the EITI Report; addressing weaknesses and capacity constraints in the EITI process by strengthening interactions with all stakeholders and Validation. The ToRs state that the EITI Council is responsible for “interactions with the central and local authorities, organisations of all forms of ownership, civil society and entrepreneurial associations, international organisations operating in Tajikistan and international community for the purpose of EITI strengthening and further development” (EITI Council ToRs, p.4). Responsibilities for communication and dissemination of EITI reports and Council minutes are also outlined in the ToRs (EITI Council ToRs, p.5). The ToRs also specify the role of the national secretariat.

The ToRs do not include a provision on approval of the ToRs for the Independent Administrator. There is no specific reference to the annual progress report in the ToRs. However, the ToRs specify that the EITI Council is responsible for ‘review and control’ of the EITI process and in practice annual progress reports

<sup>57</sup> Minutes of the EITI Council, 01 September 2015, available in Russian [here](#).

<sup>58</sup> EITI Council meeting minutes available in Russian [here](#).

are developed and approved by the EITI Council. The roles and responsibilities of the EITI Council also include engaging donor assistance and submission of proposals and recommendations for improvement of state policy in the extractive industries. Although capacity to carry out duties is not specifically mentioned as a responsibility of Council members, there appears to be relatively good capacity amongst the EITI Council members to carry out their duties, in particular among civil society and government representatives.

The ToRs of the EITI Council includes some detail on internal governance rules and procedures. With regards to decision-making, the ToRs state that “The Council resolutions shall be passed by the majority vote and issued in the form of the Minutes containing proposals and recommendations to the Tajikistan Government”. According to the ToRs, meetings are quorate when one third of the Council members are present. Apart from the meetings in 2015, most EITI Council meetings appear to have been quorate. The minutes of the EITI Council indicate that all decisions were adopted made unanimously by vote. The minutes do not indicate any cases where Council members objected to or abstained from decision-making, nor is there any evidence in Council minutes of any discussion about decision-making by consensus. According to the Pre-Validation Analytical Report<sup>59</sup> produced by the EITI Council working group, EITI Council members stated that they were free to express opinions during the meetings, during discussions with other Council members and among their constituencies (Pre-Validation Analytical Report, p.9)

The ToRs stipulate the broad lines for EITI Council representation stating “the EITI Council shall include representatives of the state authorities, civil society organisations and extractive enterprises and shall be established through an open and transparent procedure.” (EITI Council ToRs, p.4). The ToRs do not provide further description of election procedures and do not comment on CSOs independence. The ToRs does not have a provision on the duration of the EITI Council members’ mandate. It does not refer to the Code of Conduct and there is no policy on per diems set out in the ToRs. The ToRs do not include a policy on observers. Nonetheless, the minutes of the EITI Council confirm permanent observers from OSI, GIZ, the World Bank and some government entities.

The ToRs state that meetings of the EITI Council are held at least once in a quarter, and that the Chair of the EITI Council can call extraordinary meetings. In practice, the EITI Council meets more often. It has held three meetings in 2016, five meetings in 2015, five meetings in 2014, five meetings in 2013 and three meetings in 2012. There is no explicit reference to that Council members have the right to table issue for the agenda. There are no provisions regarding advance notice of meetings and timely circulation of documents prior to their debate. According to stakeholders, agendas and documents are typically distributed a week before the meeting.

In terms of record keeping, the ToRs state that decisions of the EITI Council would be issued in a form of the minutes. The ToRs also note that the national secretariat is responsible for dissemination of the minutes (in fact, minutes are available online). Minutes from the Council meetings are available on the Tajikistan-EITI website<sup>60</sup>.

## Stakeholder views

With regards to constituency coordination, EITI Council composition and membership, the national

<sup>59</sup> Pre-Validation Analytical Report is a report conducted by the working group out of the EITI Council members and one foreign expert – Ingilab Ahmadov, [available in Russian](#) on the CSO Coalition “Transparency for Development” website.

<sup>60</sup> Minutes of Tajikistan EITI Council meeting, available in Russian [here](#).

secretariat explained that they had recently initiated a refreshment process for MSG members. Civil society had been asked to reaffirm their representatives as there had been internal changes within some CSOs. New members were also proposed by government. Company representation remained unclear as some companies were considering leaving the country.

One government representative noted that constituency coordination was facilitated by the national EITI secretariat, which informs the members via email.

Another government official noted that the government had recently taken steps to reach out to government agencies that were not originally included in the list of Council members. This included the Ministry of Energy and Water and the State Tax Committee. The Ministry of Energy and Water confirmed that they stood ready to take part in the EITI process. In addition, the government was looking to engage the State Mining Technical Oversight Agency (Agency on state oversight of the safe activity of safe work of industry and mining oversight). Another government official explained that, when the initial Decree was prepared, it was thought that it would be sufficient to include the State Tax Committee as an observer given that the Ministry of Finance was also represented. However, when the Council started preparing the first EITI Report, it was noted that the participation of the State Tax Committee was crucial both for data collection as well as for understanding the tax system. Although the State Tax Committee still only maintained observer status, this was not considered a problem as they were participating on equal footing, providing opinions and taking part in decision-making.

Another government representative explained that the membership of the government entities is regulated by the Government decree #449 from when Tajikistan joined the EITI. It is usually a determined position within a government entity that foresees a member representation at the EITI Council and it is up to each government entity to assign such position to represent the government entity at the EITI Council. The change of government representatives takes place when a certain civil servant is replaced at his/her position. For example, a representative of the Ministry of Justice was appointed to a position at the Department of Legal Implementation of International Relations and took over a responsibility of the EITI Council membership from his predecessor. Some government representatives confirmed they were attending the EITI Council meetings on a permanent basis and noted they were present at the meetings in 2016 for at least three times.

Company representatives lamented the lack of coordination of industry participation on the Council. One company representative said "I have no idea how I became a member of the Council. I looked at the Decree and understand that the companies should have six seats, but I don't know how I got voted in as a member and I have yet to receive a formal letter from the government confirming my membership despite asking for it." Another industry representative explained that he had recently received an email asking him to vote for six names of company representatives as Council members. It was not clear how these representatives had been proposed. Once company representative explained that he had provided a list of company contacts to the national secretariat to help them with outreach, however there had not been any follow up. In August 2016 the Bohtar Operation Company informed of its decision to leave the EITI Council since its operations were ceased in relation to Total, CNPC and Tethys court dispute.<sup>61</sup>

No company representative had participated in any outreach events to other companies or to wider stakeholders. The importance of keeping non-Council members informed of events and developments

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<sup>61</sup> <http://news.tj/ru/news/tajikistan/economic/20160815/neftegazovaya-revoljutsiya-otmenyaetsya>

was emphasized. There was no collaboration or communication between companies serving on the Council. When asked how to improve the company representation on the Council, one company representative said that the major operating companies are currently Council members. Another company representative suggested to engage all companies doing major mining work in the country, in particular focusing on Chinese and Tajik companies. In order to achieve this, there would be a need to reach out to companies based in the regions, not just Dushanbe-headquartered companies. Representatives from government and civil society underlined a weak capacity and low attendance of the companies. A civil society representative lamented that it had not been possible to find out what the nomination procedures for government and company officials to the Council were.

Civil society did not express concerns about their own representation to the EITI Council, beyond a desire to enable regional representatives to be EITI Council members. This was currently not feasible due to lack of ability to compensate for their travel costs. One civil society representative who serves as an independent expert on the EITI Council but holds a position in a state-owned bank noted that the representation of the banking sector was an interesting innovation, enabling promotion of transparency in the banking sector which was now in crisis.

According to civil society representatives, civil society MSG members are elected upon nomination by the Coalition. The last election was in April 2016 conducted by online e-mail vote given lack of funding to have an in person members meeting. No stakeholders expressed any concerns regarding the way the election was handled. As a few civil society representatives explained, the Coalition members nominated 10 candidates and through e-mail voting 6 of them were elected. The candidates were nominated according to their knowledge and experience. The Coalition members commented that the procedure was open and transparent.

With regards to policy and operational independence of civil society members of the Council, no stakeholders expressed concerns. It was confirmed that two of the current CSO MSG members were previously politically engaged, holding senior government posts. However, this was several years ago and the two representatives were no longer politically engaged. It was also noted that it was important to remember that civil society was still nascent in Tajikistan. It was only from 2000 onwards that civil society really started to develop. Thus it was very common that civil society had worn other hats in their previous lives, including government or company positions. Another CSO member received funding from Dushanbe city municipality for a women support program, though it was not connected to extractive industries and didn't have influence on decision making of civil society representative. As some members of the Coalition said: "In our work, without participation and involvement of the government, we cannot achieve successful results so if we want to be effective and get results we need to involve central and local authorities."

On attendance at Council meetings, national secretariat representatives confirmed that stakeholder attendance was somewhat inconsistent. Attendance was low in the early days of implementation as there was no national secretariat to ensure coordination. Since mid-2015, attendance had improved and the Council had held more frequent meetings. According to the national secretariat this was due to the World Bank grant becoming available as well as the active engagement of the Council Chair. In early 2016, attendance had dropped again due to lack of funding.

With regards to the Terms of Reference for the Council, stakeholders did not highlight any major deviations. It was confirmed that although a new MoU had been approved by the Council in August 2016, it had not yet been signed. Although the government and civil society had nominated a signatory on

behalf of their constituencies, it was not clear who would sign on behalf of the companies given the lack of an industry coordinator. In August 2016, the Council had also decided to establish a working group to review the legal norms underpinning the work of the secretariat and the Council with a view to streamline the MoU and Decree 449, which remained the legal instrument supporting implementation.

Other stakeholders confirmed that an important motivation behind the development of the MoU was the realization that the Decree, while fit for purpose in 2012, did not fully address all requirements of the EITI Standard regarding MSG functioning. Other motivations for the new MoU were the restructuring of government agencies, the desire to allow observers and to confirm the current practice of that non-Council members also have the opportunity to contribute to the work of the EITI. The revisions also sought to address procedures for rotation of MSG members, and decision-making procedures including clarifying that the Council holds decision-making power, not the government. It was also noted that a discussion of a Code of conduct for Council members was ongoing and this would also be reflected in the MoU.

It does not appear that the new MoU contains provisions on a policy for payments to Council members. According to the national secretariat, no per diems are paid for Council meetings although government representatives get compensation for domestic and international travels in accordance with government policies and procedures. However, Council members had sometimes received payments for their participation in working groups, including the working group tasked with preparing the contextual chapter of the EITI Report as well as the working group in charge of analysing and developing recommendations from the first EITI Report. While some donors had not been willing to sponsor such input due to the potential conflict of interest of Council members being paid for producing work that they would subsequently criticize and approve, other donors had been willing to provide such support. According to the national secretariat, there was no stipulated policy on such practices. Some Council members were of the view that the Council should not have established the working group among its members that received payments for compiling the contextual information this constituted a conflict of interest, and was not the best solution in terms of use of funding since the Independent Administrator was paid to complete a full EITI Report including contextual part. Other members of the EITI Council noted that the group consisted of a well-trained government and CSOs experts, and that financial compensation was a means of keeping these representatives engaged and increase ownership of the EITI Report. One civil society representative said that it had also helped ensure that gaps were addressed as Council members were willing to improve weaknesses in their own work, while the Independent Administrator would not do further work after payment and contract termination, even if gaps in his report were detected. The donor confirmed that the amount paid was relatively small – about a total of USD 5000 – for four local and one international expert.

In terms of coordination of Council meetings, the national secretariat explained that meeting agendas are developed based on the meeting plan of the Council<sup>62</sup>. The meeting plan outlines overall issues that the Council has agreed to discuss during the year. Based on this plan, the national secretariat would propose certain issues, including any urgent issues that might not be on the meeting plan. According to the secretariat, agenda and documents are typically distributed one week before the meeting, alongside information on the time and venue of the meeting and a request for RSVP. A protocol on communication between the secretariat and the Council had been incorporated in the new MoU. According to the

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<sup>62</sup> The EITI Council meeting plan for 2016, approved on 11 April 2016, available in Russian.

secretariat, there were so far no complaints about late distribution of agenda, documents or other information about Council meeting.

Companies expressed divergent views on the coordination of Council meetings. Some company representatives said that they were attending all Council meeting and received all communication from the national secretariat. Other company representatives said that they never received minutes from Council meetings and it was difficult to get responses to questions raised via email. In general, there was a need to improve communication between the secretariat and council members, and ensure that actions and expectations were clearly spelled out. In terms of scheduling of meetings, companies lamented that they often only received the meeting notification 3-7 days in advance of the Council meeting, and important trainings were often also scheduled only with a few weeks' notice.

Government representatives expressed satisfaction with the work of the national secretariat, and that they received all necessary information on a regular basis through e-mails. The agenda and supporting documents are shared well in advance, typically a week before the meeting and the minutes are circulated after each meeting. One government representative mentioned that he didn't recall that any meetings of the Council had been scheduled with short notice. The other representatives commented that coordination of events and trainings were well managed. One government official explained that besides an e-mail notification, the national secretariat also faxes ministries with an official letter from the Ministry of Finance in order to secure attendance. If the government representative cannot attend the respective entity may send an official explanation letter.

Civil society expressed satisfaction with meeting notifications and distribution of minutes, documents and agenda, confirming that they had sufficient time to review documents. Some lamented that minutes were not comprehensive. The current minutes were not considered detailed enough to keep track of discussions and decisions, and were not useful to stakeholders beyond the Council members.

Concerning decision-making, stakeholders explained that the Council typically reached agreement by consensus which is then confirmed by a formal vote. The new MoU included a clause that all members need to reach consensus for a decision to be taken. No stakeholder expressed concern about the decision-making procedures.

In terms of Council members' capacity to carry out their duties, all stakeholders commented that the trainings on the EITI had been useful and beneficial. One company representative said that while he appreciated the trainings, he did not understand his role on the Council. Many stakeholders expressed a need for further capacity building. One government representative noted that previous trainings including those conducted by the Eurasia Hub were of particular help and enabled efficient engagement in the working groups of the EITI Council. The government representative expressed concern over lack of engagement of the companies on the EITI Council and their weak capacity and understanding of the EITI.

### **Initial assessment**

The EITI Council comprises relevant actors. Most of government agencies that are involved in the management of the extractive sector are represented and government EITI Council members have demonstrated access and ability to influence decision-makers within their agencies in order to ensure effective and timely implementation. The key companies operating in Tajikistan are represented, although their participation and engagement has been limited. Civil society represents a network of CSOs that work on natural resource governance issues. There is no evidence that certain stakeholder groups are inadequately represented, and constituencies are free to manage their own representation and

nominations to the EITI Council. At the same time, it is clear that procedures for nominating and replacing Council representatives could be improved, in particular for the company constituency.

The Statutes that serves as the ToRs for the EITI Council are largely followed in practice. However, they do not fully address the requirements of the EITI Standard. Key omissions include provisions on changing MSG members, per diem policies, term limits and certain roles and responsibilities such as appointment of the Independent Administrator and capacity to represent wider constituency. There is no evidence that the lack of these provisions have had a significant impact on the operation of the Council. The EITI Council meets frequently and record keeping is publicly accessible and improving although the minutes of 2012-2015 do not comprehensively reflect important discussions and decisions. Nonetheless, the EITI Council is currently drafting new ToRs according to the 2016 EITI Standard to resolve some of these issues.

The above findings and assessment point to some room for improvement, but overall the EITI Council is well functioning and it is clear that it has matured since it was created in 2012. On balance, the International Secretariat's initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement.

### 1.1 Work plan (#1.5)

#### Documentation of progress

The EITI Council has agreed a work plan for EITI implementation for 2016-2017, which is posted on the national EITI website ([www.eiti.tj](http://www.eiti.tj)). The work plan for 2016-2017 was initially approved at the EITI Council meeting on 15 December 2015<sup>63</sup>. After the World Bank renewed its funding agreement with Tajikistan in March 2016, the work plan was further revised and the draft was approved on 18 May 2016<sup>64</sup>. However, stakeholders subsequently continued discussions and revisions of the work plan. For the purpose of this assessment, the International Secretariat has considered the version of the work plan for 2016-2017 dated 27 June 2016.

The work plan contains two objectives of the EITI implementation in 2016-2017 that appear linked to national priorities:

1. To attract high-quality investment in the extractive sector through improvements to the legislative framework in order to achieve sustainable economic development and social growth.
2. Raising awareness about activities in the extractive sector by making information available to the public to involve them in the process of improving the sector.

Additionally, the work plan provides a list of issues to justify the focus of two objectives for implementation, notably the absence of an adequate legislative framework for the mining sector, insufficient awareness of the EITI, the need to include more companies in 2015 EITI Report to cover all 366 licences; and incomplete data.

The current work plan is a result of some stakeholder consultations. According to the minutes of 18 May 2016<sup>65</sup>, the members of the EITI Council discussed and provided recommendations for the draft work plan in order to link to national priorities. It seems that the work plan consultation was limited to Council

<sup>63</sup> Minutes of Tajikistan EITI Council meeting, 18 May 2016, available in Russian [here](#).

<sup>64</sup> Minutes of Tajikistan EITI Council meeting, 18 May 2016, available in Russian [here](#).

<sup>65</sup> Minutes of Tajikistan EITI Council meeting, 18 May 2016, available in Russian [here](#).

members.

Even though, the work plan contains measurable and time-bound activities, the timeframe for some activities seems to be vague, for example indicating that something is to be completed in 2016-2017 without specifying when. Some of the specific deadlines also do not appear realistic, for example, completing the beneficial ownership roadmap in August-September 2016.

Although the work plan does not identify particular capacity constraints, it outlines capacity-building activities such as study tours and exchange visits, workshops for the EITI Council members on the EITI Standard, development of the beneficial ownership roadmap, analysis of the EITI Report, and plans to undertake a needs assessment on the EITI process. In addition, the EITI Council plans to conduct research on the informal sector, social and quasi-fiscal expenditures, and the licensing process in Tajikistan.

All activities are fully costed with identified funding from the World Bank, GIZ and Open Society Institute Tajikistan. The work plan also contains activities directed at the scope of EITI reporting, including to expand the range of reporting companies and revise the materiality threshold. Although there is no evidence from MSG meeting minutes of any work plan discussions on extending the EITI to encouraged aspects of the EITI Standard as required by requirement 1.4.f, the EITI Council has nevertheless considered several encouraged aspects such as beneficial ownership, transportation payments and discretionary social expenditures.

The work plan includes activities aimed at amending Law on Subsoil and Subsoil Use to enable more efficient EITI reporting. It also addresses recommendations from the first EITI Report and this Validation exercise.

Implementation of the current 2016 work plan activities are on track. In terms of previous work plans, the majority of the 2015 work plan activities were implemented. Given that the objectives for 2015 the work plan focused mostly on technical aspects of the EITI process such as reporting, Validation and report dissemination, most of them were successfully accomplished. The national secretariat noted that there were some delays in delivering work plan activities in 2015 due to funding constraints. Furthermore, some activities were conducted in a very short timeframe due to the late allocation of funding. The activities that were deferred to the 2016 work plan included the revision of the Decree on EITI implementation and Validation. Validation was no longer applicable in 2015 since the validation procedures changed, however the Council nevertheless took preparatory steps such as two pre-Validation workshops in 2015. The revision of the Decree took longer than expected. One activity in the 2015 work plan was been cancelled, notably to explore government funding to the EITI. According to the national secretariat this was because of the financial difficulties of the country.

There were several delays in the implementation of the 2013 and 2014 work plans mainly because of lack of funding. This led to failure to meet important deadlines such as the original 26 August 2014 deadline for the publication of the first EITI Report.

### **Stakeholder views**

Council members explained that it was the national secretariat that had suggested the draft work plan. Council members had reviewed and provided feedback before approving the work plan. The decision to revise the work plan had been taken after the pre-validation workshop where the Council had realised that the work plan needed to be improved to address all requirements of the EITI Standard. In particular, it had been noted that the work plan did not outline the national priorities that EITI implementation was

seeking to address. One stakeholder noted that “our previous work plans had rather vague national priorities. As we are learning, we are doing better and we now have a more straight-forward and comprehensive work plan”.

It was noted that Council members considered the work plan to be a flexible document that could be revised when needed. Council members should be allowed to introduce and propose new changes to the work plan during the year.

Some stakeholders commented that the Council had made good progress on providing input to the draft subsoil use law. A Council member from civil society was represented on the working group established to oversee the revisions of the law, and had successfully advanced proposals for incorporating EITI reporting in the law.

According to the national secretariat, the main reason for delays in implementation of work plan activities in the past was the lack of funding. Sometimes there had been procurement delays as World Bank procurement rules were not always compatible with national procurement rules. Civil society representatives lamented that the government funding for the EITI process in the future needed to be clarified. There should also be transparency about any government contributions provided in-kind such as e.g. office space.

### Initial assessment

The International Secretariat’s initial assessment is that Tajikistan has made satisfactory progress in meeting the requirement. The 2016-2017 EITI work plan is publicly accessible and produced in a timely manner. The work plan objectives appear aligned with national priorities. The work plan also includes specific activities to follow up on recommendations from EITI reporting and Validation. It appears that recommendations from the pre-validation training in Dushanbe in late November were taken into account in the work plan’s review in 2016. In the future, the EITI Council is encouraged to make sure that work plan activities are more closely linked to the work plan objectives. Delays in work plan implementation appear reasonable given funding constraints, however the government should take steps to ensure a more sustainable funding model for the future, including considering introducing a budget line to support EITI implementation.

*Table 1 - Summary assessment table: MSG oversight*

EITI provisions	Summary of main findings	International Secretariat’s initial assessment of progress with the EITI provisions (to be completed for ‘required’ provisions)
Government oversight of the EITI process (#1.1)	The government is committed to the EITI and relevant government representatives are part of the EITI Council.	Satisfactory progress
Company engagement (#1.2)	Extractive company engagement is limited even if there does not appear to be any legal obstacles preventing company participation in the EITI.	Meaningful progress

## Validation of Tajikistan: Report on initial data collection and stakeholder consultation

Civil society engagement (#1.3)	Civil society is actively engaged in the design, implementation, monitoring and evaluation of the EITI process. There are limited operational restrictions on civil society participation in the EITI. However, a key concern relates to the ability of civil society to freely express opinions about natural resource governance.	Meaningful progress
MSG governance and functioning (#1.4)	The EITI Council comprises relevant actors and all stakeholders feel adequately represented. The Statute that serves at the ToRs for the EITI Council is largely followed in practice. Although the ToRs do not fully address the requirements of the EITI Standard, this does not appear to have affected the functioning of the Council. The Council is currently drafting a new ToRs according to the 2016 EITI Standard. The EITI Council meets frequently and record keeping appears adequate.	Satisfactory progress
Work plan (#1.5)	The work plan has clear objectives linked to national priorities for the extractive sector, as well as detailed actions and timelines. Although there were significant delays in implementation of previous work plans, the execution of the current work plan appears to be on track.	Satisfactory progress

**International Secretariat's conclusions and recommendations:**

1. The government should ensure full and active participation of companies in the EITI process. Further efforts are required of the EITI Council and national secretariat in terms of outreach to industries, as well as capacity building and awareness raising. It is also recommended to create a platform for companies' participation and coordination of this constituency, and that policies for company representation on the EITI Council are agreed.
2. It is recommended that civil society develops clear governance policies and guidelines for nomination and election process of the EITI Council representatives. Although these appear to exist in practice, the International Secretariat did not get access to any written procedures. It is recommended that civil society continues building its capacities and look into diversification of its funding.
3. The government should ensure an enabling environment for civil society to freely express opinions with regards to natural resource governance.
4. The EITI Council has made good efforts to identify work plan objectives that speak to national priorities for the extractive sector. However, there could be stronger links between work plan activities and work plan objectives. Findings of the EITI reports that have a bearing on the objectives should also be translated into work plan activities. The EITI Council could also consider developing indicators for assessing progress in reaching national objectives.
5. The EITI Council is encouraged to make rapid progress with finalising and adopting the 2016 ToRs.
6. The EITI Council should agree a policy regarding conflict of interest and be transparent on any payment practices to Council members such as professional fees to working group members who are also members of the EITI Council.
7. The government is encouraged to review the financing for EITI implementation to ensure sustainability over the longer term.
8. The national secretariat is recommended to keep better record of the EITI Council meetings minutes and reflect discussion in full detail.

## Part II – EITI Disclosures<sup>66</sup>

### 2. Award of contracts and licenses

#### 2.1 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.

#### 2.2 Assessment

##### Legal framework (#2.1)

###### Documentation of progress

The 2014 EITI Report provides an overview of the legal framework, including a list of main laws regulating the extractive industries (p. 15; 18-19). The report gives more details on the Law “On Subsoil” (p. 15-16), the Tax Code (p.16-17), and the Customs Code (p.17-18). In addition, the Supplementary 2014 EITI Report mentions the message of the President of Tajikistan on Preparations to Celebration of 20<sup>th</sup> Anniversary of the Constitution of Sovereign Tajikistan as an important document defining the direction of sector development and national priorities for the extractive industries (p. 19-20)<sup>67</sup>. The 2014 EITI Report provides an overview of the fiscal regime listing types of taxes and other payments applicable to extractive industries (p.19-28).

There is no specific comment on the level of fiscal devolution in the 2014 EITI Report except for a note that payments are allocated to local governments according to the Law on Budget for each fiscal year (p.22). However, the Supplementary 2014 EITI Report provides further details on how revenues from extractive industries are paid to the state budget and then allocated to local budgets as part of the annual budgeting process (p.29).

The Supplementary 2014 EITI Report briefly explains that ministerial responsibilities were restructured of in 2014, empowering the Ministry of Energy and Water Resources to manage the oil and gas sector whilst the Ministry of Industry and New Technologies would oversee the mining sector (p. 20). Section 2.6 of the 2014 EITI Report provides a limited list of responsibilities of ministries and agencies involved in licensing process (p.43-44).

In terms of oCSOing reforms, the Supplementary 2014 EITI Report notes that according to the implementation of the "Programme to improve the investment attractiveness of the sphere of subsoil use in the Republic of Tajikistan for 2012-2015" a draft Law "On Subsoil and Subsoil Use" is being developed (p.21). The report does not specify when the draft law is expected to be adopted. No other references to reforms underway are provided.

###### Stakeholder views

A government representative commented that the report was useful because it outlined the roles and

<sup>66</sup> Note that all page numbers refer to the English-language version of the 2014 EITI Report available on the [EITI Tajikistan website](http://www.eiti.org)

<sup>67</sup> Note that supplementary report is available only in Russian on the EITI Tajikistan country page [here](#).

responsibilities of those involved in the sector. Another government representative explained that in terms of legal reforms underway, the key discussions were focused on leadership roles and division of labour between the Main Agency and Geology and the Ministry of Energy and Water. The need to improve the investment climate was the main driving force behind the revisions to the law.

A civil society representative admitted there was no thorough discussion on legal and fiscal framework and that the section could have been prepared better. It was the working group that prepared the contextual part of the report. In opinion of the CSO representative, in the future the members of the EITI Council should not be writing something that they will later approve.

### **Initial assessment**

In accordance with requirement 2.1, the 2014 EITI Report contains an overview of the legal framework and fiscal regime governing the extractive sector. Although the role and responsibilities of the government agencies are only briefly described, it is clear that the extractive industries are mainly managed by the Main Geology Department, the Ministry of Energy and Water Resources, and the Ministry of Industry and New Technologies. The level of fiscal devolution is briefly noted in the Supplementary 2014 EITI Report. The International Secretariat's initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement.

### **License allocations (#2.2)**

#### **Documentation of progress**

The 2014 EITI Report explains the allocation procedures for licenses and contracts that govern the rights to subsoil use in Tajikistan (p.40-46). According to the licensing regulations, licenses, contracts and agreements are awarded through bidding or by direct negotiations. The bidding process is explained on pp. 42-43 in the 2014 EITI Report. Bidding conditions and criteria are provided for each bidding round directly to the bidders. The highest bid offered wins (p.40). The Secretariat is not aware than any license has been awarded through competitive bidding.

There are several government agencies involved in the licensing process: The Main Geology Agency is involved in all applications for exploration permits, the Ministry of Energy and Water is involved in applications for PSAs, the Ministry of Industry and New Technologies is involved in applications for mining production licenses, and the State Investment Commission and State Property is involved in competitive tender. However, the involvement is limited to reviewing that the applications contains the necessary documents. The actual evaluation and decision-making on all licenses is done at closed meetings of a Commission chaired by the Deputy Prime Minister. Once a license is granted the company signs a contract for the use of mineral resources, which defines the tax regime applicable to the license.

According to the Supplementary 2014 EITI Report, two new licenses were awarded and three licenses renewed in 2014, all through direct negotiations (p.62). The report does not include any further details on the technical and financial considerations related to these licenses awards and renewals. Neither the 2014 EITI Report, nor the Supplementary 2014 EITI Report provide information on any significant deviations from the legal and regulatory framework governing license awards and transfers related to these five licenses.

The process for transfers of contracts and licenses is not described.

The report contains no commentary on the efficiency and effectiveness of license allocation systems, nor

does it include details about license allocation processes that took place prior to the 2014.

In addition to the information in the EITI Report, the Coalition prepared an infographic guideline<sup>68</sup> on licensing process, outlining the legal framework for exploration, extraction and mining activities, application process, prolongation, fees, etc. The Pre-Validation Assessment Report recommended to the government entities involved in licensing process to show in the license register which licenses were awarded by bidding or direct negotiations and note if there were any deviations in the procedure. In case of bidding process during the EITI reporting period, it is required to disclose the list of bidders and criteria<sup>69</sup>. The assessment could not conclude on the effectiveness of the existing license system, however, recommended to conduct an analysis on license allocation and a questionnaire<sup>70</sup> for the extractive companies and use the results of the analysis in the next EITI Report.

### Stakeholder views

Most stakeholders expressed a widely held view that the licensing process was cumbersome and opaque. Some said it was a legacy of the past and the procedures should be simplified. A government representative commented that the line ministries are not actually involved in assessing or awarding applications. Rather this is done by the Government Commission. The involvement of the line ministries was mainly to review the application against a check-list maintained by the ministry. The current system was considered a burden.

In terms of disclosure of information on the technical and financial criteria used to award the license, government representatives explained that the Government Decree #89 on 'the Procedures for conducting tenders for subsoil use'<sup>71</sup> defines procedures and conditions of the bidding, including technical and financial capacities required to enter the contests. However, for licenses awarded through direct negotiations there were no such standard criteria, although the factors that were looked at was the technical and financial proposal of the company, the signing bonus amount, and the proposals for socio-economic investments. It was presumed that if the Commission issues an evaluation report after its assessment of the license application, this would be kept with the line ministry and was considered confidential information. The existence of such evaluation reports were not confirmed.

When asked about the transfers of licenses, a government representative explained that transferring or selling licenses from one company to another is illegal. However, there are license holders that breach the law.

A civil society representative noted that the EITI Report shows how challenging it is for the companies to obtain the license, an issue that was also raised by companies during Council meetings. The companies complained it was tough to work in Tajikistan. Although there was a lot of talk of reforms of the licensing system, the reform process was proving time consuming and challenging. At the same time the government should have an immediate interest in changing the license system if they want to attract new investors. Another CSO representative admitted that the EITI Report does not clearly explain some of the legal aspects in regard to the licensing process. It was also noted that the law is not followed and in practice one can apply for a license and never hear back from the agency in charge of processing the license application. Civil society provided a number of recommendations for how the licensing legislation

<sup>68</sup> Infographic guideline on licensing process, available in 3 languages [here](#).

<sup>69</sup> The pre-validation assessment report, April 2016, available in Russian [here](#), p.20.

<sup>70</sup> Ibid, p.21.

<sup>71</sup> Supplementary 2014 EITI Report, pp. 56-57, available in Russian.

should be improved.

A government representative said that although there did not seem to be any legal amendments to the licensing process in the pipeline, the licensing regulations would likely have to be revised if the Subsoil Use Law was adopted.

### **Initial assessment**

The 2014 EITI Report discloses information about the process for awarding licenses and contracts. According to the Supplementary 2014 EITI Report, two new licenses were awarded and three licenses renewed in 2014, all through direct negotiations. The report does not describe the technical and financial criteria underpinning these awards and renewals, nor does the report disclose any deviations from the applicable licensing procedures. The process for transfers of contracts and licenses is not described. The International Secretariat's initial assessment is that Tajikistan has made inadequate progress in meeting this requirement.

## **License registers (#2.3)**

### **Documentation of progress**

The 2014 EITI Report describes licensing and contracting systems (p.40-46) and provides a full list of all active extractive industry licenses, including licenses pertaining to companies that are not considered material for the purpose of EITI reconciliation (p.119-137). There is no unified licensing register or cadaster of extractive companies. The register of exploration licenses is available online on the Main Geology Department [website](#)<sup>72</sup>.

The working group of the EITI Council that developed the contextual part of the 2014 EITI Report has compiled the register of licenses for extractive companies operating in Tajikistan. The register is available as an attachment to the 2014 EITI Report. The register contains the name of the license holder, information on the date of award and duration of the license, and the commodities applicable to the license. Coordinates are not included in the register and the EITI Report does not state whether this data is available from the government agencies in charge of licenses. The dates of application of licenses are missing from the register, but are included in the overview of licenses awarded in 2014 in Section 2.6 of the Supplementary 2014 EITI Report or the five licenses that were issued/renewed in 2014 (pp.60-61).

The Pre-Validation Assessment Report recommended to conduct a legal framework analysis<sup>73</sup> and identify any legal obstacles to disclose licenses coordinates. The Ministry of Industry and Ministry of Energy were recommended to upload licenses registers on their websites.

### **Stakeholder views**

Government stakeholders explained that there is no centralised license register or cadastre. Rather, each line ministry – e.g. the Main Geology Department, the Ministry of Energy and Water, and the Ministry of Industry – each hold their own record on the licenses that are active. Coordinates of the licence area are attached to the licenses and although the line ministries have this information, there was a technical challenge of incorporating the data on coordinates into the register. Furthermore, it was thought that the Law on State Secrets prevented disclosure of coordinates and it was suggested that a legal review be

<sup>72</sup> [State Geology Management under the Government of Tajikistan](#).

<sup>73</sup> The pre-validation assessment report, April 2016, available in Russian [here](#), p.20.

undertaken to ascertain this. It was confirmed that a person could not request to obtain information on coordinates from the ministry. Another government representative claimed that coordinates of licenses were available from the Main Geology Department. As for the date of application for currently active licenses, a government official commented that in preparing the supplementary 2014 EITI Report, the working group had found the dates of application for renewal of 3 licenses and reflected this information in the report. However, the government agencies did not have records of this information. The government official recommended that licensing agencies need to publish coordinates and date of application and award.

A civil society representative commented that information on coordinates exists within many government agencies. However, unless there is an interest from central government in coordinating the information across government entities, the current fragmentation of three separate license registers might remain. It was noted the Main Geology Department has uploaded a register of exploration licenses on its [website](#). Another representative of civil society highlighted that the EITI Council suggested recommendation to the draft Subsoil use law that envisage a single register of all licenses available to public.

### **Initial assessment**

The 2014 EITI Report contains a list of all active extractive industries licenses, including licenses pertaining to companies that are not considered material for the purpose of EITI reconciliation. Most of the information required to be disclosed under this requirement has been provided, except for coordinates of the license area and the date of application for the license. It is currently not possible to easily obtain this information from government agencies.

The International Secretariat's initial assessment is that Tajikistan has made meaningful progress in meeting this requirement.

## **Contract disclosures (#2.4)**

### **Documentation of progress**

The 2014 EITI Report notes that contract disclosure is not practiced in Tajikistan (2014 EITI Report, p.46). There is no reference to a government policy or to legal provisions related to contract disclosure, nor any commentary on reforms underway. The Supplementary 2014 EITI Report explains that in addition to licenses, there are Production Sharing Agreements, investment agreements and concession agreements (Supplementary 2014 EITI Report, p.62).

The Pre-Validation Assessment Report recommended to the State Committee on Investment and State Property Management to have a webpage on its website that would provide information with a total number of extractive companies operating in Tajikistan, specifying which of them have PSAs and which investment agreements<sup>74</sup>.

### **Stakeholder views**

Company representatives were of the view that PSAs should not be publicly disclosed because of the risks that the public could misinterpret the information contained within the contract. In particular, if people do not understand the terms negotiated between the companies and government, then such disclosures might lead to a perception that the country has entered into a bad deal. One company representative

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<sup>74</sup> Ibid, p.19.

noted that although it can be harmful to give competitors access to certain contractual terms, there may be a case for disclosing contracts governing unique projects or deposits. For example, the Konimansur silver deposit was of such national strategic interest that people should have the right to know the content of the contract and what they are getting from it.

Some government representatives mentioned that contracts are not strictly confidential and are subject to much consultations across government agencies. One government representative explained that contracts are regulated by bilateral agreement and it is up to the parties to what extent they want to disclose the contract or parts of the contract. For example, some part could be disclosed to the public but the commercial part would remain closed due to confidentiality.

A civil society representative lamented that contracts are not transparent at all. It would have been desirable if the Law on access to information could enable contract transparency. Any parliamentary hearings on contracts should also be public. It was noted by civil society that although they had only had limited discussions on this issue, government and companies claimed that contracts were commercial secrets. However, according to civil society some parts of the contract may not contain sensitive information. One civil society member recalled discussing contract transparency at the EITI Council and whether the ministries should upload contracts on their websites. Another CSO member mentioned an oCSOing discussion with the State Committee on Investment to disclose existing investment agreements on its website. Civil society has also notified the Ministry of Finance and the Ministry of Industry and New Technologies were informed of the gaps related to contract transparency.

### **Initial assessment**

The Supplementary 2014 EITI Report describes Production Sharing Agreements, investment agreements and concession agreements. While the 2014 EITI Report notes that contract disclosure is not practiced in Tajikistan, there is no reference to a government policy or to any legal provisions related to contract disclosure, nor any commentary on reforms underway. The International Secretariat's initial assessment is that the Tajikistan has made meaningful progress in meeting this requirement.

## **Beneficial ownership disclosure (#2.5)**

### **Documentation of progress**

According to the 2014 EITI Report, the legislation in Tajikistan does not have requirements for companies to disclose information about their beneficial owners. At the same time there are no laws that would classify such disclosure as secrecy (p.46). Tajikistan took part in the pilot to disclose beneficial owners and produced a separate beneficial ownership report in December 2015<sup>75</sup>. During the meeting on 22 July 2015<sup>76</sup> the EITI Council adopted the final ToRs for the report, gave a definition of a beneficial owner and established a size of a share above 5%. Fourteen companies took part in the report. Of the five companies that were neither publicly listed nor state-owned, four provided full information on legal ownership and three provided information about the beneficial owner. The report also shows that most of the companies operating in the extractive sector are either Chinese or Tajik. Prior to producing the beneficial ownership report, Tajikistan also undertook scoping work documenting existing definitions and laws on beneficial ownership applicable to Tajikistan, as well as the information kept in company registers and

<sup>75</sup> The Report on Beneficial Ownership in Tajikistan is available in English and Russian on the EITI country page [here](#).

<sup>76</sup> The EITI Council meeting Minutes, 22 July 2015, available in Russian [here](#).

license registers<sup>77</sup>. In September 2015 Tajikistan's EITI Council produced an evaluation report on the beneficial ownership pilot, documenting the completeness of the disclosed information, data collection method, challenges and recommendations for further work on beneficial ownership<sup>78</sup>.

### Stakeholders views

Companies were generally supportive of beneficial ownership transparency. One company representative noted that it is useful for companies to know who owns what and how much each company contributes. One company representative commented that beneficial ownership is a tricky issue not only in Tajikistan, but in any part of the world. For small private companies it could be challenging or near impossible to obtain information on who is the ultimate beneficial owners at least without there being legal backing for collection and disclosure of such data.

A government official noted that the work on the roadmap was important, but challenging as there were no experts on this topic within the Council. Another government representative said that sometimes a company was only interested in obtaining a license to sell it for quick profit, and beneficial ownership transparency could help address this particular issue. Another government official mentioned that sometimes a highly respected people come to invest in mining projects in the country, but then it is revealed that these people were not the real owners of the company. Another government official commented that beneficial ownership disclosure is not considered as a threat and did not foresee any political or legal barriers. However, the capacity to inform ministries and companies on the importance of the beneficial ownership reporting was weak and requires joint efforts.

Other stakeholders commented that beneficial ownership discussions were not new in Tajikistan, and although it would be challenging to accomplish it was important to start the work. The Panama Leaks had generated some interest in this issue in particular in terms of following up on Tajik nationals mentioned in the papers.

One civil society representative expressed discontent with the beneficial ownership report, noting that it did not reveal anything that people did not already know. Besides, it would not be possible to obtain sufficient information until beneficial ownership became a legal requirement. This was now a proposal from civil society in the draft Subsoil Use Law.

Another civil society representative noted that the Law on Subsoil Use when adopted will not make a big difference in the BO disclosure and that broader reforms were needed. The political will was essential and the representative doubted that there is sufficient will in Tajikistan.

Other civil society representative commented that when the beneficial ownership disclosure clause was introduced to the government working group on the draft law on Subsoil, some members were didn't support this. However, after a presentation on BO and proper explanation, the members agreed to include this recommendation to the draft law. The State Committee on Investment was among those that supported beneficial ownership disclosure.

### Initial assessment

Implementing countries are not yet required to address beneficial ownership. Nonetheless, Tajikistan took part in the beneficial ownership pilot and obtained some information on beneficial ownership. The

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<sup>77</sup> EITI BO Scoping Report available [here](#).

<sup>78</sup> Assessment of the pilot project for beneficial ownership law in Tajikistan available [here](#).

work on embedding beneficial ownership transparency in legislation is commendable and stakeholders are encouraged to act on the current momentum and continue beneficial ownership work in the forthcoming EITI Report.

## State-participation (#2.6)

### Documentation of progress

The 2014 EITI Report states that the government participates in extractive industries through shares in extractive companies (p.36). While neither the report, nor minutes of the EITI Council meetings explicitly confirm the Council's decisions with regards to the materiality of state-participation, the report confirms that payments by companies in which the state holds ownership contributed 44 % of total payments to the government (p.61).

The report includes a table that lists 15 companies with state participation noting the government's equity stake (p.36). However, the Supplementary 2014 Report notes that of the total number 154 extractive companies operating in Tajikistan, 21 are considered state-owned (p.46). It is not specified whether these 21 companies are all fully or partially state owned, or whether they are state-owned enterprises in general. The 2014 EITI Report does not disclose details about the projects in which companies that the Tajik government hold ownership in are involved, nor the terms attached to the equity stake. The 2014 EITI Report and the Supplementary 2014 EITI Report confirm that there was no change in state ownership during 2014 (p. 39; p.52).

With regards to the financial relationship between the government and SOEs, the 2014 EITI Report states that state-owned enterprises are subject to the same rules and practices as any other company (p.40). It also provides a commentary on distribution of dividend and retained earnings for SOEs (p.40). The Supplementary 2014 Report provides a generalized description of some practices between the government and SOEs according to the Law on State Enterprises (Supplementary 2014 Report, p.50). According to the report, companies that are fully owned by the government pay 10% in dividends to the State budget. Where the government holds an equity stake in companies, the distribution of the net profit is decided on a case by case basis by the general meeting of shareholders (p.52). According to the Ministry of Finance, the extractive companies have not received any guarantees or loans up to date (Supplementary 2014 Report, p.50).

The Pre-Validation Assessment Report recommended to conduct a research to explore the financial relationship between the government and SOEs including quasi fiscal expenditures, fuel subsidies and the state debt<sup>79</sup>.

### Stakeholder views

Some stakeholders said that SOEs were accountable to the State Investment Committee and State Property, while others claimed that they reported to the line ministries, i.e. the Ministry of Industry and New Technologies or the Ministry of Energy and Water.

It was noted that some banks that were fully state-owned were providing loans to mining companies operating in the country.

Civil society representatives lamented the information on SOEs is closed. SOEs receive state funding and

<sup>79</sup> The pre-validation assessment report, April 2016, available in Russian [here](#), p.19.

according to civil society it is not possible to know how much the government transfers to those companies. One civil society member noted that SOEs were discussed at the EITI Council meeting and since the Ministry of Finance receive financial reports from SOEs, the Ministry should lead on this question.

Once civil society representative commented that this section of the report was weak and that it would be possible to get more information for the second EITI Report.

Another civil society representative confirmed that state-owned banks provided several loans to oil, gas and mining companies operating in the country.

### Initial assessment

While the 2014 EITI Report considers state participation in the extractive industries, it does not disclose all information provided under Requirement 2.6. It lists 15 companies with state participation noting the government's equity stake. At the same time, the Supplementary 2014 EITI Report notes that 21 companies are considered state-owned. No further explanation on this is provided about the terms attached to the government's share or any changes in ownership.

It appears that state-owned enterprises in Tajikistan are subject to the same rules and practices as other extractive companies, except companies with full government ownership pay 10% in dividends to the State budget. The Supplementary 2014 Report provides a generalized description of some financial practices between the government and SOEs according to the Law on State Enterprises. It has however not been possible to ascertain to what extent state-owned companies receive financial support from the government. In light of this, the International Secretariat's initial assessment is that Tajikistan has made insufficient progress in meeting this requirement.

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

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Legal framework (#2.1)	The legal and fiscal framework is disclosed, with a brief description of the roles and responsibilities of government agencies involved in the extractive sector.	Satisfactory progress
License allocations (#2.2)	The report describes the process for awarding licenses through bidding or direct negotiations, but not the process of transferring licenses. Technical and financial criteria used in the award and renewal of five licenses in 2014 are missing. There is no information about deviations in the license allocation process related to these five licenses.	Inadequate progress

## Validation of Tajikistan: Report on initial data collection and stakeholder consultation

License registers (#2.3)	The report confirms that a license register exists and is accessible subject to a fee. The report includes a list of licenses for all extractive companies. The date of application for the licenses, and the coordinates of the license areas are not included.	Meaningful progress
Contract disclosures (#2.4)	The report confirms the actual practice in terms of contract transparency, but does not contain any reference to a government policy or relevant legal provisions, nor any commentary on reforms underway.	Meaningful progress
Beneficial ownership disclosure (#2.5)	Tajikistan has already commenced work on beneficial ownership through the beneficial ownership pilot project. In addition, the EITI Council has proposed amendments to the subsoil use law aimed at making beneficial ownership transparency mandatory.	Not applicable
State-participation (#2.6)	The reports provide details related to the financial relationship between the government and the SOEs. There is an overview of the companies in which the government holds a stake, but further details are not included.	Inadequate progress
<p><b>International Secretariat's conclusions and recommendations:</b></p> <ol style="list-style-type: none"> <li>1. It is recommended that the government establishes more transparent procedures for licenses allocations. This should include a disclosure mechanism showing the technical and financial criteria used to evaluate each application and disclosing any deviations from the applicable legal and regulatory framework governing license awards.</li> <li>2. It is recommended that the government establishes a single and publicly accessible license register of exploration and extraction licenses, that includes information about the license holder, date of application for the license, duration of the license, and coordinates of the license area.</li> <li>3. The EITI Council should clarify the government's policy related to contract transparency. It is encouraged to work towards disclosure of PSAs, investment and license agreements.</li> <li>4. The EITI Council should work towards beneficial ownership disclosure and develop a roadmap in consultation with all stakeholders. The current work on enabling legislation for beneficial ownership transparency is encouraging. The government should explore which government agency would be best placed to host a beneficial ownership register.</li> <li>5. The EITI Council should review the rules and practices governing financial relations between the state and SOEs, including disclosing the level of ownership that the government holds in oil, gas and mining operations and the terms attached to such ownership. The government should also disclose any loans provided to oil, gas and mining companies operating in the country.</li> </ol>		

## 3. Monitoring and production

### 3.1 Overview

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

### 3.2 Assessment

#### The overview of the extractive sector, including exploration activities (#3.1)

##### Documentation of progress

The 2014 EITI Report provides an overview of the extractive industries (p.5-15) including proven and projected deposits. Exploration activities are briefly described for oil, gas, and separate minerals. The Supplementary 2014 EITI Report describes exploration activities in more detail including listing exploration projects financed by the state (p.17-18).

##### Stakeholder views

A government official commented that in order to improve geological data it would be desirable with a laboratory for testing the quality of the rocks, as it was costly and time consuming to send samples abroad for testing. Lack of geological infrastructure was also potentially causing loss of revenues to the government as there were rumours that some companies that only had a license to mine a particular commodity were also extracting other metals from the rocks within their license area. Another government representative highlighted that since the beginning of 2016 there was a crisis in the country and some big companies working on exploration did not renew their licenses.

One civil society representative that worked on the contextual information noted that a section on extractive sector and exploration activities was easy to fill in. There was an open access to Main Department Geology data and the Ministry of Finance and the Ministry of Economy provided their inputs as well. It was also possible to consult with the Vice Prime Minister who used to be the Head of the Main Department Geology and he looked at this section. The description was very comprehensive. The main challenge was to complete a vast amount of information into the EITI Report, Other colleagues from the working group asked to reduce this section.

##### Initial assessment

The 2014 EITI Report discloses an overview of the extractive sector, including exploration projects. The International Secretariat's initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement.

#### Production data (#3.2)

##### Documentation of progress

The 2014 EITI Report provides production volumes for oil, gas, gold, silver and coal, but not for other metals and minerals (pp.30-31). Production volumes do not seem to be disaggregated by producing region, apart from coal (p.32).

The 2014 EITI Report states that extractive industries total production value is TJS 1402.2 m, or 13.3% of

the total industrial output (p.28). The Supplementary 2014 EITI Report shows production value per region for five extractive regions, but without defining the minerals being produced or the value per commodity (p.39).

### **Stakeholder views**

A government representative confirmed that although the line ministry was responsible for monitoring production, production data in the EITI Report was provided by the State Statistics Agency that collects statistics on commodity production on a monthly basis directly from extractive companies that operate in Tajikistan. According to the representative of the State Statistics Agency they collect data on all natural resources produced and provided data according to what the working group from the EITI Council requested of the Agency. Even though, the EITI 2014 Report does not contain information disaggregated by regions except for coal, the government representative said that if the State Statistics Agency had provided production data by regions. When asked why the EITI Report only contained production data for five commodities, the government official said that they had handed over all production data and if there was a discrepancy it was likely the fault of those compiling the report.

In terms of data reliability, the government confirmed that they mostly trusted the companies' data. Companies had to submit production log books and samples alongside their production data, and production records are officially signed and stamped by the companies. Once a year, the government would do mining site inspections and compare what the forecasted production set out in the company's work plan with the actual production declared. No third party verification was used.

Another stakeholder commented that the data provided by the State Statistics Agency was not reliable.

A civil society representative commented that production data is actually available if one wants to get it, and that the EITI Report could have provided further details on production. This gap was due to short time for preparing the report.

### **Initial assessment**

Requirement #3.2 stipulates that implementing countries must disclose production values and volumes by commodity. The report provides production volumes for oil, gas, gold, silver and coal, but not for other metals and mineral. Given that the State Statistics Agency collects production data on all commodities produced on a monthly basis, the International Secretariat could not confirm why the data was not disclosed. The Supplementary 2014 EITI Report shows production value by region without defining commodities being produced and their value. The International Secretariat's initial assessment is that Tajikistan has made inadequate progress in meeting this requirement.

## **Export data (#3.3)**

### **Documentation of progress**

The 2014 EITI Report estimates the value of mineral resources export to USD 227.2 million, representing 23 % of total exports in 2014 (p.32). Export values are not disaggregated by commodity. The report provides export volumes for natural sands, gold, zinc, lead and antimony, not for other commodities (p. 33). The Supplementary 2014 Report notes that there is no disaggregation on export by state/region (p.43). The Pre-Validation Assessment identified the export data gap and recommended to the Agency on Statistics and the Tax Committee to develop a reporting form for export data from extractive industries

divided by regions<sup>80</sup>. The Agency on Statistics is recommended to publish export data by commodity and by region in its monthly report.

### Stakeholder views

Government stakeholders confirmed that export data is held by the Tax Committee. Stakeholders consulted could not explain why the EITI Report contains export data on commodities for which there is no report of any production during the financial year covered by the EITI Report.

It was noted by some that it was illegal to export certain minerals and metals, such as coal. It was considered a strategic reserve due to many power stations working from coal.

Few journalists raised a concern on the lack of export information, in particular when it comes to gold exports. They admitted there was illegal gold export and that Members of the Parliament tried to address this issue by reducing export tax on gold export.

### Assessment

Requirement #3.3 stipulates that implementing countries must disclose export values and volumes by commodity. The 2014 EITI Report does not provide value of mineral resources export by commodity however it estimates total export value. Export volume is disclosed partially, covering only gold, zinc, natural sands, lead and antimony. The International Secretariat's initial assessment is that Tajikistan has made inadequate progress in meeting this requirement.

*Table 3 - Summary assessment table: Monitoring and production*

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress (to be completed for 'required' provisions)
Overview of the extractive sector, including exploration activities (#3.1)	The 2014 EITI Report provides a comprehensive overview of the extractive sector, including exploration activities.	Satisfactory progress
Production data (#3.2)	Production volumes are provided for oil, gas, gold, silver and coal, but not for other metals/minerals even if it was reported by stakeholders that this information is available. Production volumes are not disaggregated by producing region, apart from coal. No production are included.	Inadequate progress
Export data (#3.3)	Export volumes are only provided for natural sands, gold, zinc, lead and antimony, not for other commodities. No export values are provided.	Inadequate progress
<b>International Secretariat's conclusions and recommendations:</b> <ol style="list-style-type: none"> <li>The EITI Council should ensure that production volumes and values are disclosed for all extracted minerals.</li> <li>The EIT Council should ensure that export volumes and values are provided for all commodities.</li> </ol>		

<sup>80</sup> The pre-validation assessment report, April 2016, available in Russian [here](#), p.18.

## 4. Revenue collection

### 4.1 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.

### 4.2 Assessment

#### Comprehensiveness (#4.1)

##### Documentation of progress

##### *Materiality and revenue streams*

The 2014 EITI Report refers to an initial materiality threshold of TJS 50000 (USD 10131), and a corresponding recommendation to cover nine (9) companies that met this threshold based on 2013 data. The EITI Report does not provide a comprehensive explanation for the rationale behind the threshold but refers to the Scoping Study undertaken in 2013 (p.50). According to the scoping Study undertaken in 2013 the recommended materiality threshold of TJS 50000 would have covered almost 99.9% of all government revenues from extractive industries:

*“This scoping study recommends a threshold of 50,000 Tajikistani Somoni to establish the materiality of a company’s total payments to the government. In other words, we recommend that the companies who paid more than TJS 50,000 to the government of Tajikistan in 2013 be required to disclose the totality of those payments as part of the 2013 EITI report. This specific threshold would result in a capture of almost 99.9 percent of all the government revenues for the year 2013. Nine companies had total payments above that threshold in 2013.”<sup>81</sup>*

However, the 2014 EITI Report goes on to explain that this recommendation was disregarded by the MSG. Rather the MSG selected six (6) of the companies on the original list of nine (9), and added another eight (8) companies, making the total number of companies included in the scope of the report fourteen (14). The EITI Report does not confirm the methodology used by the MSG to select these companies and whether a threshold was applied. However, the report confirms that payments from the selected fourteen (14) companies covered approximately 87% of extractive industries revenues in 2014 (p.50). Minutes of the EITI Council meetings do not provide details of discussion and a rationale behind selecting a materiality threshold, revenue streams and defining a scope of extractive companies. The Independent Administrator recommended that the MSG to revisit the materiality threshold and conduct a new scoping study for better coverage of extractive companies in future reports (p.113).

A total of 41 revenue streams were included in the scope of the 2014 EITI Report (p.53-54). The 2014 EITI Report explains that no materiality threshold was set for each revenue stream. Rather companies selected for reconciliation had to report all payments regardless of the size of the payments (p.53). The 2014 EITI Report does not explain whether the 41 revenue streams constitute the total universe of

<sup>81</sup> The 2013 EITI Scoping Study for Republic of Tajikistan by David G. Landry. – p.7. Available in English [here](#).

revenues applicable to the extractive sector. The 2013 Scoping Study<sup>82</sup> suggested to include 8 revenue streams such as tax on Using Natural Resources, Profit tax, Social tax, Income tax, other payments to National Budget, tax on Using Roads, VAT and Other taxes (namely “Streamlined Tax”, “Tax on Company Car”, “Tax on Immovable Property/Land”, and “Other Payments to the Local Budget”) (pp.15-16). The 2014 EITI Report provides description for subscription bonus, commercial discovery bonus, royalties for extraction and royalties for water, but does not describe the other revenue streams (p.23). The report explains tax rates for income taxes, VAT, excise taxes, social tax and local taxes (p.25-26), and separate tax regulations for product sharing agreements, investment agreements and concession agreements (p.27-28). It does not seem like any revenue streams listed in requirement 4.1.b have been excluded.

The actual reconciliation of revenue streams includes a 42<sup>nd</sup> revenue stream entitled “other” that has been added under the category of customs payment (p.64). It is unclear what type of payment this is, but stakeholders consulted said that it was a type of fee. 26 of the 42 revenue streams are reconciled, with the remaining 16 unilaterally reported by the companies. The EITI Report does not document when and why the MSG decided on this approach.

### *Reporting entities*

As noted above, the MSG selected 14 companies to be included in the 2014 EITI Report (p. 51). The EITI Report also includes a list of 366 existing licenses for the extractive industries (pp.119-137) held by a total of 154 companies operating in the country (Supplementary 2014 EITI Report, p.46). According to the 2014 EITI Report, all companies filed their reporting templates. However, not all companies declared payments against all revenue streams in the scope of the report. According to stakeholders, this is because not all companies made payments against all revenue streams in 2014. There are also some large unexplained discrepancies related to companies reporting less payments than government agencies reported to have received against revenue streams such as ‘excise tax’ and ‘other taxes including penalties and fines’ (2014 EITI Report, p.99). With regards to ‘excise tax’, the company ‘Anzob’ did not report a tax payment that according to the government amounted to TJS 2 197 959 (USD 454k) or 99% of total excise tax payments (2014 EITI Report, p.104). With regards to ‘other taxes including penalties and fines’ the company ‘Tajik-Chinese mining company’ reported to have paid TJS 17 109 359 (USD 3.4 m) less than the government (2014 EITI Report, p.107). The Independent Administrator was not able to explain these discrepancies.

Four government entities were involved in the 2014 EITI Report, notably the Tax Committee, the Customs Committee, the State Committee on Investments and State Property, and the Agency of social insurance and pensions (p.51). However, according to the report this does not constitute the total universe of government agencies collecting the revenue streams included in the EITI Report. The Independent Administrator acknowledges that ‘Additional costs for companies’ and ‘Other substantial payments’ were not reconciled because at the time of reconciliation of the 2014 EITI Report there were no governmental entities appointed to be responsible for collecting information on these types of payments (p.112). Indeed, according to the Supplementary report, another five government agencies – The Ministry of Industry and New Technologies, the Ministry of Energy and Water Resources, the Main Department of Geology, the State Committee on Land Management and Geology, and Committee on Environmental Protection- were identified as collecting revenue streams included in the scope of the 2014 EITI Report, but were not approached to participate in the reconciliation. The EITI Report does not clearly explain why these government agencies were not included in the scope of the report, however as noted in

<sup>82</sup> Ibid.

stakeholder views below, the reason for their omission seems to be an issue of record keeping.

All four government entities that were included in the scope of the 2014 EITI Report submitted their reporting templates. However, not all government agencies declared receipts against all revenue streams in the scope of the report. According to stakeholders, this is because not all government agencies receive revenues against these streams in 2014. There are also some large unexplained discrepancies related to government agencies reporting to have received less than the companies reported to have paid against revenue streams such as 'income tax', 'value-added tax on the supply of goods, works and services', 'value-added tax on goods imported into the territory of the Republic of Tajikistan' and 'customs collections' (2014 EITI Report, p.99). The biggest discrepancies relate to 'value-added tax on the supply of goods, works and services', where the government did not declare receipt of the payment declared by the company 'Tajik-Chinese mining company' amounting to TJS 9 429 980 (USD 1.7 m) (2014 EITI Report, p.102). The Independent Administrator was not able to explain these discrepancies.

The government has not disclosed revenues from companies not included in the scope of the report.

#### *Assessment of comprehensiveness*

According to provision 4.3.e) the ToRs for the Independent Administrator should "Include an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report (Requirement 5.3(d))." The Independent Administrator did not include a statement on the comprehensiveness of the data. The Independent Administrator notes that it was not clear which government agencies kept records of receipt of the revenue streams under the categories "Additional costs for companies" and "Other substantial payments", and thus it was not possible to reconcile these flows. The Independent Administrator recommends to "strengthen the technical capabilities of the accounting system of payments in order to identify and classify payments made by mining industry companies in accordance with the requirements of EITI report." (2014 EITI Report, p.112).

The Independent Administrator also notes that since there are 366 extractive and exploration licenses, the 14 selected companies for the 2014 EITI Report do not constitute the whole universe of extractive companies. The Independent Administrator therefore recommends "to conduct a new study for better coverage of companies, as well as for determination of materiality threshold and the list of companies to be included in the EITI report for 2015." (2014 EITI Report, p.113).

#### **Stakeholder views**

A government representative explained that according to the Tax Code there are eight main national taxes and two main local taxes. However, there are many types of sub-taxes that are underneath these eight tax categories. For example, the tax for resource includes sub-taxes such as bonus, royalty, etc. After a lengthy discussion by the Council, it had been decided to try to include all existing revenues. The Independent Administrator confirmed this system. After having signed the contract, the MoF had asked them to review the suggested reporting template against relevant laws etc. and suggest additions or removals as necessary. It had been decided to adopt a comprehensive approach to the first EITI Report, even if some of the revenue streams were small and thresholds could be considered in the future.

Both the government and the Independent Administrator confirmed that where payments were left blank in the EITI Report, it was because it was not applicable to that company or government agency.

With regards to the selection of reporting companies, the Independent Administrator explained that the scoping study was done by an independent consultant based on 2013 data. This is why the ToR for the 2014 EITI Report included nine companies. However, upon reviewing the list, the Independent Administrator had suggested to the Council to add some more companies that were considered to have significant operations in 2014. It was also proposed to remove some companies that had ceased operations. A government representative confirmed that the Council had focused on capturing the biggest companies and a feasible number of companies given the limited time to prepare the report. In the end, the report had managed to capture more than 80% of the revenues.

With regards to the selection of reporting government entities, the Independent Administrator explained that they had encountered a challenge in obtaining data from some of the government agencies because these agencies did not have electronic revenue records. Rather, receipts of payments were kept in hard copies in archives and sometimes at local offices. It was only the revenues collected by the Tax and Customs offices that were electronically recorded and could easily be obtained. These were also the main revenue collecting agencies. Furthermore, even if there were different government agencies that were in charge of the various revenue streams, all revenues were paid to an account hosted by the MoF. However, MoF did not keep the detailed records of these transactions as this responsibility was with each line ministry. Because of this challenge, the Independent Administrator had informed the Council that it would be unable to reconcile all payments and revenues, and that unilateral disclosure of payments by the companies was the only option for a number of the revenue streams. A government official confirmed this challenge, noting that there were some talks of reforming the system by making sure that the payments go through the bank and not all to a single account.

In addition to this, it was not always possible for the Independent Administrator to find out which government agency was the recipient of what revenue stream. For example, data on dividends should be obtainable from the State Investment and State Property Committee given that they oversee the government's ownership in mining companies. However, this agency claimed that they did not have the information on dividend payments.

A government official confirmed this challenge, noting that it would be a lengthy process to obtain such information that was only available in hard copy. The Tax Committee was currently engaged in a tax administration reform programme supported by the World Bank, which would hopefully resolve this issue.

### **Initial assessment**

The 2014 EITI Report includes a materiality threshold for payments and identifies 14 selected companies for reconciliation. Although neither the report nor minutes of the EITI Council meetings provide a clear rationale behind the selected materiality threshold, revenue streams and scope of extractive companies requested to report, it appears from stakeholder consultations that the key revenue streams and reporting entities have been included in the report. The report contains a description of some, but not all revenue streams.

More broadly, the EITI Report identifies that a key challenge was that it was not clear which government entities keep records of non-tax and non-customs payments. This resulted in that a number of revenue streams could not be reconciled. It also highlights a need for wider government reform in terms of

record keeping of receipts from the extractive sector. There is no clear assessment of the comprehensiveness of EITI reporting by the Independent Administrator, and full government disclosure of all revenues, including revenues from companies below the materiality threshold, has not been provided. In light of this, the International Secretariat's initial assessment is that Tajikistan has made meaningful progress in meeting this requirement.

## In-kind revenues (#4.2)

### Documentation of progress

According to the 2014 EITI Report there were no in-kind payments made during the reporting period (p.59). The report explains that "in accordance with tax and customs legislation of Tajikistan, all the tax and customs payments are made only in cash... Other substantial payments include other mandatory government fees and charges... and should also be paid only in cash" (p.54). The 2014 EITI Report confirms that there was no sale of the state's share of minerals in 2014 (p.57).

The procedure for collecting the state's share of production from oil and gas is less clear. The 2014 EITI Report states that "the procedure for distribution of the state's share [is] based on PSA, and the body that keeps track of and receives a share of the state [sic] is indicated in the PSA" (p.54).

MSG meeting minutes do not record any discussions of in-kind revenues.

### Stakeholder views

Oil and gas companies commented that the form in which the government's share of production was delivered to the government, whether cash or in-kind, was regulated in the PSA. This was negotiated on a case by case basis and depended on the government's preferences. The main oil and gas company operating in Tajikistan confirmed that they had not yet reached this stage as they were not yet producing. One civil society representative mentioned of the state-owned unitary enterprise "Tilloi Tochik" that produces gold on behalf of the government and conveys it to the National Bank's gold reserves. The enterprise does not receive any income from the produced gold. However, there was no detail on the nature of relationship between the SOE and the government.

Other commented were not aware of existence of any in-kind payments in Tajikistan.

### Initial assessment

The 2014 EITI Report states that there were no in-kind payments made. The stakeholder consultation could not identify other in-kind payments except for the state-owned unitary enterprise "Tilloi Tochik" that produces gold. Given that there is no evidence that the MSG has discussed this issue, and the EITI Report wrongly records that no in-kind payments exist, the International Secretariat's initial assessment is that Tajikistan has no progress in meeting this requirement.

## Barter and infrastructure transactions (#4.3)

### Documentation of progress

According to the 2014 EITI Report "payments for social spending as required by law or under contract concluded with the government, as well as payments based on agreements that include the provision of goods and services (including the rent, grants and infrastructure work) in exchange for exploration and production of oil, gas, or participation in the mining industry were included in the list of payments in the line no 40 "supporting social infrastructure". Payments in this category of the report are disaggregated

to levels comparable with the reporting on other payments and revenue flows. These payments are not substantial in 2014 and, accordingly, the Report does not include any additional break down of these payments” (p. 57).

According to the report, total payments declared against the revenue stream “supporting social infrastructure” amounted to TJS 3 821 201 (USD 774 321) (p.66). No further details about the nature of this social infrastructure is provided. The report notes there is no responsible public entity that has information on these payments and therefore reconciliation was not possible (p.66).

### **Stakeholder views**

Several companies said that they were not aware of any barter arrangements related to extractive projects in Tajikistan. One company representative argued that such arrangements existed and were possible under Tajiki mining legislation, but did not recall any specific projects. It was noted that given that contracts were mostly negotiated on a case-by-case basis and confidential, it was difficult to ascertain the existence of barter and infrastructure arrangements.

Other stakeholders were not aware of concrete examples of such projects but there were rumours that, for example, a company had built a plant in exchange for a license.

Civil society representative noted that they were not aware of any barter transactions.

### **Initial assessment**

Infrastructure expenditures are part of “payments for social spending” required by law or under contract provisions and can be done in “in exchange for exploration and production of oil, gas, or participation in the mining industry”. These payments are included in the revenues stream line #40 on “supporting social infrastructure”. The 2014 EITI Report concludes that infrastructure expenditures are not substantial in 2014 and notes there is no responsible public entity that has information on these payments.

The EITI Council meetings minutes do not provide evidence on discussion around materiality of infrastructure provisions and barter arrangements. It is unclear what the nature of these infrastructure provisions are, the parties involved, the amounts etc. It appears that there is a need for the EITI Council to undertake further work before it is possible to ascertain whether barter arrangements exist. The International Secretariat’s initial assessment is that Tajikistan has made inadequate progress in meeting this requirement.

## **Transport revenues (#4.4)**

### **Documentation of progress**

A description of transportation arrangements is included in the contextual part of the 2014 EITI Report (p.33). The 2014 EITI Report states that no transportation payments were made and consequently the report does not include any break down of such payments (p.57). The Independent Administrator explains that “all the payments for transportation made to the state and state-owned enterprises should have been included in the line item “mineral resources transportation costs”. In the process of reconciliation, some companies provided data related to this line item, but after reviewing these costs it was found that the main part of these costs are related to companies’ internal expenses and the

amounts were not paid to the state or state-owned companies” (2014 EITI Report, p.66).

### Stakeholder views

The Independent Administrator confirmed that they had looked into this issue in case it was related to the national railway company but it had turned out that the payments were not transportation related.

### Initial assessment

The 2014 EITI Report provides a description of transportation arrangements in the contextual part. The 2014 EITI Report states that no transportation payments were made and consequently the report does not include any break down of such payments. The Independent Administrator explains that some companies wrongly recorded data on their internal expenses not paid to the government under transportation payments. Given that it has been established that there were no transportation payments in 2014, the International Secretariat’s initial assessment is that this requirement is not applicable to Tajikistan.

## Transactions between SOEs and government (#4.5)

### Documentation of progress

The 2014 EITI Report concludes that SOEs are subject to the same financial rules and practices as any other company operating on commercial basis (p.40). The Supplementary 2014 EITI Report notes that there are 21 SOEs involved in the mining sector in Tajikistan (p.22). However, the 2014 EITI Report only lists 15 companies as state-owned (p.36). Three state-owned companies from the list – Ltd. Joint Venture Zarafshan, STK LLC Aprelevka and JV Petroleum Sughd – were included in the scope of the EITI Report (p.51). It is unclear why the other SOEs were not included in the scope.

Companies that are 100% government-owned contribute 10% of their income in dividends to the State’s budget. No such company was included in the scope of the report. With regards to the companies that are not wholly government owned, but where the government has a stake, decisions on the distribution of net profit are made during the general meeting of shareholders/interest participants (p.40). The 2014 EITI Report provides a unilateral disclosure of dividend payments by Ltd. Joint Venture Zarafshan (p.78) and JV Petroleum Sughd (p.82). The government has not reported receipt of dividends from any company.

The Independent Administrator noted in the 2014 EITI Report (p.61) that payments from companies with state share – Ltd. JV Zarafshan, STK LLC Aprelevka and LLC Petroleum Sughd – amounted at TJS 199.6m (USD 40.4 m). The IA does not specify which payments led to discrepancy, however the reconciliation files show that figures differ in ‘other payments’ category that includes ‘other substantial payments’ – concession fee, insurance, compensation for loss of agricultural production, environmental pollution and ‘additional expenses’ for support of education and social infrastructure. (2014 EITI Report, pp. 71-72, 77-78, 81-82) The governmental entities provided a different figure of TJS 175.8m (USD 35.6 m) leading to a discrepancy in payments that was explained.

### Stakeholder views

The Independent Administrator explained that financial transactions to and from SOEs was not in the scope of their work. Rather this was the responsibility of the working group. Thus, they could not

ascertain if any of the SOEs did receive financial support from the government although it would not be uncommon practice.

A government representative said that state-owned companies operate on same terms as any commercial company.

Civil society representative said that information on SOEs was not available to the public. Some argued that SOEs are 100% government funded but there was no information on what this amounted to on a yearly basis.

### **Assessment**

The 2014 EITI Report does not clearly describe the role of state-owned enterprises beyond noting that SOEs are subject to the same rules and practices as any other company. SOEs with 100% stake pay 10% of their income in dividends to the State's budget.

The 2014 EITI Report does not cover all SOEs. Only three SOEs – Ltd. Joint Venture Zarafshan, STK LLC Apreleveka and JV Petroleum Sughd – were included in the scope of the report. It is unclear why the other SOEs were not included in the scope.

It was not possible to ascertain whether all financial transfers between government and SOEs have been disclosed. In light of this, the International Secretariat's initial assessment is that Tajikistan has made inadequate progress in meeting this requirement.

## **Subnational direct payments (#4.6)**

### **Documentation of progress**

According to the overview of government revenues provided in the Supplementary EITI Report, it is only the "compulsory fees for issuing licenses or other permits" that may be paid to "the public authorities or local self-government, depending on the type of payment" (Supplementary 2014 EITI Report, p.13). According to the 2014 EITI Report, this payment stream amounted to TJS 694 840 (USD 140 801) or 0.001% of total government revenues according to the 2014 EITI Report (p. 65).

### **Stakeholder views**

Company representatives said that they did not make any direct payments to local governments.

The Independent Administrator said that two non-extractive industry specific taxes - transport tax and mortgage tax- were paid directly by companies to local governments, and subsequently transferred to the state budget before reallocation according to budget law.

A government official confirmed that transport tax and mortgage tax is collected by the local government, but said that it was retained by local government. Nonetheless, these taxes were only representing 1 or 2 % of total government revenues.

Civil society representatives noted that it is the central government that collects all payments and then redistributes them in accordance with the Law on Budget.

The national secretariat noted that the EITI Council had discussed this issue and agreed to consult with the Tax Committee and Statistics Committee in order to identify what government entities are

responsible for certain payments.

### **Initial assessment**

Based on the information in the EITI Report and stakeholder consultations, it is reasonable to conclude that there are no material direct subnational payments. The EITI Council meetings minutes does not provide evidence that discussion on the materiality of subnational direct payments was held. The International Secretariat's initial assessment is that this requirement is not applicable. It is recommended that the EITI Council discusses the nature of these payments and establishes the materiality for future EITI reporting.

### **Level of disaggregation (#4.7)**

#### **Documentation of progress:**

The 2014 EITI report is disaggregated by company and revenue stream, but not by government entity. However, given that the report identifies which government entities collect which revenue streams, this information is implicitly available. The data is not presented by project.

#### **Stakeholder views:**

A government representative noted that given that the tax code has eight main tax types and two main local tax types, the data in the EITI report was quite disaggregated given that it was disaggregated by sub-taxes. The Council had decided that more detail was better.

#### **Assessment:**

The EITI Standard requires that the financial data is disaggregated by individual company, government entity and revenue stream. The 2014 EITI Report provides disaggregated data by company and revenue stream, not by government entity. However, the report identifies which government entities collect which revenue streams. The International Secretariat's initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement.

### **Data timeliness (#4.8)**

#### **Documentation of progress**

Tajikistan became an EITI Candidate country in February 2013. Its status was suspended on 14 April 2015 as it was unable to produce its first report in accordance with the reporting deadline of 26 February 2015. The EITI International Board decided to lift the suspension on 13 November 2015 following a release of the 2014 EITI Report in October 2015.

#### **Stakeholder views**

One stakeholder said that because funding was received late it was not possible to complete the report by the deadline. However, the representative was satisfied that the report released in 2015 contained data no older than 2014. In the future it would be desirable to reduce the time lag even further.

A government representative commented that the data should more timely and presented within four to six months, for example data from 2016 should be available in early 2017.

A civil society representative noted that it would have been better to publish 2014 data mid-year 2015. However, the funding and other external factors affected the timeframe. It was also impossible to collect a lot of information in a short time.

## Initial assessment

Taking into consideration that Tajikistan's 2014 EITI Report was published in November 2015 the data timeliness requirement is met. The International Secretariat's initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement, but there is a need to ensure more regular EITI reporting in the future.

## Data quality (#4.9)

### Documentation of progress

#### Appointment of the Independent Administrator:

The EITI Council started elaborating the ToRs for the 2014 EITI Report in the first half of 2015. Meeting minutes do not confirm the date of approval of the ToRs for the report, nor the commencement date of the call for tenders for the 2014 EITI Report. However, on 13 March 2016, the EITI Council agreed to appoint BDO as the Independent Administrator for Tajikistan's 2014 EITI Report. There were total three applicants. The minutes do not explain the decision behind approval of BDO.

On the 22 May 2015<sup>83</sup> the Independent Administrator reported to the EITI Council on the plans for executing the ToRs. According to the ToRs, BDO was responsible for collection and reconciliation of "Payments/Revenues from Extracting Industries in Tajikistan". The ToRs also say that the report should include contextual information (ToRs for the Independent Administrator 2014 EITI Report, p.2). However, according to the EITI Council minutes from 1 September 2015<sup>84</sup> it was decided that a working group consisting of EITI Council members and OSI experts should prepare the contextual part of the 2014 EITI Report.

#### Terms of Reference for the Independent Administrator:

##### *(i) Use of the Standard Terms of Reference for Independent Administrators*

The TORs for the Independent Administrator agreed by the MSG for the purpose of the 2014 EITI Report are consistent with the Standard TOR agreed by the EITI Board. There are no deviations.

##### *(ii) Agreement on reporting templates*

According to the ToRs for Independent Administrator "National Council working group developed EITI reporting form for extracting sector companies, including contractors, and the instruction for preparation and submission of the report on financial flows from the operation of extracting companies in Tajikistan (EITI Form No4)" (ToRs for the Independent Administrator 2014 EITI Report, p.3). However, the reporting template was not attached to the ToRs. The International Secretariat understands that the reporting template was developed by the EITI Council prior to selecting the Independent Administrator and that after its approval, the Independent Administrator adjusted the reporting templates. In 2014 EITI Report the Independent Administrator notes that "for the reconciliation and preparation of reports we undertook the following procedures: familiarization and elaboration of the reporting format and guidelines for the provision of information by companies and government agencies. In order to obtain information on payments different reporting formats have been used for companies and government agencies" (p.52). The EITI Council minutes do not show any discussion on developing and approving the

<sup>83</sup> The EITI Council meeting minutes, 22 May 2015, available in Russian [here](#).

<sup>84</sup> The EITI Council meeting minutes, 01 September 2015, available in Russian [here](#).

reporting template. The minutes from the EITI Council meeting from 6 March 2014<sup>85</sup> state the Council's decision to establish a working group on adjusting the ToRs for the IA for the EITI report, however, no further details on the composition of the working group, its mandate and deadlines are not provided. The reporting template is not attached to the 2014 EITI Report.

*(iii) Agreement on assurances to be provided to the Independent Administrator and audited financial statements*

The 2014 EITI report provides a description of auditing requirements for companies and government entities, but has limited commentary on the actual auditing practice and reforms underway (p.57-59). The 2014 Inception Report<sup>86</sup> does not contain any further explanation on the audit practice and the Independent Administrator does not list assurance practice applied for the 2014 data reconciliation among its assignments.

Nonetheless, with regards to the assurances to be provided by the companies for the 2014 EITI Report, the report states that the EITI Council agreed that a senior official of the company should sign off the completed reporting form, certifying the accuracy of the data (p.58).

The report confirms that “data submitted by the companies have been certified by signatures and seals of the top management of these companies” (p.58). Furthermore, the report describes the challenges related to ascertaining whether companies in the EITI Report were indeed required by law to have their accounts audited (p.58). The Independent Administrator explained that they asked all companies whether (1) they had an independent audit of the financial statements in 2014; and (2) whether these are accessible online. Two companies – Somon Oil and Petroleum Sughd - responded that they had an independent audit of their financial statement in 2014. Somon Oil provided a hard copy of their audited financial statement, while Petroleum Sughd did not respond to the request for information on how the statement could be accessed. The Independent Administrator notes that the audited financial statement for a third company – Kulob Petroleum Limited – is available online (2014 EITI Report, p.111).

With regards to the assurances to be provided by the government agencies for the 2014 EITI Report, the report states that the MSG agreed that a senior official of the relevant government agencies should sign off the completed reporting form, certifying the accuracy of the data (p. 59). The report confirms that “data submitted by the state bodies have been certified by signatures and seals of the top management of these organisations” (p.59). Furthermore, the report explains that given the lack of a legal basis for the Chamber of Accounts to disclose information on which government agencies had been audited in 2014 and the results, it was not possible to obtain this data (p.59). However, according to the Supplementary 2014 EITI Report the audit of government entities is available online<sup>87</sup>. However, the website of the Chamber of Accounts provides only a summary of the Audit report for 2014, noting that 314 audits were conducted within government entities.

*(iv) Agreement on provisions for safeguarding confidential information*

The TORs include language stating that “the Reconciliation Company should provide the National Council recommendation on agreeing the appropriate provisions relating to safeguarding confidential information” (IA TOR 2014 EITI Report, p.5).

<sup>85</sup> The EITI Council meeting minutes, 06 March 2014, available in Russian [here](#).

<sup>86</sup> 2014 Inception Report, available in Russian.

<sup>87</sup> A detailed 2014 report on the results of the audit of the Accounts Chamber of Tajikistan available in Russian [here](#).

The 2014 EITI Report includes the following explanation on the protection of confidential information (p.57):

“Before starting the procedure of verification of payments, the MSG and the Independent Administrator agreed and ensured the necessary conditions for the protection of confidential information. The parties reached an agreement that all the data, collected from the companies and government agencies in the course of verification, are confidential and shall be kept by the Independent Administrator, under appropriate conditions.”

*(vi) Assessment of data reliability*

The Independent Administrator does not provide an assessment that the data presented in the report is reliable. The assurance used for the 2014 EITI Report are reporting forms signed and sealed by senior official or top manager.

The Independent Administrator includes a recommendation with regards to audits, noting that:

“In order to ensure the provision of more reliable information from companies with the aim to prepare the report it is encouraged to engage independent auditors who would be able to submit a separate auditor's report (statement of opinion) related to payments made in the framework of EITI.

Also, in international practice, most of the companies of the mining and oil and gas sectors publish financial statements and the auditor's report.

The audited financial statements, which is publicly available, is one of the signs of corporate transparency, and in order to ensure transparency in the sector there is a need for financial transparency of each company in the sector. Accordingly, we recommend the EITI Board to consider amending the legislation on statutory audit and publication of financial statements of companies of the mining and oil and gas sectors”. (2014 EITI Report, p.113).

The 2014 EITI Report notes that “in Tajikistan there is no mandatory requirement for audit performance in companies that operate in the mining sector.” (2014 EITI Report, p.57). However, the Independent Administrator explains that “public interest entities” – the definition of such entities is included in the report - are subject to annual audited financial statements (2014 EITI Report, pp. 27-28). The Independent Administrator could not identify which companies fall under this definition (2014 EITI Report, p.58). As a result, the only assurance practice applied to the reporting companies was a sign off by a senior management. The Independent Administrator, BDO, notes the following in regard of data assurance for companies:

“...independent administrator and MSG made a decision that a senior official of the company must sign the completed reporting form with regard to the presented data to certify the completeness and accuracy of the data. Data submitted by companies, have been certified by signatures and seals of the top management of these companies.” (2014 EITI Report, p. 58)

As for the government entities assurances practice it is the Chamber of Accounts that conducts an external audit of government entities. However, it seems that the IA could not receive verifications from the Chamber of Accounts. The Independent Administrator notes the following in regard of data assurances for the state bodies:

“Since at the time of verification normative-legal basis to receive a confirmation of the Chamber of accounts regarding the provision of information by public authorities has not been developed, we could not ask the reporting state agencies to provide a proof of the accuracy of data disclosed by the relevant body provided by its external auditor – the Chamber of Accounts. Accordingly, in order to ensure the completeness and reliability of the data, independent administrator and MSG decided that a senior official of the state body must sign the completed reporting form to certify statements of completeness and accuracy of the provided data. Data, provided by the state bodies, have been certified by signatures and seals of the top management of these organizations.” (2014 EITI Report, p.59)

*(vii) Sourcing of contextual data*

According to the EITI Council minutes from 1 September 2015<sup>88</sup> a working group comprising members of the EITI Council and OSI experts prepared the contextual part of the 2014 EITI Report. The Independent Administrator – BDO – prepared the reconciliation of payments/revenues for 2014. The International Secretariat understands that although the contextual part was prepared by the working group, the Independent Administrator provided some data input to the contextual part as instructed in the ToRs (ToRs for the Independent Administrator 2014 EITI Report, p.2).

The working group also in April 2016 released the Supplementary 2014 EITI Report addressing gaps in the 2014 EITI Report<sup>89</sup>. Sources for contextual information are consistently provided in the 2014 EITI Report.

*(viii) Electronic data files*

Tajikistan has submitted the summary data templates for 2014.

### **Stakeholder views**

In terms of the appointment of the Independent Administrator, the national secretariat explained that they had launched the tender process and invited each candidate to submit technical and financial proposals. The criteria for the tender were established before commencing the tender process. A commission of MoF staff had also been established to evaluate the proposals based on the instruction from the MoF. Based on the proposals submitted, the commission had evaluated the proposals from shortlisted candidates. The commission then submitted their recommendation to the World Bank and obtained permission to negotiate the financial proposal with the firm. Although the Council was kept informed of the process and endorsed the selection of the Independent Administrator, decision-making was to some extent delegated to the evaluation commission and the World Bank because of the World Bank procurement rules.

The Independent Administrator confirmed that the process of announcement, tender and submission and evaluation of proposals took place in the period April – June 2015. BDO was invited to present their firm and experience prior to the Council opening the proposal.

Civil society said that given that this was the first time that they had selected an Independent Administrator, there had been confusion about the criteria that should be used to validate the qualifications of the company. In addition, it was only the MoF that was involved in the selection and evaluation of the criteria and proposals. This led to misunderstandings and reluctance of some CSOs to endorse the Independent Administrator. However, after BDO had explained their experience to during a

<sup>88</sup> See ref. #43

<sup>89</sup> The Supplementary 2014 EITI Report is available in Russian.

Council meeting, civil society was reassured. One civil society representative noted that the Independent Administrator had not done a good job. This could be due to lack of time, but also due to lack of experience.

A government official explained that it had been difficult to identify a locally based company with experience from EITI work.

With regards to the ToR for the Independent Administrator, the national secretariat confirmed that it had been developed by the secretariat, reviewed by the Working Group on behalf of the Council, and approved by the Council. The national secretariat did not remember the date of approval of the ToR. The initial draft was based on the Standard TOR issued by the EITI Board. A civil society representative noted that the ToRs for the next report should be composed and followed in a better way. The secretariat had also looked at examples of ToRs from other countries. The national secretariat further explained that once BDO had been appointed, it was agreed that a working group financed by OSI would take responsibility for developing the contextual part of the EITI report, while BDO would focus on the reconciliation. The secretariat could not recall that the Council had discussed this division of labour.

According to the Independent Administrator, it was the decision of the Council to allocate responsibility for the contextual information to the working group. This was because the Council realized that it took a long time to get the information from the companies and the deadline was approaching. A civil society representative confirmed this, noting that it had been a good way of building Coalition members' capacity on EITI and sector issues.

According to the national secretariat, the first draft of the reporting templates were developed in 2014. The secretariat did not recall when the templates had been approved by the Council, but explained that the Independent Administrator had modified the templates after his appointment in accordance with the ToRs. As noted under requirement 4.1 above, this was confirmed by the Independent Administrator.

With regards to data quality, a Council representative noted that only one of the 14 companies provided its audited financial statement to BDO and this had posed difficulties for the reporting process. The national secretariat explained that although senior company and government officials had signed and stamped the reporting templates confirming the accuracy of the data, it was unclear if the Council had specifically approved this procedure for data assurance. The secretariat did recall a discussion about whether or not audited financial statements were needed or not. A challenge was that some companies were in the middle of undertaking the audit, while others had not commenced or was not planning to undertake an audit.

The Independent Administrator explained that data assurance had been discussed with the Council. It had been agreed that the templates should include a statement of reliability to be stamped and signed by the company or government official. The Independent Administrator considered this level of assurance sufficient, and the only feasible option given the time constraints for preparing the report. It was also one of the options set out in the EITI Standard. The Independent Administrator's assessment was that the tax and customs data was 100% reliable, but there was less certainty on other revenues given the lack of reconciliation. In terms of supporting documentation, the Independent Administrator explained that it was only if there was a discrepancy that they asked the companies to provide supporting documentation, such as bank receipts or copies confirming certain transactions.

A government official said that with regards to data assurance, they did what was possible in the circumstances. Data was considered reliable as it was signed by the heads of the ministries and

committees.

When asked how data reliability could be improved, the Independent Administrator noted that one option was to integrate external auditing confirmation into the usual work programme of company and government auditors so that these would review and confirm the data in the EITI reporting template when auditing the financial statements.

Another option would be to compare the data against the reconciliation act, which is a record of all tax payments recorded by the Tax Committee every year. This record is prepared in December and has to be signed by both the company and the government.

On discrepancies, the Independent Administrator explained that it had not been possible to clarify many of the discrepancies as the companies did not provide sufficient information within the tight time frames. The discrepancies could be a result of accounting or recordkeeping challenges within the companies. It could also be a result of wrong revenue classifications, both by companies and by the government. Adding revenue classification codes could help.

A government official noted that the discrepancies were likely also an issue of accounting methods. In the past, it was common with advance payments, for example requesting the company to make a pre-payment of profit tax or VAT for the coming two years. Thus, discrepancies could be a result of that the companies reported actual tax payments for the year in question, while the government figures included all revenues including pre-payments, and visa-versa. Discrepancies could also indeed be an issue of wrong classification, or because unique tax identification numbers had changed.

In terms of procedures for safeguarding confidential data, the national secretariat said that BDO had their own policy on non-disclosure of data that they obtained. The Independent Administrator confirmed that they had agreed with the Council that all the information would be confidential. They had also informed the companies that the information was not to be released for other purposes than the EITI Report.

When asked about the quality of the work of the Independent Administrator, some stakeholders said that they had expected BDO to deliver more pertinent recommendations for improving sector management and that it would perhaps be necessary to engage an international firm for the next report in order to achieve this. Stakeholders lamented that although BDO identified discrepancies, BDO was not able to explain the root causes of these discrepancies and this had prevented follow up. Others commented that the division of labour between the working group preparing the contextual information, and BDO preparing the financial reconciliation, had not been straight forward. In many cases data had been inconsistent or contradictory. Some Council members considered that it would be better to have one firm compile the full report in the future. According to the national secretariat, it had been challenging for the Independent Administrator to obtain the data from the companies and the firm needed considerable support from the national secretariat to obtain the data.

### **Initial assessment**

The EITI Council has agreed ToRs for the Independent Administrator for the 2014 EITI Report that is consistent with the standard ToRs for Independent Administrators issued by the EITI Board, and appointed an Independent Administrator, BDO. Although it was the Tender Commission of the MoF that had the formal mandate to appoint the Independent Administrator, the EITI Council was consulted. The minutes of the EITI Council meetings do not contain any discussion on the reporting templates. However, the International Secretariat understands that the templates were approved by the Council prior to data

collection.

The report outlines the procedures for assurances such as signatures and seals of a senior official or top manager, that seem to be followed by all reporting companies and state bodies. However, the 2014 EITI Report does not indicate whether any government entities or companies did not follow this procedure. Nonetheless, it does not seem that these were based on a review of existing auditing requirements and practices among companies and government entities. The final report resulted in several discrepancies that it was not feasible to resolve.

Finally, although the EITI Council agreed to appoint a working group to prepare the contextual information, there is a potential conflict of interest in that some of the working group members who were also EITI Council members received payments for their contributions to the working group. Such practices and potential conflict of interests ought to be addressed in the future.

The International Secretariat's initial assessment is that Tajikistan has made meaningful progress in meeting this requirement.

*Table 4 - Summary assessment table: Revenue collection*

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Comprehensiveness (#4.1)	Although neither the EITI Report nor minutes of the EITI Council meetings provide a clear rationale behind the selected materiality threshold, revenue streams and scope of extractive companies requested to report. The stakeholder consultations pointed out that the key revenue streams and reporting entities have been included in the report. More broadly, the EITI Report identifies that a key challenge lays in unclarity of which government entities keep records of non-tax and non-customs payments. It also highlights a need for wider government reform in terms of record keeping of receipts from the extractive sector. There is no clear assessment of the comprehensiveness of EITI reporting by the Independent Administrator, and full government disclosure of all revenues has not been provided.	Meaningful progress

## Validation of Tajikistan: Report on initial data collection and stakeholder consultation

In-kind revenues (#4.2)	According to the 2014 EITI Report there were no in-kind payments made during the reporting period (p.59). However, the stakeholder consultation identified the state-owned unitary enterprise “Tolloi Tojik” that produces and conveys gold to the National Bank. However, there is lack of clarity with regards to in-kind payments related to oil and gas PSAs.	No progress
Barter and infrastructure transactions (#4.3)	The EITI Report confirms that barter arrangements were not material in 2014, however stakeholder consultations seem to indicate that such arrangements exist. There is no evidence of any EITI Council discussion on this matter.	Inadequate progress
Transport revenues (#4.4)	The 2014 EITI Report contains a description of transportation arrangements on p.33. The Report confirms that there were no material transportation payments in 2014 (p. 57).	Not applicable
Transactions between SOEs and government (#4.5)	The 2014 EITI Report does not clearly describe the role of state-owned enterprises beyond noting that SOEs are subject to the same rules and practices as any other company. Only three SOEs – Ltd. Joint Venture Zarafshan, STK LLC Apreleveka and JV Petroleum Sughd – were included in the scope of the report. It is unclear why the other SOEs were not included in the scope. It has not been possible to ascertain whether all financial transfers between government and SOEs have been disclosed.	Inadequate progress
Subnational direct payments (#4.6)	Only one revenue stream – ‘compulsory fees for issuing licenses or other permits’ - may be paid to “the public authorities or local self-government, depending on the type of payment”. Based on the payment data disclosed for this revenue stream, it is reasonable to conclude that there are no material direct subnational payments.	Not applicable
Level of disaggregation (#4.7)	The report is disaggregated to the levels required by the EITI Standard.	Satisfactory progress
Data timeliness (#4.8)	The 2014 EITI Report was published in November 2015 and, therefore, meets the requirement on data timeliness.	Satisfactory progress

Data quality (#4.9)	The EITI Council has agreed ToRs for the Independent Administrator for the 2014 EITI Report that is consistent with the standard ToRs for Independent Administrators issued by the EITI Board. However, the procedures for appointing the IA and agreeing the reporting templates was somewhat unclear. While the report outlines the procedures for assurances, it does not seem that these were based on a review of existing auditing requirements and practices among companies and government entities. The final report resulted in several discrepancies that it was not feasible to resolve.	Meaningful progress
<p><b>International Secretariat’s conclusions and recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The EITI Council is encouraged to undertake further scoping work in order to better define the material revenue streams and reporting entities ahead of the 2015 EITI Report. This should include revisiting the materiality threshold.</li> <li>2. The EITI Council should ensure that future reporting templates are developed in consultation with the Independent Administrator.</li> <li>3. The EITI Council should also ensure that the IA includes a clear assessment of the comprehensiveness of the next EITI Report, that discrepancies are explained, and that the report presents recommendations for wider reforms, where deemed relevant and necessary.</li> <li>4. The EITI Council should ensure that in the future, a review of prevailing auditing and assurance practices among companies and government entities is undertaken and that assurances are agreed upon prior to commencing data collection and on the basis of such review.</li> <li>5. The EITI Council should map the role of SOEs in the extractive industries, and ensure that all details related to the financial relationship between the government and SOEs and associated transactions are fully disclosed.</li> <li>6. The EITI Council should make sure that future reporting exercises set an adequate timeframe for reporting entities to understand and provide the necessary data, and for the IA to complete its work.</li> <li>7. The EITI Council should explore the existence of any in-kind revenues related to the state-owned gold enterprise “Kazyonnoye unitarnoye predpriyatiye”.</li> <li>8. The EITI Council should map the existence of barter and infrastructure arrangements. Where these exist and are material, the EITI Council should design an appropriate disclosure framework.</li> <li>9. The government is encouraged to follow up on the Independent Administrator’s recommendations for improving record keeping of extractive industry receipts and initiate further reforms as necessary.</li> </ol>		

## 5. Revenue management and distribution

### 5.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue

management and distribution.

## 5.2 Assessment

### Distribution of revenues (#5.1)

#### Documentation of progress

The 2014 EITI Report introduces a table (2014 EITI Report, pp.20-21) that lists types of taxes and notes on their distribution between local and state budgets. It also explains that “the proportion of the distribution between the republican and local budgets is determined by the law on budget for the specific year” (2014 EITI Report, p.20). Section 3.1.3 of the 2014 EITI Report says:

*“In this Report subnational payments are defined as payments to local governments, and subnational transfers are defined as the distribution of payments between the republican and local budgets. All mandatory payments, made by companies and included in the report, are: tax, customs and other substantial payments (lines 1-38). They go directly to the state budget and are distributed between the republican and local budgets in accordance with the Law on State Budget on an annual basis.” (p.55)*

Further, the 2014 EITI Report provides a table of tax payments with distribution shares between local and state budgets (55-56).

The Supplementary 2014 Report concludes that distribution of state taxes between central budget and local budgets is the government's competence and is regulated by the Law on Budget (Supplementary 2014 Report, p.28). ‘Other mandatory payments’ are distributed between State’s and local budgets and a proportion of distribution is defined by the Law on Budget for the relevant year. (Supplementary 2014 Report, p.27)

On this basis it is reasonable to conclude that all extractive industry revenues are recorded in the national budget and are then reallocated to local budgets alongside other non-extractive industry revenue.

The 2014 EITI Report does not provide a reference to revenue classification system. However, the Supplementary 2014 Report concludes that according to the requirements of the State Financial Statistics and International Monetary Fund in 2012 Tajikistan adopted the Classification system on revenues and expenditures with instruction of use (<http://minfin.tj/downloads/files/Klass-ya%20rusi.pdf>) (Supplementary 2014 Report, p.28).

#### Stakeholder views

The Independent Administrator said that budget classification codes could easily be integrated into the reporting templates for the future.

Other stakeholders confirmed that all extractive industry taxes were allocated to the central level before redistribution to local levels in accordance with the budget law. Some payments might be made to local tax offices, however this was all automatically challenged into the central level accounts.

#### Initial assessment

The 2014 EITI Report and the Supplementary 2014 EITI Report conclude that distribution of state taxes between central budget and local budgets is the government's competence and is regulated by the Law on Budget. The International Secretariat concludes that all extractive industry revenues are recorded in the national budget and are then reallocated to local budgets alongside other non-extractive industry

revenues. The Supplementary 2014 Report notes that in 2012 Tajikistan adopted the Classification system on revenues and expenditures with instruction of use (<http://minfin.tj/downloads/files/Klass-ya%20rusi.pdf>). The International Secretariat's initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement.

## Sub-national transfers (#5.2)

### Documentation of progress

The 2014 EITI Report states that *"In this Report subnational payments are defined as payments to local governments, and subnational transfers are defined as the distribution of payments between the republican and local budgets"* (p.55). This definition is not consistent with how subnational transfers are interpreted in the EITI Standard. There is no evidence to suggest that there are mandatory extractive industries specific transfers from central to local budgets.

### Stakeholder views

Stakeholders confirmed that there are no statutory or mandatory transfers of extractive industry revenue to subnational government. Rather, the allocation to local budgets is done as part of the annual budget process. 30-40% of total government revenue is retained in the state budget, the rest is re-distributed to local budgets.

### Initial assessment

The 2014 EITI Report defines subnational transfers as distribution of payments between the state and local budgets. The definition is not consistent with the EITI Standards. However, stakeholders confirm that there are no statutory or mandatory transfers of extractive industry revenue to local levels. The International Secretariat's initial assessment is that this requirement is not applicable in Tajikistan.

## Additional information on revenue management and expenditures (#5.3)

### Documentation of progress

The Supplementary 2014 EITI Report explains that the Government of Tajikistan has not adopted any special program funded by the extractive industry revenues (p.36) However, there are governmental programs for socio-economic development of three regions: Khatlon, Sughd and Gorno-Badakhshan Autonomous Oblast. These programs include development of the geological sector and are funded by the government. The Supplementary 2014 EITI Report provides figures for the expenditures on these programmes in 2014 (p.36).

The Supplementary 2014 EITI Report notes that the committee on finance of the Parliament is responsible for the state's budget (p.36). The audit of the execution of the State's budget is undertaken by the Chamber of Accounts (p.36) but the audit for only for 2015 is available online<sup>90</sup>. The work of the Chamber of Accounts is regulated by Law no. 749.

The Supplementary 2014 EITI Report states that production forecasts, income from the extractive sector and its contribution to social and economic development of the country are raised in the annual Message of the President of Tajikistan and can accessed [online](#) (p.37). The report does not specify any figures or forecasts.

<sup>90</sup> A detailed 2015 report on the results of the audit of the Accounts Chamber of Tajikistan available in Russian [here](#).

### Stakeholder views

A civil society representative expressed desire to look at the expenditures in the future as there was a lack of analysis for how money was allocated in the budget. Another civil society representative could not recall any discussion on revenue management and expenditures within the EITI Council.

### Initial assessment

Disclosing information on revenue management and expenditures is only recommended and will not count in the assessment of compliance. According to the Supplementary 2014 EITI Report, there are governmental programs for socio-economic development of three regions funded by the government. The supplementary report provides figures for the expenditures on these programmes in 2014, however the extent to which these programmes are tied to extractive revenue is unclear.

The report explains that the Committee on Finance of the Parliament is responsible for the state's budget while the Chamber of Accounts undertakes the Budget audit. The report does not specify any figures or forecasts.

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

<b>Summary assessment table:</b>		
<b>EITI provisions</b>	<b>Summary of main findings</b>	<b>International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)</b>
Distribution of revenues (#5.1)	According to the 2014 EITI Report the proportion of the distribution between the republican and local budgets is determined by the law on budget for the specific year. This is not limited to distribution of extractive industry revenues, but all revenues.	Satisfactory progress
Sub-national transfers (#5.2)	The 2014 EITI Report confused budget allocations to local governments with subnational transfers. However, stakeholders have confirmed that there are no statutory or mandatory transfers of extractive industry revenue in Tajikistan.	Not applicable
Information on revenue management and expenditures (#5.3)	The Supplementary Report provides some limited information on revenue management and expenditures.	
<b>International Secretariat's conclusions and recommendations:</b>		
<ol style="list-style-type: none"> <li>1. The EITI Council is encouraged to integrate budget classification codes in future reports.</li> <li>2. The EITI Council is encouraged to explore the relevance of increasing transparency in revenue management and expenditures related to the extractive sector.</li> </ol>		

## 6. Social and economic spending

### 6.1 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).

### 6.2 Assessment

#### Social expenditures (#6.1)

##### Documentation of progress

The 2014 EITI Report states that “Additional costs include costs of companies to support education and social infrastructure required by law or under the contract concluded with the government... Additional charges can be made in cash and in kind, and most of these payments go directly to suppliers of goods and services” (p.54). It is unclear from the report whether all companies operating in Tajikistan are thus required to provide social expenditures, or whether this is negotiated on a case by case basis. However, the Supplementary 2014 EITI Report explains that such additional costs are subject to bid criteria and conditions of the signed agreements (p.53), which seems to indicate that they are indeed negotiated on a case by case basis.

The Supplementary 2014 EITI Report states that “social expenditures of companies are generally insignificant but play an important role in supporting local development” (p.53). It is unclear whether the MSG decided that these social expenditures were material for the purposes of the EITI Report. The 2014 EITI Report noted of education support expenditures of TJS 305 796 (USD 61 965) in 2014 (p.66). Eight companies disclosed the total amounts spent on social expenditures. Further information on the nature and beneficiary of the social expenditures is only provided by one company, Anzob. The report also notes that up to date there is no responsible government entity to collect data on social expenditures and therefore these transactions could not be reconciled (p.60). As noted in the assessment of Requirement 4.3, there is confusion about the distinction of social infrastructure provided in exchange for access to minerals and social expenditures.

##### Stakeholder views

A company representative explained that although not required by the law or the contracts, his company would every year develop a budget for social infrastructure projects to support the area where the company was operating. This would typically include support to education, disaster management, health clinics, roads, etc. They would submit information on these projects and the spending to the government every year. Another company representative confirmed that although not mandatory, it was a common practice among companies to contribute to improve the social infrastructure in the areas where they operated. No company was aware that of any legal or contractual obligation for companies to make social expenditures in Tajikistan.

When asked about social expenditures, one government representative assumed there was not any system in place to regulate this. Given that most companies are situated far from the capital and the funding of regions is limited, local authorities tend to ask to companies to participate in rehabilitation of

infrastructure support. This is not a fix amount but rather a part of common efforts. Local authorities may issue a letter to the company articulating the need and ask for support to sponsor the part of the project. Usually it happens before the holidays. However, this is not a system and the companies are not exempted of taxes but the government takes it into account. The government expects extractive companies to provide social support. This sort of support is not mandatory and the government doesn't force companies and they can always refuse. A government representative said that social expenditures are not mandatory but take place based on mutual agreement between the government or local governments and extractive companies. The government may propose a social investment to the company, which usually agrees. Another government representative said that a company's plans for socio-economic development was usually part of bid criteria for licenses.

Some stakeholders claimed that companies that carry social expenditures can get incentives such as tax holidays. This depended on the conditions of each individual agreement. Social expenditures could also come in the form of infrastructure. For example, in Sughd, a Chinese company constructed a new road and a new electric transmission line. The Independent Administrator said that according to the law, only projects governed by PSAs can include tax holidays or deductions. Media representatives commented that some companies have tax holidays but the rationale is not clear. The government applies tax exemptions based on its decrees. According to media, the government applies exceptions to some companies, and then overload others to compensate for lost revenues.

The Independent Administrator commented that they were not aware of which government agency was monitoring social expenditures, and this made it difficult to verify the company data. Although these expenditures were small compared to tax payments, it was difficult to know the nature and extent of the expenditures as it could depend on negotiations with local and central government. The social expenditures related to PSAs could be considered mandatory as the companies were obliged to have a special financial plan for how much they should spend on the social sphere as part of the PSA. This information was likely reported to the Ministry of Energy. Although other types of contracts and licenses may not have social expenditures as part of the contract, these still existed. The Independent Administrator suggested that in order to improve disclosures of social expenditures, there should be better instructions on how to report on the information. There should also be training for companies.

Civil society emphasized that focusing on social expenditures was important as this was one of the key issues of interest for local communities and could also help increase engagement with companies. Communities were keen to understand the amounts that the companies invest in social infrastructure as it directly impacts their daily lives. However, the EITI disclosures needed to be improved for future reports as they were not sufficiently detailed. It was also noted that Tajikistan could benefit from learning from other countries' practices in this area in order to know whether their current policies on social infrastructure are fit for purpose, or whether there are better tools and ways of channelling such funds such as e.g. establishment of development funds. One civil society representative noted there was not enough documentation on social expenditures and to have a clear understanding the EITI Council included a research on social expenditures in the work plan for 2016-2017.

### **Initial assessment**

The disclosures on social expenditures are not comprehensive. There is a lack of information about:

- The name and function of the beneficiary of the social expenditure (where not a government agency).

- The nature and deemed value of any in-kind expenditures.
- The report includes aggregate amounts of social expenditures per company for 8 companies (Supplementary 2014 Report, p.53). Although the Supplementary 2014 Report notes that “in 2014 not all audited companies carried out social spending” (Supplementary 2014 Report, p.53) it is not clear whether that is true for all of the remaining 6 companies.

It is not clear if social expenditures are voluntary or mandatory. However, according to stakeholders a company offers to pay additional payments as a part of bid criteria. In this regard, the International Secretariat assumes that social expenditures are regulated by contracts and are mandatory. The International Secretariat’s initial assessment is that Tajikistan has made inadequate progress in meeting this requirement. The EITI Council should explore the social expenditures practices in Tajikistan.

## SOE quasi fiscal expenditures (#6.2)

### Documentation of progress

According to the 2014 EITI Report, information on quasi-fiscal expenditures, directly or indirectly related to the activities of state-owned companies or companies with the state share of participation, is not available (p.40). There is no evidence from EITI Council minutes that the EITI Council has discussed this issue.

### Stakeholder views

When asked about quasi fiscal expenditures, one civil society representative commented that a company with state’s share JSV “Zarafshan” built infrastructure and provided social support including support to local hospitals in Penjacent town, Sughd region where the gold is produced. Others noted that information related to SOEs operations and their financial relationship with government was closed.

Other stakeholders admitted they were not aware of quasi fiscal expenditures. Some stakeholders when asked of quasi fiscal expenditures of SOEs referred to social expenditures of private companies.

### Initial assessment

The 2014 EITI Report does not address the quasi-fiscal expenditures. The International Secretariat’s initial assessment is that Tajikistan has made no progress in meeting this requirement.

## Contribution of the extractive sector to the economy (#6.3)

### Documentation of progress

The 2014 EITI Report provides comprehensive overview of the contribution of the extractive industry to the economy. According to the 2014 EITI Report, the size of the extractive industries in absolute terms is TJS 1402.23m (USD 284.1 m) (p.28), or 13.3% from total industrial production. The extractive industries contribution to GDP in 2014 was 3.07% (p. 5).

The 2014 EITI report does not include an estimate of the informal sector. The Supplementary 2014 Report notes on p.39 that the informal sector activities in the mining industry sector are not recorded. It is unclear whether this means that there are no records, or that there is no informal mining. The 2009 Survey on informal labour employment in all sectors of economy conducted by the Agency on Statistics did not conclude presence of informal extractive industries sector. However, the minutes of the EITI

Council of 9 April 2014 note the Tax Committee had developed an investment plan for 2011-2015 that among other goals aims at reducing shadow economy. However, the investment plan will not only target the extractive industries. The Supplementary 2014 EITI Report explains on pp. 39-40 that mining and production of precious metals and stones cannot be done without licenses. There is no further references to artisanal or small-scale mining. The Pre-Validation Assessment Report<sup>91</sup> recommends the Agency on Statistics together with other stakeholders to develop a methodology on identifying and calculating an informal sector in extractive industries. The Ministry of Finance is recommended to develop a reporting form for artisanal miners so that they can report to the Ministry.

The 2014 EITI Report states that extractive industry revenues represented 4.2% of total government revenue in 2014 (p.19). The Supplementary 2014 EITI Report includes the figure in absolute terms, amounting to TJS 489.5 m (USD 99.1 m) (p.24).

The value of exports from the extractive industries in absolute terms in 2014 was TJS 1121.2 m (USD 227.2 m), which represented 23.25% of total exports (2014 EITI Report, p.32).

According to the Supplementary 2014 EITI Report, employment in the extractive industries in absolute terms in 2014 was 12 076 employees which is 5.18 % of total employment (p.40).

The 2014 EITI report notes key regions and areas where production is concentrated (p. 5-15). The Supplementary 2014 EITI Report provides a table showing production volumes, employment and companies operating by region (p.39).

### Stakeholder views

A government representative that provided information for the EITI Report on contribution of the extractive industries to the economy noted that although figures on the size of the informal sector in extractive industries was not available, it was estimated to be insignificant. The government's research on the informal labour economy that was conducted in 2009 did not reveal a sizable informal sector in extractive industries, however further research and technical assistance would be needed to ascertain this.

Another government representative confirmed that there were artisanal miners and that according to a government Decree, they need a permit to work. The Ministry of Finance is responsible for awarding permits for artisan and small scale mining, which is defined as production less than 1 ton.

Civil society agreed that it could be interesting to explore the artisanal sector in further detail.

One of the journalists pointed out at an article<sup>92</sup> that covers small scale alluvial gold mining in cooperatives. The article covers licensing issues for small scale mining and points out to the Law on precious stones and metals that should regulate artisanal and small scale mining. However, the article does not estimate the size of this sector.

### Initial assessment

The 2014 EITI Report provides most of the information related to the contribution of the extractive industry to the economy. The only data point where there is some uncertainty is related to the estimate of the informal sector. This information is not included in the 2014 EITI Report. The responsible

<sup>91</sup> The pre-validation assessment report, April 2016, available in Russian [here](#), p.19.

<sup>92</sup> Will the Tajiks begin to dig for gold? News item in Russian available [here](#).

government entities confirmed existence of insignificant number of artisan miners (mostly gold artisans) – around 400-500 people in the country and suggested to conduct a proper research on informal sector. On balance, the International Secretariat’s initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement. It is clear that the Council has had some discussion about the informal sector, but further work is needed to establish its relevance.

Table 6 - Summary assessment table: Social and economic spending

EITI provisions	Summary of main findings	International Secretariat’s initial assessment of progress with the EITI provisions (to be completed for ‘required’ provisions)
Social expenditures (#6.1)	The EITI Report does not establish whether social expenditures are voluntary or mandatory, and only discloses limited details on social expenditures. Stakeholder consultation reveal that it is likely that there are mandatory social expenditures.	Inadequate progress.
SOE quasi fiscal expenditures (#6.2)	According to the 2014 EITI Report, information on quasi-fiscal expenditures, directly or indirectly related to the activities of state-owned companies or companies with the state share of participation, is not available (p.40).	No progress.
Contribution of the extractive sector to the economy (#6.3)	The 2014 EITI Report provides comprehensive overview of the contribution of the extractive industry to the economy.	Satisfactory progress.
<p><b>International Secretariat’s conclusions and recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The EITI Council should map mandatory and voluntary social payments and identify and implement a disclosure framework that includes the name and function of the beneficiary of the social expenditure, the nature and deemed value of any in-kind expenditures, and whether all reporting companies have social expenditures.</li> <li>2. The EITI Council should clarify the existence of quasi-fiscal expenditures and other subsidies in the oil, gas and mining sectors undertaken by SOEs in the extractive industries.</li> <li>3. The EITI Council should continue to explore the size and relevance of the informal sector.</li> </ol>		

## Part III – Outcomes and Impact

### 7. Outcomes and Impact

This section assesses implementation of the EITI Requirements related to the outcomes and impact of the EITI process.

#### Public debate (#7.1)

##### Documentation of progress

The first EITI Report was published in November 2015. Although the funding gap in January-April 2016 constrained national EITI Secretariat's communications activities related to the first EITI Report, a number of activities have nevertheless been completed.

##### *(i) Dissemination and other activities aimed at public debate*

The national EITI Secretariat produced a video on EITI in Russian and Tajik, installed EITI banners on three billboards in Dushanbe, and arranged a broadcasting of 3 audio clips on EITI on "Asia Plus" radio station during the period October-December 2015<sup>93</sup>. In addition, 22 news items related to the extractive industries were published on Asia Plus news outlet in the period February-December 2015<sup>94</sup>. The EITI Report was produced in Tajik, Russian and English languages and presented to the public during national EITI Conference in Dushanbe on 26 November 2015. The report is available online on the national EITI website<sup>95</sup>.

Although it appears that there has been limited involvement of the EITI Council in disseminating information about the EITI and findings of the EITI Reports, the CSO Coalition "Transparency for Development" that represents civil society in the EITI Council has contributed significantly to dissemination activities. The Coalition has:

- Developed a popular version of the first EITI Report, which was published in March 2016.<sup>96</sup> The report is available in three languages and aims to make the EITI data more understandable to the population.
- During the period February-March 2015 conducted public awareness activities related to the EITI in five regions: Sogd, Khatlon, Shakhriyev, Varzob and Garm. The target audience included youth, women initiative groups, teachers and local authorities.
- In December 2015 the Coalition organised trainings<sup>97</sup> for media (TV, newspapers, radio, online outlets, bloggers) on the principles and objectives of the EITI, requirements of the EITI Standard,

<sup>93</sup> Tajikistan's Annual Progress Report 2015, available in Russian, <http://eiti.tj/ru/>

<sup>94</sup> See previous ref.

<sup>95</sup> Tajikistan's national EITI website, <http://eiti.tj/ru/>

<sup>96</sup> Visualized version of the 2014 EITI Report, available in Tajik, Russian and English, <http://www.eiti.tj/ru/otchet/kratkie-otchetny>

<sup>97</sup> Coalition's trainings <http://tfd.tj/457/>

Validation of Tajikistan: Report on initial data collection and stakeholder consultation as well as improving the efficiency and EITI coverage in the country<sup>98</sup>.

- Developed an online map<sup>99</sup> of extractive companies operating in Tajikistan and Directory of Extractive Companies that discloses detailed information on 20 biggest companies in the extractive sector of Tajikistan<sup>100</sup>.
- Developed [infographics](#) explaining the licensing system in Tajikistan.
- Released EITI related hand-outs: booklets<sup>101</sup>, Q&A infographics<sup>102</sup>, flyers<sup>103</sup>, brochures and information bulletins<sup>104</sup>.

The Pre-Validation Assessment Report provides a recommendation to enable public debates by conducting public hearings/discussions related to the EITI implementation in 2016-2017 in Dushnabe, Sughd and Khatlon regions<sup>105</sup>. Another recommendation<sup>106</sup> suggests to conduct public hearings within the Parliament of the Republic of Tajikistan to discuss the first EITI Report and involve the Members of Parliament.

The 2014 EITI Report is not available in open data format. The Summary Data Template was submitted to the International Secretariat.

### *(ii) Making the EITI Report comprehensible*

The minutes of the EITI Council does not document any discussion of a policy on the access, release and reuse of EITI data. However, the EITI Council meeting minutes from 9 April 2014, which was prior to the release of the first EITI Report, document comments from the civil society members on the necessity to share information about the process of development of the EITI in the country and involve journalists, distribute press releases and report on the stock of affairs in frames of the EITI by using various media outlets. Civil society members noted that their projects related to the EITI implementation include efforts to engage with media and recommend that government and companies should work with media more. (EITI Council minutes, 09.04.2014, p.2)

The report is available in three key languages – Tajik, Russian and English and can be accessed online on the Tajikistan’s EITI website - <http://www.eiti.tj>. The International Secretariat understands that paper copies of the reports are usually distributed in regional presentations, trainings and other public events and are available upon request at the National EITI Secretariat. The Summary Data Template was submitted to the International Secretariat. The CSO Coalition with support from the OSI Tajikistan has developed a popular version of the 2014 EITI Report in infographics.

The workplan for 2016-2017 includes developing a communication strategy for EITI implementation.

### **Stakeholder views**

A civil society representative commented that subsequent to the release of the EITI Report, media

<sup>98</sup> See ref. 51 on annual progress report.

<sup>99</sup> Online geological map, available on the Coalition [website](#) and the Main Geology Department [website](#).

<sup>100</sup> Company directory, available on the Coalition website in Russian [here](#).

<sup>101</sup> The Coalition information booklet from July 2015, available in Russian [here](#).

<sup>102</sup> Budget spending infographics, available in Russian [here](#).

<sup>103</sup> Flyers and brochures are available in hard copies and are published for specific events.

<sup>104</sup> Materials about EITI implementation in Tajikistan available [here](#). Coalition of CSO of Tajikistan.

<sup>105</sup> The pre-validation assessment report, April 2016, available in Russian [here](#), p.17, recommendation 3.1.

<sup>106</sup> Ibid.

interest in the EITI had increased and several articles on the EITI had been produced. In general, people were interested in understanding more about the extractive sector. Another civil society representative said that it was mainly people who were closely involved in the EITI that were using the report, including the data and recommendations. The preparation of the visual report had helped boost media interest, and capacity building for journalists was now mainly focused on use of data and visualisation of data.

Some media representative lamented that mining sector is difficult as the private companies change owners and furthermore, are not willing to talk to journalists. The information on gold production is considered as state secret and is not publicly available. This change happened in January 2016 so the 2014 EITI Report shows the gold production. Precocious stone production like ruby is considered a no-go topic by media.

A government representative said that the EITI Report was useful in that it had given an opportunity for those representing mass media or academia to make further analysis about the extractive sector using the information from the report. Students were currently using the report to compare the situation in Tajikistan to the situation in neighbouring countries. Another government representative stressed that further work on communications and dissemination was needed, including outreach to parliamentarians.

Another government representative explained that EITI awareness among government officials was still rather low. However, last week he had presented the EITI report to local governments and other stakeholders who had expressed surprise that this information was available. When approaching central government agencies to obtain the same information, they had been informed it was confidential.

Government officials also noted that it was hugely helpful to have three language versions of the report.

Civil society representative admitted that even though there were some dissemination activities and outreach to the regions, it was not enough to generate public debate. It was noted that regions were not happy with companies and wanted to know social benefits from extraction. EITI could contribute more to this discussion by providing disclosures on social payments. Another CSO members noted that the EITI Report contains interesting information but it had to be simplified so that journalist and citizens can easily use it.

### **Initial assessment**

The EITI Council does not seem to have been substantively engaged in dissemination activities. The EITI Council meetings minutes do not confirm any discussions on addressing requirement #7.1, nor does the Annual Progress Report assess the progress of implementing requirement #7.1. The national EITI secretariat held some communication activities that targeted limited groups of citizens, such as the national EITI Conference. However, the major bulk of dissemination work has been carried out by the civil society constituency only.

Some good work has been done to make the EITI report accessible. The 2014 EITI Report was published in three languages: Tajik, Russian and English and due to its volume can also be accessed online. The national EITI secretariat also has produced paper copies of the report, however, it does not seem they were widely distributed. Civil society has produced a useful short version of the EITI report which has enabled broader public consumption.

Tajikistan has only issued one EITI Report so far, and due to lack of funding there was a shortage of dissemination activities following the publication of the report. Nonetheless, civil society has played a

crucial role in spreading and discussing the findings of the EITI Report in the regions and to some extent in the media. While it is probably premature to conclude that the EITI has contributed to wide public debate about natural resource governance, there is clearly progress in the right direction. The International Secretariat's initial assessment is that Tajikistan has made meaningful progress in meeting this requirement.

## Data Accessibility (#7.2)

### Documentation of progress

Tajikistan's 2014 EITI Report is not machine-readable. No EITI Council meeting minutes indicate discussion on making the EITI reports machine-readable. There are also limited evidence of discussions related to the recommendations in provisions 5.1 regarding references to revenue classification systems or production of summary reports. Also there does not seem to be any automated EITI disclosures, i.e. government disclosure of EITI data through websites and portals.

The Supplementary 2014 EITI Report notes that according to the requirements of the State Financial Statistics and IMF in 2012 Tajikistan adopted the Classification system<sup>107</sup> on revenues and expenditures with instruction of use (p.28). However, the revenue classification system does not seem to be used in the 2014 EITI Report.

### Stakeholder views

Some stakeholders asked for clarification on what machine readable means.

A representative of the State Statistics committee noted that the production data is received on a monthly basis and is published in a hard copy report. It would not be challenging to provide this information for the EITI reporting more often than once a year.

### Initial assessment

Requirement 6.2 encourages the MSGs to make EITI reports accessible to public in open data formats. The EITI Council has not yet undertaken any work to this end. Such efforts are encouraged but not required and should not be considered in assessing compliance with the EITI Standard.

## Lessons Learned and follow-up on recommendations (#7.3)

### Documentation of progress

Given that the Independent Administrator focused mainly on the reconciliation part of the 2014 EITI Report, while the EITI Council working group prepared the contextual part, recommendations in the report mainly relate to the EITI reporting process. These include:

#	Recommendations	Actions
1	<p><b>Legal framework for collection of information</b></p> <p>Due to the lack of legal framework enabling EITI implementation, there were some difficulties in obtaining</p>	<p>The EITI Council has discussed this recommendation and confirmed the previous</p>

<sup>107</sup>Tajikistan's Classification system on revenues. Available at the Ministry of Finance of Tajikistan website in Russian [here](#).

	<p>the necessary information for reconciliation report. For example, companies or state authorities might not provide the necessary information, referring to the lack of legal requirements with respect to reporting.</p> <p>The IA recommended to develop a legal framework to ensure the timely receipt of necessary information and the reconciliation of payments.</p>	<p>intention to embed a mandatory EITI reporting into the legal framework. The working group that conducted an analysis of the report identified the gaps and suggested a set of recommendations to include into the draft Subsoil Use Law. Line ministries accepted the recommendations. The draft law is being reviewed at the Parliament and is expected to be adopted by the end of 2016.</p>
2	<p><b>Refinement of Instructions on collection of information for payments verification</b></p> <p>Definition of the sections on «Other substantial payments» and «Additional costs of the company» were not always clear to company finance managers and other payments were included in these sections, which distorted reporting. For example, in the section «Support for social infrastructure» (code string 40) some companies included costs of meals for employees and other similar expenses, which are not appropriate for this revenue stream.</p> <p>The IA recommended to conduct explanatory trainings for responsible individuals within companies and, if necessary, make changes to the Regulations on the collection of information from companies.</p>	<p>This recommendation was discussed and the EITI Council has addressed it in the work plan for 2016. The EITI Council decided for the 2015 report to classify payment categories according to the Tax Code in order to avoid misinterpreting of definitions. The training for the companies' financial representatives is planned for September 2016 where they will learn how to fill in the reporting templates and will be able to raise their issues and concerns. The government representatives are also invited to help conduct the training. The training also aims at developing and agreeing on a reporting template</p>
3	<p><b>Additional expenses of the companies and other substantial payments</b></p> <p>Sections on «Additional costs for companies» and «Other substantial payments», received from the companies, could not be compared to the government data due to the fact that so far authorized state bodies that could provide this information were not appointed. The IA recommended to identify respective government entities and enable them by legal basis to collect and analyse information on «Additional</p>	<p>According to the national secretariat, the EITI Council has discussed this recommendation and decided to involve representatives of the State Tax Committee and the Statistic Agency to help identify what government entities are responsible for certain payments. As for the</p>

	<p>costs of companies” and “Other substantial payments”.</p> <p>To collect and process information on these sections, the public authorities, particularly the Ministry of Finance need to strengthen the technical capabilities of the accounting system of payments in order to identify and classify payments made by extractive companies in accordance with the requirements of EITI Standard.</p>	<p>recommendation for the Ministry of Finance “to strengthen the technical capabilities of the accounting system of payments”, the national secretariat explained it was inappropriate since this is a responsibility of the State Tax Committee and the Ministry of Finance only keeps track of the payments flows. It is the State Tax Committee that has disaggregated data on payments, whereas the Ministry keeps it aggregated. It is not clear whether the State Tax Committee has considered the recommendation.</p>
4	<p><b>Audit</b></p> <p>In order to ensure the provision of more reliable information from companies it is encouraged to engage independent auditors who would be able to submit a separate auditor's report (statement of opinion) related to payments made in the framework of EITI.</p> <p>Also, in international practice, most of the companies of the mining and oil and gas sectors publish financial statements and the auditor's report.</p> <p>Publicly available audited financial statements, is one of the signs of corporate transparency, and in order to ensure transparency in the extractive industries there is a need for financial transparency of each company. Accordingly, the IA recommended the EITI Council to consider amending the legislation on statutory audit and publication of financial statements of companies of the mining and oil and gas sectors.</p>	<p>Only two companies out of 14 provided audit statements for the 2014 EITI Report. Another companies stated to have an audit but never actually provided the statement or shared a link to it.</p> <p>The EITI Council has discussed this recommendation and decided to include it into the ToRs for the Independent Administrator for 2015 report.</p>
5	<p><b>Production Sharing Agreement</b></p> <p>The government has signed several production sharing agreements with companies in extractive industries. It is expected that payments of the companies, under these agreements, will be substantial in the coming years. Accordingly, the IA recommended to show these payments</p>	<p>There is no confirmation that the EITI Council has discussed this particular recommendation. The tree existing PSAs in Tajikistan are related to exploration, but not production and might not be relevant</p>

	as a separate line for EITI reporting.	anymore as some contracts have been terminated.
6	<p><b>Coverage of companies for verification of payments</b></p> <p>List of companies for the reconciliation was determined after the scoping study, which was carried out in August 2014 on the basis of 2013 data by an independent expert, appointed by the MSG.</p> <p>According to the results of the study it was recommended to the EITI Board to use 50 000 TJS per year as a materiality threshold related to the overall payments made to the state budget in order to select companies. Based on the results of the study total 14 companies were selected for 2014 reporting.</p> <p>Given that in 2014 according to that government's data total 366 licenses were acting in Tajikistan. The IA recommended to conduct a new scoping study for better coverage of companies, as well as for determination of materiality threshold and the list of companies to be included in the 2015 EITI report.</p>	<p>According to the national secretariat, the EITI Council has discussed this recommendation and decided to conduct a new scoping study for the 2015 EITI Report. The national secretariat has drafted a ToRs for the scoping study in accordance with the World Bank procedures and announced a tender process that is expected to be completed by the end of August.</p>

The EITI Council meetings minutes from 22 February 2016 document a discussion on recommendations from the first EITI Report. The EITI Council members highlighted four main gaps on the EITI Council activities and the EITI oversight, analysis of the socio-economic impact of the EITI, contract transparency and adjusting the legal framework in accordance with the EITI Standard. The discussion resulted in establishing a working group to assess the gaps and prepare to the validation<sup>108</sup>. The working group assessed the following areas: existing reporting and related documentation; potential gaps that influence the implementation process in Tajikistan; 2014 EITI Report and its compliance with the Standard, identifying a list of gaps; required actions to address the gaps, next steps, timeframes and responsible parties. In April 2016, the group released a comprehensive Pre-Validation Assessment Report<sup>109</sup> that lists all existing gaps in the EITI implementation process in Tajikistan and recommendations on addressing all gaps. The Pre-Validation Assessment Report where feasible indicates progress on addressing separate recommendations. The Pre-Validation Assessment Report can be addressed online<sup>110</sup> As the result of this assessment, the Supplementary 2014 EITI Report was released on 22 April 2016 complementing the contextual part of the 2014 EITI Report.

The EITI Council has also submitted recommendations to the draft law on subsoil use and adjusted the work plan for 2016-2017. The recommendations were developed by the working group that conducted

<sup>108</sup> The pre-validation assessment working group consisted of 6 experts: Ms. Marhabo Abdullayeva, Deputy Chief of Geology Agency, Mr. Sobir Vazirov, Head of Department of the Tax Committee, Ms. Shahlo Dzhuraeva - CSO "Jahon", Ms. Mavzuna Karimova, Head of Department of the Institute of Economics and Demography of the Academy of Sciences the Republic of Tajikistan, Mr. Rafiq Musayev, group coordinator, Chairman of the Energy Association of Tajikistan and a foreign consultant Mr Ingilab Ahmadov, Director of Training Center for the extractive industries.

<sup>109</sup> Pre-Validation Assessment Report, 2016, available in Russian [here](#).

<sup>110</sup> Ibid.

the analysis of the EITI Report, presented to the EITI Council and approved<sup>111</sup>. The Council and the working group aimed to address the main concerns identified in the 2014 EITI Report such as refusal to report under the requirements, the lack of a license register and coordinates, beneficial ownership disclosure and social expenditures. While preparing the first EITI Report the Independent Administrator BDO faced issues in collecting reporting templates from selected companies. Mandatory reporting according to the EITI Standard would make it much easier, efficient and comprehensive. Another painful issue is a licensing system and the EITI Report uncovered the gaps of the licensing process. Since no publicly open consolidated license register exists, the recommendation to the draft law stipulates establishment of an open and accessible full register of extractive licenses. The draft report on beneficial ownership showed only few real beneficial owners and the working group recommends to disclose beneficial owners in an open and accessible register. One of the provisions of draft law stipulates partial disclosure of contracts where social expenditure are included.

### **Stakeholder views**

A government official said that the Council was well aware of the gaps and shortcomings of implementation. It was because of this that the Council had initiated a self-assessment of the process leading to the compilation of the pre-validation report and several recommendations for improving implementation. The working group in charge of preparing this report had held several meetings with relevant government agencies, companies and civil society groups.

The national secretariat explained that all recommendations were discussed at the EITI Council meeting and some of them were already addressed. For example, the EITI Council agreed to conduct another scoping study and the tender for a consultant company has already begun.

Civil society representatives confirmed discussing the recommendation and commented on the work that was done by the working group that released a Supplementary 2014 EITI Report and recommendations for amendments of the Law on Subsoil Use.

It was noted that civil society representative Rafika Musayeva was included in the government working group on the draft law on Subsoil. Ms Musayeva commented that the recommendations to the draft law on subsoil reflected the recommendations from the IA and gaps identified by the report assessment.

### **Initial assessment**

The EITI Council has taken steps to act upon lessons learnt, to identify, investigate and address the causes of discrepancies and to consider the recommendations for improvements from the Independent Administrator for the 2014 EITI Report.

The 2014 EITI Report contains very few recommendations and all of them focus on the EITI reporting process. The EITI Council discussed the recommendations from the report and other issues and established a working group to assess the gaps and prepare to the validation. It does not seem that the EITI Council considered the discrepancies in the reconciliation part of the EITI Report.

The EITI Council should be commended for establishing a working group that produced a comprehensive Pre-Validation Assessment Report that lists all existing gaps in the EITI implementation process in Tajikistan and recommendations on addressing all gaps. As the result of the assessment report, the Supplementary 2014 EITI Report was released complementing the contextual part of the 2014 EITI

<sup>111</sup> The EITI Council meeting minutes, 11 April 2016, available in Russian [here](#).

Report. The EITI Council has also submitted recommendations to the draft law on subsoil use and adjusted the workplan for 2016-2017. The International Secretariat's initial assessment is that Tajikistan has made satisfactory progress in meeting this requirement.

## Outcomes and impact of implementation (#7.4)

### Documentation of progress

The EITI Council has produced three annual activity reports covering 2013-2015, which are all available on the Tajikistan-EITI Website<sup>112</sup>.

The 2015 Annual Progress Report contains a brief summary of the EITI process in Tajikistan in 2013-2015 which includes sign up procedures, main activities in 2015, preparation of the 2014 EITI Report and hosting of national conference to launch the 2014 EITI Report (p.2). The summary provided in the 2015 Annual Progress Report<sup>113</sup> does not fully cover activities undertaken in 2015 and excludes efforts such as report dissemination, preparation of infographic version of the 2014 EITI Report, trainings for stakeholders, developing a directory of companies and numerous media publications. However, these topics are mostly covered in other sections of the APR. For instance, a description of strengths of the EITI implementation process in Tajikistan on pp. 6-9 contains more details on activities conducted in 2015, including many communications efforts such as report dissemination, training for media, developed of a map and directory of companies and a list of media publications with links.

The 2015 Annual Progress Report includes an assessment of progress with meeting EITI requirements (pp. 5-6). However, the assessment does not cover all requirements, nor does it outline steps to address requirements considered unmet by the Council. The Annual Progress Report lists the challenges encountered in fully complying with the requirements, such as lack of information from governmental entities, for examples bid criteria and list of bidders for the license allocation (p. 6). The 2015 Annual Progress Report notes progress on encouraged aspects of the Standard including revenues management, social expenditures, contracts and beneficial ownership. However, it does not seem a discussion of steps to exceed the requirements takes place, nor actions taken to address encouraged aspects of the EITI Standard. Requirement #3.8.a-b on revenue management is not listed. The Annual Progress Report notes that Tajikistan took part in beneficial ownership pilot and published its report on beneficial owners in 2015 (p.6).

The 2015 Annual Progress Report does not provide a list of recommendations and the level of progress in implementing each recommendation. However, it explains that recommendations from the EITI Report were discussed on 22 February 2016 and some of them were addressed in the Supplementary 2014 EITI Report published on 11 April 2016. Other recommendations were considered in the 2016-2017 work plan – it is not specified which recommendation in particular. It is not clear which recommendations for the 2014 EITI Report the EITI Council decided to address. The progress report does not mention that in 2016 the EITI Council had established a working group to conduct a pre-validation assessment of the EITI implementation process in Tajikistan, nor does it outline the set of recommendations proposed by the working group and the suggested ways to address them.

Regarding the assessment of progress with regard to achieving work plan objectives, the 2015 Annual

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<sup>112</sup> Annual activity reports, available in Russian [here](#).

<sup>113</sup> The 2015 Annual Activity Report of Tajikistan, available in Russian [here](#).

Progress Report lists activities conducted under each objective in the work plan and an assessment of progress for each. The 2015 work plan has three objectives: 1. Organization of joint activities of multi-stakeholders in the EITI; 2. Preparation of the first EITI Report and 3. Validation. The listed objectives are not linked to national priorities and reflect rather technical aspects of the EITI implementation. The progress was measured based on whether all the activities were conducted, rather than on whether the objectives were achieved. The impact of the EITI process is not fully captured in the progress report. However, the objective #1 - Organization of joint activities of multi-stakeholders in the EITI – resulted in recommendations to the draft law on subsoil use. Objective #3 – Validation – resulted in conducting a self-assessment that revealed a number of gaps and weaknesses and led to recommendations and ways to address them.

The 2015 Annual Progress Report includes a narrative on strengths and weaknesses of the EITI process in Tajikistan. Advocacy on the EITI and capacity building for stakeholders were the main strengths of the process in 2014. The national EITI secretariat produced a video on EITI in Russian and Tajik, installed EITI banners on three billboards in Dushanbe, arranged a broadcasting of 3 audio clips on EITI on "Asia Plus" radio station for October-December 2015 and 22 news items and clippings were published on Asia Plus news outlet. The progress report notes an active engagement of the CSO Coalition "Transparency for Development", including capacity building, trainings for media and advocacy campaigns in the regions. There is a list of 15 media publications with dates of publication and online links. In addition to this, CSOs have developed a [deposits map](#) and a [directory for 20 biggest extractive companies](#) operating in Tajikistan.

Among the weak sides of the EITI implementation in Tajikistan are limited engagement of stakeholders and linking EITI objectives to national priorities. The progress report does not address an issue of a limited engagement, but it includes further steps on addressing the linkage to national priorities. There is no comment on extending the scope of reporting.

The 2015 Annual Progress Report contains details on the EITI Council meetings and members' attendance. Section 6 of the report documents financial expenses for the EITI implementation process.

The EITI Council meeting minutes from 11 April 2016 and 18 May 2016 provide evidence that the EITI Council members took part in preparing the 2015 Annual Progress Report by establishing the working group, sharing the draft report with all members, collecting and incorporating comments from stakeholders.

### Stakeholder views

A government representative on the EITI Council said that "The annual activity report helps us to track progress and shows where we need to pay attention and what issues to address. In the beginning the Council didn't do much work because of lack of access to funding. Within last few years we achieved much process and this report outlines and reflects our achievements." Another government representative concluded that EITI data is very important and should be used more by the media. However, the data should be also simplified so that all citizens could be aware of the management of the natural resources. "We are the part of the state and the micro level should know what is going on with its resources. I think this is the idea of the EITI. This wealth belongs to each citizen individually. The report diagnosis the management of the sector. We need to share the information, promote it and move

forward,” said the official.

A government representative commented that the draft Annual Progress Report was prepared by the national secretariat and shared among stakeholders for feedback. The Annual Progress Report is considered helpful in terms of tracking progress, identifying results and assessing gaps. It shows where the EITI Council should pay attention and what issues to address. It was highlighted that within last few years stakeholders achieved a big progress and that the APR outlines and reflects achievements.

An observer to the EITI Council explained that the annual progress report was useful in taking stock of the work plan and understanding what activities needed to be included in the next year’s work plan.

A civil society representative said that one Council member from each constituency was nominated to prepare the APR. The Coalition had gathered and collected information on their dissemination activities for inclusion in the APR. The APR was considered useful as it was an evaluation of the work done. It was a useful communication tool as those interested to learn about EITI and who may in the future become engaged could use it to learn more.

Another civil society member highlighted that the EITI Report started to generate discussion on about good practices in natural resource management.

### **Initial assessment**

The EITI Council has reviewed progress and outcomes of implementation on a regular basis, including by publishing annual progress reports over the past three years. Although these reports provide a useful snapshot of last year’s activities, they lack an assessment of the impact and outcomes of the objectives. Even though the EITI Council has started to address the recommendations from the 2014 EITI Report, the 2015 Annual Progress Report does not reflect this work, nor does it assess the impact of addressing the recommendations. The International Secretariat’s initial assessment is therefore that Tajikistan has made meaningful progress in meeting the requirement.

*Table 7 - Summary assessment table: Outcomes and impact*

<b>EITI provisions</b>	<b>Summary of main findings</b>	<b>International Secretariat’s initial assessment of progress with the EITI provisions (to be completed for ‘required’ provisions)</b>

Public debate (#7.1)	Tajikistan has only issued one EITI Report so far, and due to lack of funding there was a shortage of dissemination activities following the publication of the report. Nonetheless, civil society has played a crucial role in spreading and discussing the findings of the EITI Report in the regions and to some extent in the media. This includes developing materials to make the EITI report more accessible. While it is probably premature to conclude that the EITI has contributed to wide public debate about natural resource governance, there is clearly progress in the right direction.	Meaningful progress
Data accessibility (#7.2)	Tajikistan's 2014 EITI Report is not machine-readable. Tajikistan adopted the Classification system on revenues and expenditures with instruction of use, however, it does not seem to be used in the 2014 EITI Report.	
Lessons learned and follow up on recommendations (7.3)	The EITI Council has taken steps to act upon lessons learnt, to identify, investigate and address the causes of discrepancies and to consider the recommendations for improvements from the Independent Administrator for the 2014 EITI Report. The EITI Council also established a working group to assess the gaps and prepare to the validation. The working group released a comprehensive Pre-Validation Assessment Report that lists all existing gaps in the EITI implementation process in Tajikistan and recommendations on addressing the gaps.	Satisfactory progress
Outcomes and impact of implementation (#7.4)	The EITI Council has reviewed progress and outcomes of implementation on a regular basis, including by publishing annual progress reports over the past three years. However, the APR lacks an impact assessment and does not list recommendation from the 2014 EITI Report.	Meaningful progress
<p><b>International Secretariat's conclusions and recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The EITI Council should discuss the role the EITI could play in achieving national priorities and how it can generate public debate around natural resource use. It is encouraging that the EITI Council is currently drafting a communications strategy.</li> <li>2. The EITI Council should make sure that the next annual activity report includes a more detailed overview of responses from the Council members to the recommendations made by the Independent Administrator, as well as an assessment of the impact and outcomes of the stated objectives.</li> <li>3. The EITI Council is encouraged to provide more EITI data in open data formats.</li> </ol>		

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

### a) The impact of the EITI process in-country to date

The objectives for EITI implementation as agreed by the MSG are twofold: (1) to increase investment in

the extractive sector; and (2) to increase public awareness and participation in decision-making related to the extractive sector.

Despite limited experience with implementation, stakeholders pointed to a number of perceived impacts. Government officials highlighted four main impacts of the EITI, notably (1) **the role of the EITI in attracting foreign direct investment**. EITI was considered an opportunity for attracting large companies that can invest and generate resources that are needed for government reforms. There was no capacity among Tajik companies to develop the existing natural resources; (2) **the contribution of the EITI in making company activities and payments transparent, maximising opportunities for tax collection**; (3) **increased understanding of whether the current tax regime is fit for purpose or whether there are gaps in the system**. For example, there were ongoing debates related to whether the current signature bonus rates were fit for purpose; and (4) **enabling dialogue about other challenges in the sector such as licensing**. Some companies had faced challenges obtaining their licenses and the EITI was facilitating a dialogue on this issue. Government representatives also highlighted **that it was the first time in the history of the country that a comprehensive report on the extractive sector had been produced**, showing who is involved, the legal framework, explaining taxation etc. This was of tremendous value and helped ensure that people were not accusing the government of mismanagement of the sector. Finally, it was noted that last year the State Committee on Investment analysed the dynamics of the investment in the country and concluded that investment had increased since 2013. However, it was probably premature to attribute this positive trend to EITI implementation.

Companies said that EITI is a **good opportunity for companies to share experience and get to know each other**, not least given the lack of sector specific industry association and limited opportunities for companies to meet. It was also highlighted that a positive result of the EITI was the publication of the EITI report which contained useful and informative data. Furthermore it was noteworthy that the production of the report had been a consolidated effort of three parties.

Civil society noted that it was too early to talk about impact. However, MPs were increasingly expressing interest in the EITI and civil society was now focusing on working closely with the parliament to engage them in the EITI process and work with them on improving the legal framework governing the mining sector.

## **b) Opportunities for increasing the impact of the EITI**

Stakeholder consultations revealed a number of opportunities for increasing the impact of implementation:

- A company representative noted that there was no **culture of sharing information** in Tajikistan and it could be difficult for companies to obtain information such as data on which companies are involved in the extractive sector. When approaching the relevant authorities, the response was often that the information was not available to the public. The EITI could contribute to change this.
- A civil society representative commented that although it was widely known that Tajikistan was rich in mineral resources, the EITI had not yet touched upon transparency in **geological data**.

This could be considered for the future.

A government representative suggested that in the future, the EITI could focus more on **how the money from the extractive sector is being spent**. This was supported by civil society.

- Another government official also commented that 80% of investment is in the mining sector and the implementation of the EITI would allow for a more **transparent and efficient work of the companies investing** in the country. The awareness raising of the EITI among local communities and local extractive companies could help building trust and explaining how the industry works.
- Stakeholders also suggested that the EITI could be expanded to **other sectors** to cover construction or hydropower. Another opportunity could be to focus on **public procurement** in the extractive sector.
- Civil society said that EITI had not really started to look at the **environmental impacts** of mining, and this was one area that communities were keen to explore.
- A government official said that a major discussion at the moment was around **signature bonuses**, including how much it would be appropriate to charge, whether it should be a fixed bonus or dependent on the deposit, and whether it should be a one off payment or a staged payment. It was noted that the EITI could help by providing analysis on international standards and best practice, as well as examples of how this worked in other EITI countries.
- A government official said that in the future, there is a need for better analysis of the discrepancies in order to enable the government to **understand and address the root causes of discrepancies**.
- A government official noted that it would be desirable with more networking and peer learning activities in order to increase impact. Others noted that in order for the EITI to have an impact there needed to be greater public awareness raising and more engagement with decision-makers in the government.

## Annexes

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

Name	Organisation	Contact details
<i>Government</i>		
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Bahtiyer Kobilov	Ministry of Justice	<a href="mailto:b.kobilov@minjust.tj">b.kobilov@minjust.tj</a>
Abduvohid Kassirov	Ministry of Industry and New Technologies	<a href="mailto:a-kassirov@mail.ru">a-kassirov@mail.ru</a>
Idris Aminov	Ministry of Economic Development and Trade	<a href="mailto:aminov.idris@inbox.ru">aminov.idris@inbox.ru</a>
Davlat Khabibov	State Committee for Investments and State Property Management	<a href="mailto:d.khabibov@gmail.com">d.khabibov@gmail.com</a>
Markhabo Abdullaeva	Main Department of Geology	<a href="mailto:amm.61@mail.ru">amm.61@mail.ru</a>
<i>Industry members</i>		
Tatiana Kirilova	TA LLC JV "Anzob"	<a href="mailto:Kirillova@mail.ru">Kirillova@mail.ru</a>
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Daniel Zaretski	American Chamber of Commerce in Tajikistan	<a href="mailto:danielzaretsky@yahoo.com">danielzaretsky@yahoo.com</a>
<i>Civil society members</i>		
Tojinisso Azizova	CSO «Khukukshinson», Coordinator of the CSO Coalition	<a href="mailto:azizova_t@tsb.tj">azizova_t@tsb.tj</a>
Shahlo Juraeva	CSO Jahon	<a href="mailto:CSO.jahon@gmail.com">CSO.jahon@gmail.com</a>
Rafika Musayeva	CSO "Energy Association of RoT"	<a href="mailto:musaevarafika@mail.ru">musaevarafika@mail.ru</a>
Zarina Khalikova	CSO Support Centre	<a href="mailto:z_khalikova@mail.ru">z_khalikova@mail.ru</a>
Avganov Temurali	External expert, AmonatBank	<a href="mailto:tavganov@amonatbank.tj">tavganov@amonatbank.tj</a>
Atoev Asomiddin	Association of Internet Providers of RoT	<a href="mailto:asomiddin@gmail.com">asomiddin@gmail.com</a>

## Annex B - List of stakeholders consulted

### Government

Abdulvohid Kasirov, Deputy Chief of Department of Mining Industry and Precious Metals, Ministry of Industry and New Technologies

Ahliddin Nuriddinzoda, Director of Program on "Access to green financing and finance on development of rural areas", Ministry of Finance

Bakhtior Zukhurov, Head of Department of Fiscal Policy in the Sectors of the Real Economy, national coordinator on EITI, Ministry of Finance

Bakhtiyor Kobilov, Head of Department on International Cooperation and Legal Support to Tajikistan's participation in international agreements, Ministry of Justice

Bezhan Azonov, Ministry of Economic Development

Davlat Khabibov, Deputy Director of SOE "TadzhInvest", under the State Committee on Investment and State Property

Emomuddin Asozoda, Deputy Minister of Energy and Water Resources

Khursand Vafobekov, Head of Department of Investments promotion, State Committee on Investment and State Property

Khurshed Kosimov, Chief of Department on economic analysis and international relations, State Agency on Statistics

Markhabo Abdullaeva, Deputy Head of the Main Geology Department

Mehrinamo Dzhonmamadova, Deputy Minister of Finance

Vazir Sobirchov, Head of Department on customs, State Custom Committee

### Industry

Aziz Toshmatov, consultant, Bokhtar Operating Company

Bobo Bobokhonov, JV "Zerafshan"

Daniel Zaretsky, Director of American Chamber of Commerce in RT

Isojon Davlafov, CNPC Central Asia B.V. in the RT

### Civil Society

Anna Shukurov, Union of Professionals Consultants

Kamol Obidov, professor at the university

Myazzama Burkhanova, CSO

Rafika Musayeva, CSO "Energy Association of RoT"

Rano Dzhumayeva, CSO "KOTS Tomiris"

Shahlo Dzhurayeva, CSO Jahon

Timurali Afganov, Amonat Bank

Tojinisso Azizova, coordinator of the CSO Coalition "Transparency for Development"

Zarina Khalikova, Director of CSO Support Centre

**Media**

Zarina Asia Plus

Larisa

**Others**

Bakhtiyor Rustamov, Audit and assurance manager, BDO (Independent Administrator)

Dilovar Munavarov, Program Director, OSI Soros Foundation

Firuz Bulbulov, Managing Partner, BDO (Independent Administrator)

Ilhom Abdulloev, Executive Director, OSI Soros Foundation

Nargiz Akdodova, GIZ National Coordinator in Tajikistan (Mineral Resources for Development Central Asia)

Nasima Nazrieva, ex-program manager at OSI Soros Foundation

Shuhrat Mirzoyev, Advisor, DFID Dushanbe

Zuhra Khalimova, Ex- Executive Director of OSI SF Tajikistan

## Annex C - List of reference documents

### MSG Minutes

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<https://drive.google.com/open?id=0B04mMaoOD1P8b3lyazQ2aTFneUk>
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- MSG meeting minutes, 15 March 2013:  
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