

Second Validation of the Kyrgyz Republic: Final assessment by the EITI International Secretariat

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List of acronyms

AFS	Audited financial statement	KSE	Kyrgyz Stock Exchange
APR	Annual Progress Report	LGU	Local government units
BO	Beneficial ownership	LLC	Limited Liability Company
CEO	Chief Executive Officer	MOU	Memorandum of Understanding
CJSC	Closed Joint Stock Company	MSG	Multi-stakeholder group
CSO	Civil society organisation	NGO	Non-governmental organisation
EBRD	European Bank for Reconstruction and Development	NSC	National Statistics Committee
EFCA	Eurasia Foundation of Central Asia	OGP	Open Government Partnership
EITI	Extractive Industries Transparency Initiative	OJSC	Open Joint Stock Company
GAMSUMO	State agency for local self-governance	OO	OpenOwnership
GDP	Gross domestic product	QFE	Quasi-fiscal expenditure
IA	Independent Administrator	SAGMR	State Agency for Geology and Mineral Resources
IBC	International Business Council	SB	Supervisory Board
IMF	International Monetary Fund	SCIESU / GKPEN	State Committee for Industry, Energy and Subsoil Use
INN	Tax Identification Number in Kyrgyzstan	SCS	State Custom Service
ISA	International Standards on Auditing	SOE	State-owned enterprise
ISRS	International Standard on Related Services	SPMF	State Property Management Fund
KEITI	Kyrgyzstan Extractive Industries Transparency Initiative	STS	State Tax Service
KGS	Kyrgyz soms	TOR	Terms of Reference
		URL	Uniform Resource Locator / hyperlink
		USD	United States Dollar

1. Summary

Kyrgyz Republic's second Validation commenced on 2 October 2019. The EITI International Secretariat has assessed the progress made in addressing the 20 corrective actions established by the EITI Board following Kyrgyz Republic's first Validation in 2016.¹ The 20 corrective actions relate to:

1. Government engagement (*Requirement 1.1*)
2. MSG governance (*Requirement 1.4*)
3. License allocations (*Requirement 2.2*)
4. License register (*Requirement 2.3*)
5. Contract disclosure (*Requirement 2.4*)
6. State participation (*Requirement 2.6*)
7. Production data (*Requirement 3.2*)
8. Export data (*Requirement 3.3*)
9. Infrastructure provisions and barter arrangements (*Requirement 4.3*)
10. Transportation revenues (*Requirement 4.4*)
11. Transactions involving SOEs (*Requirement 4.5*)
12. Subnational direct payments (*Requirement 4.6*)
13. Data quality and assurance (*Requirement 4.9*)
14. Subnational transfers (*Requirement 5.2*)
15. Social expenditures (*Requirement 6.1*)
16. SOE quasi-fiscal expenditures (*Requirement 6.2*)
17. Contribution of the extractive sector to the economy (*Requirement 6.3*)
18. Public debate (*Requirement 7.1*)
19. Discrepancies and recommendations from EITI Reports (*Requirement 7.3*)
20. Outcomes and impact of EITI implementation on NR governance (*Requirement 7.4*)

The International Secretariat's assessment is that the Kyrgyz Republic has fully addressed twelve of the 20 corrective actions, having made "satisfactory progress" on ten of the corresponding requirements, with two requirements now assessed as "not applicable". The assessment of Requirements 1.4 (MSG governance) and 3.3 (export data) as "satisfactory progress" is subject to the EITI Board's consideration of developments subsequent to the commencement of Validation. The International Secretariat's assessment is that the Kyrgyz Republic has partly addressed the other eight corrective actions. In addition, the Secretariat's assessment is that there has been back-sliding in Requirement 4.1 on the comprehensiveness of disclosures.

The draft assessment was sent to the Kyrgyz Republic EITI Supervisory Board (local MSG) on 16 June 2020. Following comments from the Supervisory Board submitted on 3 August 2020, the assessment was finalised for consideration by the EITI Board. The Supervisory Board provided comments related to government engagement (1.1), license allocations (2.2), production data (3.2) and comprehensiveness of reporting (4.1). These comments are reflected in the documentation of progress below.

¹ <https://eiti.org/document/validation-kyrgyz-republic-2016-reports>

2. Scorecard

EITI Requirements		Level of progress					Direction of Progress
Categories	Requirements	No progress	Inadequate	Meaningful	Satisfactory	Beyond	
Kyrgyz Republic second Validation scorecard							
MSG oversight	Government engagement (#1.1)			Meaningful			→
	Industry engagement (#1.2)				Satisfactory		-
	Civil society engagement (#1.3)				Satisfactory		-
	MSG governance (#1.4)				Satisfactory		→
	Work plan (#1.5)				Satisfactory		-
Licenses and contracts	Legal framework (#2.1)				Satisfactory		-
	License allocations (#2.2)			Meaningful			→
	License register (#2.3)			Meaningful			→
	Policy on contract disclosure (#2.4)				Satisfactory		→
	Beneficial ownership (#2.5)						-
	State participation (#2.6)			Meaningful			→
Monitoring production	Exploration data (#3.1)				Satisfactory		-
	Production data (#3.2)			Meaningful			→
	Export data (#3.3)				Satisfactory		→
Revenue collection	Comprehensiveness (#4.1)			Meaningful			←
	In-kind revenues (#4.2)						-
	Barter agreements (#4.3)						→
	Transportation revenues (#4.4)						→
	SOE transactions (#4.5)			Meaningful			→
	Direct subnational payments (#4.6)			Meaningful			→
	Disaggregation (#4.7)				Satisfactory		-
	Data timeliness (#4.8)				Satisfactory		-
	Data quality (#4.9)				Satisfactory		→
Revenue allocation	Distribution of revenues (#5.1)				Satisfactory		-
	Subnational transfers (#5.2)			Meaningful			→
	Revenue management & expenditures (#5.3)						-
Socio-economic contribution	Social expenditures (#6.1)				Satisfactory		→
	SOE quasi-fiscal expenditures (#6.2)				Satisfactory		→
	Economic contribution (#6.3)				Satisfactory		→
Outcomes and impact	Public debate (#7.1)				Satisfactory		→
	Data accessibility and open data (#7.2)						-
	Recommendations from EITI (#7.3)				Satisfactory		→
	Outcomes & impact (#7.4)				Satisfactory		→

Legend to the assessment card

	No progress. All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
	Inadequate progress. Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
	Meaningful progress. Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
	Satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
	Outstanding progress. The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

3. Background

The Kyrgyz Republic was admitted as an EITI Candidate in September 2007 and was designated compliant with the EITI Rules in March 2011. The first Validation of the Kyrgyz Republic against the EITI Standard commenced on 1 July 2016. On 8 March 2017, the EITI Board found that the Kyrgyz Republic had made an inadequate progress in implementing the 2016 EITI Standard. Twenty corrective actions were identified by the Board, pertaining to the following requirements: government engagement (#1.1), MSG governance (#1.4), license allocations (#2.2), license register (#2.3), contract disclosure (#2.4), state participation (#2.6), production data (#3.2), export data (#3.3), infrastructure provisions and barter arrangements (#4.3), transportation revenues (#4.4), transactions involving SOEs (#4.5), subnational direct payments (#4.6), data quality and assurance (#4.9), subnational transfers (#5.2), social expenditures (#6.1), SOE quasi-fiscal expenditures (#6.2), contribution of the extractive sector to the economy (#6.3), public debate (#7.1), discrepancies and recommendations from EITI Reports (#7.3) and outcomes and impact of EITI implementation (#7.4).

The Board asked the Kyrgyz Republic to address these corrective actions to be assessed in a second Validation commencing on 8 September 2018. Upon two extension requests from the Supervisory Board (SB), the Board extended the Kyrgyz Republic's Validation deadline to 2 October 2019.

The Kyrgyz Republic has undertaken a number of activities to address the corrective actions:

- On 7 April 2017, the Supervisory Board agreed an action plan to address the corrective actions.
- In March 2017 the civil society and company constituencies developed and approved their respective nomination procedures to address corrective action #2.
- On 7 April 2017, the Supervisory Board updated and published the EITI work plan for 2017-2018.
- On 25 March 2017, the Supervisory Board approved the ToRs for the 2015-2017 EITI Report.
- On 27 June 2018, the Supervisory Board approved and published Kyrgyz Republic's 2017 Annual Progress Report.

- On 4 January 2019, the government approved Regulation #631 on Improving the EITI Process that include changes to the Supervisory Board Memorandum of Understanding.
- On 10 January 2019, the Supervisory Board approved and published the 2019 work plan.
- On 12 March 2019, the Supervisory Board appointed the Independent Administrator to prepare the 2015-2017 EITI Report.
- On 22 June 2019, the Supervisory Board approved and published Kyrgyz Republic's 2018 Annual Progress Report.
- On 7 June 2019, the Supervisory Board approved and published the 2015-2017 EITI Report.
- On 16 September 2019, the State Committee on Industry, Energy and Subsoil Use organised the EITI national conference² and a press briefing.³
- In July-September 2019, the CSO Coalition conducted EITI dissemination activities in Bishkek and five extractive regions, namely Chatkal, Ala-Buka, Kochkor, Ton and Talas.
- In August-September 2019 the CSO Coalition conducted three press briefings to inform media about the EITI and its recently published report. The three press briefings resulted in 25 publications related to the EITI.
- In August 2019, the CSO Coalition organized a mass media contest on the best publication on EITI. On 27 September, the contestants attended the award ceremony with the participation of Karybek Ibrayev, Supervisory Board Chair and KEITI Secretariat.
- In September 2019, the State Committee on Energy, Industry and Subsoil use conducted EITI dissemination activity in the Ala-Buka region.

In addition to this, the Supervisory Board conducted a mainstreaming feasibility study⁴ with support from the EITI International Secretariat. The recommendations from the study were endorsed by the government and the Supervisory Board members.

The following section addresses progress on each of the corrective actions. The assessment is limited to the corrective actions established by the Board and the associated requirements in the 2016 EITI Standard. The assessment follows the guidance outlined in the Validation Guide.⁵ In the course of undertaking this assessment, the International Secretariat has also considered whether there is a need to review additional requirements, i.e. those assessed as “satisfactory progress” or “beyond” in the 2017 Validation. While these requirements have not been comprehensively assessed, in the Secretariat's view there has been back-sliding in Requirement 4.1 on the comprehensiveness of disclosures.

4. Review of corrective actions

As set out in the Board decision on the Kyrgyz Republic's first Validation, the EITI Board agreed 20 corrective actions. The Secretariat's assessment below discusses whether the corrective actions have been sufficiently addressed. The assessments are based on the 2018-2019 work plan, the 2015-2017 EITI Report, the 2017 and 2018 annual progress reports, and minutes of the Supervisory Board meetings from March 2017 to October 2019, alongside various documents submitted by the national secretariat to the International Secretariat, e-mail correspondence, and stakeholder consultations (in-person and via Skype).

² Press release on the EITI National Conference in Bishkek, accessed [here](#) in December.

³ GKPN Press briefing, accessed [here](#) in December 2019.

⁴ Mainstreaming feasibility study of the Kyrgyz Republic, accessed [here](#) in December.

⁵ https://eiti.org/sites/default/files/documents/validation-guide_0.pdf

4.1 Corrective action 1: Government engagement (#1.1)

In accordance with Requirement 1.1.c, the government must be fully, actively and effectively engaged in the EITI process. In accordance with Requirement 8.3.c, the Supervisory Board is required to disclose a time-bound action plan for addressing the deficiencies in government engagement documented in the initial assessment and the Validator's Report within three months of Board's decision, i.e. by 8 June 2017.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress in meeting this requirement. While initial stages of EITI implementation were characterized by strong government commitment, implementation leading to the first Validation was affected by a lack of political support. This resulted in a lack of political oversight of implementation and a process that did not effectively address the governance challenges in the mining sector. Although the government did show some renewed initiative and engagement, and was commended for initiating a renewal of the Supervisory Board (SB), it was difficult to conclude that the government had been fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process.

Progress since Validation

Action Plan: On 7 April 2017, the Supervisory Board (national multi-stakeholder group) agreed a time-bound action plan to address the corrective actions from the first Validation, including resolving weaknesses in the government's engagement. The action plan includes actions related to Requirement 1.1 on government engagement in the EITI and actions related to other requirements that require full government involvement. In particular, the main action point related to government engagement stipulates that the State Committee on Industry, Energy and Subsoil Use (SCIESU) should document the government actions related to the EITI and report them on an annual basis. Other actions relate to the government addressing corrective actions on licensing procedures (Requirement 2.2), license register (2.3), production data (3.3), contract transparency (2.4), state participation (2.6), financial relationship of SOEs (4.5) and their quasi-fiscal expenditures (6.2), sub-national transfers (5.2), contribution to the economy (6.3) and follow up on recommendations (7.3). On 2 March 2018, Askar Shadiyev, First Vice Prime Minister of the Kyrgyz Republic, issued Order 15-7610 on addressing the EITI corrective actions. The action plan, developed by SCIESU and the Supervisory Board, was enshrined in the SCIESU order 01-7/339 on implementing the action plan on addressing the corrective actions.⁶

Public statement: While there is no evidence of public statements of support for EITI implementation from high-level government officials in the March 2017-October 2019 period, there have nonetheless been such statements in the context of the EITI events. In October 2017 at the Beneficial Ownership Conference in Jakarta, Ulanbek Ryskulov, Chairman of SCIESU, expressed the government's commitment to BO transparency as a part of EITI implementation.⁷ In June 2018, Aibek Asanov, State Secretary of SCIESU, expressed commitment to continue implementing the EITI and to openly disclose the beneficial owners of extractive companies at the EITI BO Regional Eurasia roundtable, a side event at the OGP Summit in Tbilisi. In August 2018, during the signing of a Memorandum of Understanding

⁶ SCIESU Order #01-7/339, available [here](#), accessed in December 2019.

⁷ Kyrgyzstan receives the first EITI Chair's Award for Beneficial Ownership Transparency, news item available [here](#), accessed in November 2019.

(MoU) with Open Ownership, the government committed to EITI implementation and to establish a publicly accessible register of the beneficial owners.⁸ In January 2019, Kubatbek Boronov, Vice Prime Minister met with the EITI International Secretariat and expressed the government's commitment to implement the EITI and prepare for the second Validation. On 19 March 2019, at the BO Regional Workshop in Manila⁹, Ekmat Baipakpayev, member of Parliament, highlighted the importance of the EITI and confirmed political commitment to further BO reforms. At the EITI National Conference¹⁰ in the Kyrgyz Republic, Karybek Ibrayev, Deputy Chairman of SCIESU as well as Aibek Akmoldoyev, State Secretary, highlighted the importance of implementing the EITI for the government and announced that EITI requirements on transparency of the extractive sector were included in the Mining development and subsoil protection concept for 2019-2024¹¹. At the same EITI Conference, Ekmat Baipakpayev, member of Parliament and the EITI National Coordinator, highlighted the importance of the government following EITI Requirements for the mining sector.

The Kyrgyz Republic joined the Open Government Partnership (OGP) in 2018. The Kyrgyz Republic's OGP National Plan included only one commitment related to the extractive industries, particularly a commitment (number 18) on disclosure of mining data at a license level.¹²

Senior lead: EITI implementation in the Kyrgyz Republic is currently led by the State Committee for Industry, Energy and Subsoil Use (SCIESU). Government Decree #61 on 29 January 2018 appoints the SCIESU to coordinate the EITI process in the country. From September 2017 to August 2018 the EITI Champion was Ulanbek Ryskulov, Chairman of SCIESU, who received the EITI Chair's award for Beneficial Ownership Transparency in June 2019.¹³ Emil Osmonbetov, Chair of the SCIESU took over the leading role in EITI implementation in September 2018. Since April 2019 Deputy Chairman of SCIESU Karybek Ibrayev has been the EITI Champion and Deputy Chair of the Supervisory Board. The Supervisory Board also noted in their comments that, as of recently, a new EITI Champion and Deputy Char has been appointed, Deputy Chairman of SCIESU Mr Akyl Toktobayev.

Active engagement: Since the first Validation, government engagement has significantly improved. SCIESU Chairman Ulanbek Ruskulov's leadership of EITI since September 2017 has been a turning point in increasing government's engagement. Focused on licensing procedures, the license register and beneficial ownership, Ulanbek Ruskulov actively used the EITI to support the government's agenda.

In addition to the Chair, the government is represented at the Supervisory Board by five members: Asylbek Yermakov, Deputy Head of the State Tax Service (STS); Elnura Mambetjunusheva, Deputy Head of the State Custom Service (SCS); Suerkul Abdylbaly, Deputy Minister of Finance; Avtandil Alybaev, Deputy Minister of Economy; Azamat Orosbayev, Deputy Head of the National Statistic Committee (NSC); and Murat Baydyldayev, Deputy Director of the State Property Management Fund (SPMF). The Supervisory Board was also enlarged by including two members of Parliament, Ekmat Baipakpayev and Aynuru Altybayeva, to address the corrective action on Requirement 1.4 and recommendations from the institutional set-up study conducted in 2015.

Attendance of government members of the Supervisory Board was consistent in 2017-2019 based on a review of meeting minutes and attendance. Some high-level Supervisory Board members often

⁸ News item on MoU with OpenOwnership and the Kyrgyz Republic, available [here](#), accessed in December 2019

⁹ BO Regional Workshop in Manila, news item, available [here](#), accessed in December 2019.

¹⁰ News item on the EITI National Conference, available [here](#), accessed in December 2019.

¹¹ Mining development and subsoil protection concept for 2019-2024, accessed [here](#) in December 2020.

¹² Kyrgyz Republic's OGP National Action Plan, available [here](#).

¹³ News item on BO conference in Jakarta, available [here](#), accessed in November 2019.

delegated their responsibility to proxies; whose attendance at meetings has been consistent. According to 2017-2019 meeting minutes¹⁴, government Supervisory Board members provided feedback and openly commented on agenda items, including work plans, annual progress reports (APRs) and the EITI Report. There is evidence that government representatives have engaged in outreach and dissemination activities, the launch of the 2015-2017 EITI Report, beneficial ownership related workshops and capacity-building events and media briefings.

In accordance with the government's 2017 action plan, SCIESU introduced amendments to the Subsoil Law making EITI reporting, beneficial ownership and license agreement transparency mandatory. The amendments were signed by the President in May 2018, laying the foundation for systematic disclosures and BO transparency. SCIESU also supported work on a mainstreaming feasibility study in February 2018 and endorsed the recommendations of the study.

On 13 July 2018, SCIESU issued a decree to enforce the action plan on addressing the corrective actions.¹⁵ The regulation on mandatory company reporting was adopted on 25 December 2018 by amending government Decree #317.¹⁶ The Decree approved new reporting templates, in accordance with the 2016 EITI Standard and recommendations from Validation, and mandated the NSC to submit the relevant information to SCIESU by 1 August annually. For companies, their reporting templates incorporate both EITI and regular government reporting in a single form. At the same time, SCIESU amended its license register to include coordinates of license areas and dates of applications. The BO regulation is under the government's review and is expected to be approved in 2020. In August 2018, the government signed an MoU with OpenOwnership (OO)¹⁷ to build a publicly accessible register aligned with the global BO open data standard.

On 19 September 2019, SCIESU organised the EITI national Conference to present the 2015-2017 EITI Report. The government representatives also participated in press briefings and outreach and dissemination activities in the Dzhallaabad region.

Nonetheless, the government's efforts to secure funding for the EITI were unsuccessful. The SCIESU submitted several requests to the Ministry of Finance to include EITI reporting into the state budget. However, those were rejected due to the budget deficit. The Supervisory Board failed to fundraise for the EITI as well. The government's attempts to raise grant funding from donors such as the World Bank were unsuccessful in the 2018-19 period. Provision of funding for the EITI process remains an urgent issue that the government should address. Securing funding for the EITI process would be essential for sustainable implementation of all aspects of the EITI implementation, including for activities, disclosures and dissemination of EITI-related data, as well as the government's plans to transition to mainstreaming.

According to stakeholder consultations, SCIESU conducted EITI dissemination activity in the Ala-Buka region in September 2019. Government representatives also joined other outreach, dissemination and media events related to the EITI. Comments from stakeholders consulted and a review of Supervisory Board attendance reflect consistently strong participation from government representatives.

¹⁴ Supervisory Board meeting minutes, accessed [here](#) in December 2019.

¹⁵ SCIESU Order #01-7/339, available [here](#), accessed in December 2019.

¹⁶ Amended government Decree #317 on improving the EITI process in the Kyrgyz Republic, accessed [here](#) in November 2019.

¹⁷ News item on the MoU between Kyrgyz Republic and OpenOwnership, accessed [here](#) in December 2019.

In its comments on the draft assessment, the Supervisory Board recognised the difficulties in ensuring adequate and sustainable funding for EITI activities. However, the Supervisory Board argues that EITI Requirement 1.1.c only requires that the government “participate fully, actively and effectively in the EITI process”, without reference to the provision of funding. The Supervisory Board did not comment on provisions of the Validation guide, which specifies that evidence of such participation could include provisions of funding.¹⁸ The Supervisory Board summarises the government’s efforts to facilitate fundraising for EITI, including funding requests to the Ministry of Finance for annual funding as well as to international development partners such as the World Bank, USAID, the European Bank for Reconstruction and Development, and GIZ.¹⁹ The Supervisory Board highlighted that the SCIESU covered expenses for all EITI meetings, seminars and conferences, and that the SCIESU had responded to the lack of funding by pursuing systematic disclosure of EITI data on their websites.

Secretariat’s Assessment

The International Secretariat’s assessment is that the corrective action on government engagement has been partly addressed and that the Kyrgyz Republic has made meaningful progress with considerable improvements on Requirement 1.1. The government has demonstrated increased engagement in EITI at a high level, a commitment that appears consistent across relevant government entities. There have been regular public statements of support from the government and a senior government official has been appointed to lead EITI implementation since 2017. Senior government officials are represented on the Supervisory Board and appear effectively engaged in all aspects of EITI implementation. However, government provision of funding and outreach to potential donors have been unsuccessful in ensuring sustainable funding for implementation in the 2017-2019 period. While recognising funding shortages, the Supervisory Board’s comments on the draft assessment challenged the fairness of the draft assessment and referenced several activities to secure funding for EITI implementation. Despite prospects for future funding of EITI implementation from development partners like the World Bank, the shortfalls in funding during the period under review (2017-2019) have caused challenges both for EITI reporting as well as outreach and dissemination. Therefore, while many aspects of this requirement have been addressed, the overall objective of effective government engagement in all aspects of EITI implementation has not yet been fully achieved.

In accordance with Requirement 1.1.c, the Kyrgyz Republic should ensure that there is sustainable funding for all aspects of the EITI implementation, including for activities, disclosures and dissemination of EITI-related data, as part of its full, active and effective engagement in the EITI process. The provision of funding could include funding from both development partners and government allocations to support all aspects of the annual EITI work plan. To strengthen implementation, the Kyrgyz Republic is encouraged to explore ways of enhancing government leadership of the transition to systematic disclosures.

4.2 Corrective action 2: MSG governance (#1.4)

In accordance with Requirement 1.4.b.vi, Supervisory Board should agree and publish its procedures for nominating and changing multi-stakeholder group representatives. This should include ensuring that there is a process for changing group members that respects the principles set out in

¹⁸ EITI (2020), ‘Validation Guide’. Available at: <https://eiti.org/document/eiti-validation-guide>

¹⁹ For additional details, please consult the “Comments of the Supervisory Board on EITI implementation in the Kyrgyz Republic to the draft report “Second Validation of the Kyrgyz Republic: Preliminary assessment of the International EITI Secretariat”. Available at: <https://eiti.org/document/kyrgyz-republic-validation-2019>

Requirement 1.4.a. Supervisory Board should undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society (Requirement 1.4.b.ii).

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress towards meeting this requirement. A multi-stakeholder group - the Supervisory Board - had been established, and there had been commendable steps to refresh membership. Although a key government entity - the Department of Natural Resources in the Prime Minister's Office - was not represented on the SB, this was offset by the fact that the State Committee in charge of EITI implementation at the time of the assessment assumed mining policy responsibilities in addition to regulatory responsibilities. The SB comprised relevant and appropriate actors from other stakeholder groups, although the refreshment process was rushed and did not take into account recommendations from the institutional set up study, such as including Parliamentarians, media and academia on the SB. None of the stakeholders consulted raised major concerns about the composition or stakeholder representation at the time of the assessment.

While the ToRs suggested that civil society and companies were free to elect their members in a fair manner according to their criteria, there were no firm rules and procedures for selection and election of candidates. This was particularly apparent with regards to the civil society election process. Despite re-launching the nomination process for civil society, there were several questions around how the process had been conducted. Although attempts were made to circulate the call for nomination to a wider group of civil society, there was limited outreach in advance of the nomination process and no attempts to gather civil society to discuss the EITI representation at the SB and the role of civil society and agree on guidelines and procedures for selection of candidates. For example, EFCA did not participate in the second round of nominations and claimed it was excluded from the second nomination round. It was not clear how the seven CSOs who eventually decided on the CSO SB membership obtained their mandate to run the election process. Such developments raised concerns about the transparency and inclusiveness of the nomination process for civil society. The Supervisory Board should have been more precise about the election procedures, including how to replace SB members during a term. It was recommended to have a broader and more nuanced discussion about what constitutes a conflict of interest.

With regards to the functioning of the SB, a lack of clear ToRs led to inconsistency in membership and stakeholders' participation, frequency of meetings and decision making. This had been partially addressed through the adoption of a new MoU that considered most of the requirements of the 2013 EITI Standard. The SB was urged to apply the MoU in practice and continue to improve its functioning and governance practices.

Progress since Validation

SB composition and membership: The Kyrgyz Republic EITI (KEITI) Supervisory Board (SB) is governed by Regulation 631 on Improving the EITI Process issued on 4 January 2019²⁰ and the SB's 2016 MoU.²¹ The SB appears to comprise relevant and appropriate actors from each constituency. The SB

²⁰ Regulation #631 on Improving the EITI Process, accessed [here](#) in January 2020.

²¹ Supervisory Board MoU of 30 June 2016, accessed [here](#) in January 2020.

considered recommendations from the institutional set up study conducted in 2015 and the Validation corrective actions to expand the membership by adding parliamentarians and relevant government entities. As a result, government representatives from the Ministry of Economy and the State agency for local self-governance (GAMSUMO) as well as Members of Parliament were added to the Supervisory Board (see Requirement 1.1). Currently the Supervisory Board comprises 19 members, including seven from government, five from civil society, five from companies and two from Parliament alongside the SCIESU Chair as SB Chair.

Civil society representation: Civil society nomination procedures were approved in March 2017.²² Previously, the CSO constituency had elected its representatives to the SB on 31 March 2016. The CSO SB composition was renewed in 2018, following resignation of two CSO members, namely Abdylida Temirberdiyev and Nurbek Taktakunov. Abdylida Temirberdiyev could not attend the SB meetings due to funding constraints and was replaced by the current CSO Consortium Coordinator, Mirlan Dyikanbayev. In addition, Nurbek Taktakunov asked to be replaced by his colleague Myuntai Bazarbaiva, given that he did not have time to dedicate to SB meetings as the head of NGO “Precedent”. The CSO Consortium Council approved both changes.

The civil society constituency started the process of renewing its SB representation on 14 November 2019, after the commencement of the second Validation. The nomination process was still ongoing at the time of stakeholder consultations. The CSO nomination process was conducted according to the March 2017 nomination procedures that set out the criteria for nominees’ eligibility, the selection process, the mandate and the roles and responsibilities of civil society SB members. The procedures also define conflicts of interest for CSO wishing to put their name forward for the Supervisory Board. The nomination process was widely and openly advertised, including on the SCIESU website²³ and CSO Consortium Facebook page.²⁴ The deadline for nomination was 2 December 2019. Six submissions were collected by CSO Consortium coordinator Mirlan Dykanbayev and reviewed by the CSO Consortium Council’s election council of former CSO SB members and CSO Consortium members. This included three members from the CSO Consortium and three from other organisations not members of the Consortium. Following a vote on 13 January 2020, five CSOs²⁵ were elected to the Supervisory Board and the sixth was offered a post as alternate.

Civil society’s new SB membership comprises five members: Chinara Aytbayeva, Nash Vek Foundation, Saliya Akulova, NGO “Agenty Peremen”, Mirlan Dyikanbayev, CSO Consortium, Nazik Imanbekova, information centre “Elnaz”, Chyngyz Karymshakov, private legal expert, became the SB members from civil society.

Members of the CSO Consortium consulted confirmed that the invitation to participate in the nomination process was open, transparent and widely advertised, and extensively advertised during outreach and dissemination activities undertaken by the CSO Consortium in July-September 2019 in Bishkek and five extractive regions. The nomination procedures were not limited to members of the CSO Consortium.

Industry representation: The industry constituency is represented by the International Business Council (IBC) and the Mining Association. Four seats belong to the IBC and one to the Mining Association. Both organisations follow the nomination procedures that were established in March

²² CSO nomination procedures, accessed [here](#) in January 2020.

²³ CSO nomination advertisement, accessed [here](#) in January 2020.

²⁴ CSO Consortium Facebook page, accessed [here](#) in January 2020.

²⁵ Chinara Aytbayeva, Nash Vek Foundation, Saliya Akulova, NGO “Agenty Peremen”, Mirlan Dyikanbayev, CSO Consortium, Nazik Imanbekova, information centre “Elnaz”, Chyngyz Karymshakov, private legal expert, became the SB members from civil society.

2017, following recommendations from the Validation. The company nomination procedures²⁶ include the criteria for nominees, the selection process, the mandate and the roles and responsibilities of SB members.

The representatives of IBC explained that the nomination process is carried out through internal circular, inviting the members of the Mineral Resource Committee at IBC to nominate their candidates to the SB. The representatives of the Mining Association confirmed that they were following a similar process. Both organisations are limited to their members and partners only, however they confirmed that they would welcome interest from non-member companies. While there is little documentary evidence of statutory industry nominations procedures, there was consensus among industry stakeholders consulted that the process was consensual. The constituency guidelines for nomination were developed prior to the commencement of Validation (2 October 2019), however the nomination processes for both the industry and civil society constituencies started in November 2019 after the commencement of Validation and were concluded in January 2020.

Government representation: Government representation appears to be determined in Regulation #631 on Improving the EITI Process from 4 January 2019, namely through appointment by the heads of their representative institutions. In January 2019, the composition of the government constituency expanded by two members, namely the Ministry of Economy and the GAMSUMO, in line with the recommendation from the institutional set up study and the corrective action related to Requirement 1.4.

MSG Terms of Reference: The SB has agreed ToRs in its MoU, available on KEITI website²⁷. Regulation #631 on Improving the EITI Process from 4 January 2019 introduced changes to the composition of the SB, particularly in the expansion of the government representation and addition of two representatives from Parliament. The MoU outlines roles, responsibilities and rights of the Supervisory Board and includes requirements for the SB to oversee EITI reporting process, namely agreeing the Terms of Reference for the Independent Administrator (IA), overseeing the appointment of the IA and approving EITI reports; as well as approving annual work plans and annual progress reports. As described in the Kyrgyz Republic's first Validation, the MoU covers all aspects listed under Requirement 1.4.b. Based on review of SB meeting minutes and stakeholder consultations the MoU appears to be followed in practice.

Internal governance and procedures and decision-making: Evidence made available during Validation and stakeholder consultations confirmed that the SB adhered to its MoU in the 2017-2019 period. Review of SB meeting minutes on the KEITI website and attendance charts indicate that the SB met four times in 2017, three times in 2018 and five times in 2019.²⁸ All stakeholders consulted confirmed that any SB member was able to table issues for discussion and that notice of meetings and circulation of relevant documents were done sufficiently in advance of SB meetings. Stakeholders consulted, including from civil society, confirmed that SB deliberations and decisions since the first Validation had treated all constituencies as equal partners. Government and company representatives acknowledged that civil society was the most proactive stakeholder. SB members consulted confirmed that all SB decisions in the 2017-2019 period had been taken by consensus, as confirmed in a review of SB meeting minutes.

²⁶ Company nomination procedures, accessed [here](#) in January 2020.

²⁷ Supervisory Board MoU, accessed [here](#) in January 2020.

²⁸ KEITI website, SB meeting minutes section, accessed [here](#) in January 2020.

Record-keeping: The KEITI Secretariat publishes minutes from each SB meeting, and these are made publicly available.²⁹

Per diems: There is no practice of per diem payments. The International Secretariat's understanding is that SB members are able to sometimes recover some costs associated with travelling to Bishkek to attend SB meetings.

Attendance: An attendance chart shows³⁰ that the meetings are mostly well attended and quorate. The MoU includes provisions for observers. Provision 5.1 of the MoU sets out procedures for proxies if needed.

National Secretariat: The EITI national secretariat provides support to the SB, including supporting SB meetings, coordinating the meetings of the government representatives, documenting SB discussions and decisions, procurement and liaison with the IA, liaison with the EITI International Secretariat, and updating the KEITI website. The secretariat comprises of a single member of staff, Altynai Sydykova, and is funded from EBRD regional programme on BO transparency. The funding was set to run out in December 2019. In addition to fundraising efforts, SCIESU is considering the appointment of a staff member to support the EITI process full time.

Secretariat's Assessment

Subject to the Board's consideration of new information published after the commencement of Validation, the International Secretariat's assessment is that the corrective action on MSG oversight has been addressed and that the Kyrgyz Republic has made satisfactory progress on Requirement 1.4. The corrective action was addressed after Validation had commenced, although these delays do not appear to have had an adverse impact on Supervisory Board representation. The constituency guidelines for nomination were developed prior to the commencement of Validation (2 October 2019), however the nomination processes for both the industry and civil society constituencies started in November 2019 after the commencement of Validation and were concluded in January 2020.

The SB has been formed and includes self-appointed representatives from each stakeholder group with no suggestion of interference or coercion. The nomination guidelines for civil society organisations and industry representatives are publicly accessible on the websites of KEITI and respective constituency websites. The invitation to participate in the nomination was open and transparent. While the nomination processes for CSOs and industry were undertaken after the commencement of the Validation, there is evidence to suggest that civil society SB members are operationally and in policy terms independent of government and companies. Companies have appointed their representatives without interference. The MoU for the SB addresses the requirements of the EITI Standard, and stakeholders have not highlighted any significant deviations from the MoU in practice. Meetings are convened with sufficient advance warning and SB members generally appear to have sufficient time to review documents ahead of meetings. Attendance of most of SB members is consistent. The SB does not practice a per diem policy.

To strengthen implementation of Requirement 1.4, the Supervisory Board and each constituency are encouraged to consider gender balance in their representation to progress towards gender parity. The

²⁹ Ibid.

³⁰ Attendance chart is available in Annex B

Supervisory Board may wish to review whether its members abide by the EITI Association code of conduct.

4.3 Corrective action 3: License allocation (#2.2)

In accordance with Requirement 2.2.a.iv, the Kyrgyz Republic is required to disclose any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress towards meeting this requirement. The EITI Report included comprehensive information on the licensing system in the Kyrgyz Republic. Information on licensing procedures and technical and financial criteria were disclosed. Detailed information on the 14 auctions that were carried out in 2014 had been provided, including details on auction conditions, starting and winning bids, applicants, minutes from the auctions etc. In addition, the EITI Report provided extensive additional information on reform needs in the licensing system. Although stakeholders consulted were not aware of any deviations, the EITI Report did not confirm that all auctions and direct negotiations that took place in 2014 had been done in accordance with the applicable legal and regulatory regime and standard technical and financial criteria.

Progress since Validation

Systematic disclosures

The State Committee on Industry, Energy and Subsoil Use (SCIESU) holds a license register available online.³¹ The license register provides information real time and lists active licenses. Despite being available in SCIESU internal system, the license history and a list of revoked licenses is not available in the public register. Auction and tender announcements as well as their technical and financial criteria are available on the website³², including for prior periods. SCIESU website also offers an interactive map of license areas³³ and a map of natural resource reserves.³⁴ There is also an online portal named “Assistance to the Subsoil User”³⁵ that provides detailed guidance on licensing procedures in the Kyrgyz Republic.

EITI reporting

Awards/transfers: The report confirms license allocations during the reporting period, 2015-2017. The licenses were awarded through auctions, competitive tenders and direct negotiations. Chapter 4.5 of the report provides detailed description of licensing procedures in the Kyrgyz Republic (pp.83-108). The report does not comment on actual license transfers during the reporting period. However, after the commencement of the Validation, SCIESU published a list of license transfers in 2015-2017.

Table 4.5.5.c on pp.98-102 provides a list of licenses that were allocated through **auctions** between 2015 and 2018. According to the report, there were 36 auctions during the reporting period. The table

³¹ Extractive license register, available [here](#), accessed in November 2019.

³² SCIESU webpage with tender and auction announcements, available [here](#), accessed in December 2019.

³³ Interactive map of license areas, available [here](#), accessed on 6 December 2019.

³⁴ Interactive map of natural resource reserves of the Kyrgyz Republic, available [here](#), accessed on 6 December 2019.

³⁵ Online portal on assisting license user, accessed [here](#) in January 2020.

provides information on the recipients of licenses and the financial criterion of each auction – the highest bid and a list of bidders per each license. The table includes a section on competitive **tenders** and provides information on three tenders that were conducted in 2015-2017 (p.103). According to the report, 1846 licenses were allocated through **direct negotiations** during reporting period, however, a comprehensive list has not been provided; either through EITI reporting or systematically disclosed through the SCIESU license registry. However, 1846 out of 1881 total allocated licenses in 2015-2017 fiscal years were allocated through direct negotiations. The report does not provide any information on the financial and technical criteria for the 1846 licenses allocated. However, the report comments on the issues of direct negotiations and corruption risks related to it. SCIESU realised the issue in 2018 and started allocated licenses on a first come, first serve basis.

During stakeholder consultation, representatives of SCIESU confirmed that the internal licensing system contained information on the licenses allocated via direct negotiations and that the summary decisions on license allocations were available on the SCIESU website³⁶, though a review of the source revealed that decisions were only available for November 2017 and onwards. Government representatives confirmed that there were no barriers to disclosing this information.

Awards/transfers process: The report describes four types of subsoil use right allocation, such as state registration, licensing, concession agreement and production sharing agreement (PSA) (pp.80-83). The state registration was introduced in the 2018 amendments to the Subsoil Law and aims at mineral research projects. The only concession agreement awarded in the Kyrgyz Republic is the agreement on the Kumtor gold deposit from 1992. There is no practice of PSA awards. The report describes licensing process for tenders, auctions, direct negotiations and ‘first come, first served’ basis (pp.83-87). For transfers, the report describes the rules, stipulated in Article 37.5 of the Subsoil Law³⁷ (p.89).

Recognizing corruption risks and other related issues to issuing licenses via direct negotiations, SCIESU introduced amendments to the Subsoil Law, removing provisions on direct negotiations from the law. From May 2018, all licenses could be allocated only through auctions, tenders and on first come-first served basis. The SCIESU website published summaries of the Licensing Commission meetings allocating licenses on a first come-first served basis, and denied licenses.³⁸

The table, available on the KEITI website (Open data section), does not provide details of processes for transferring each of the 36 licenses.

Technical and financial criteria: The report states that during the reporting period, the licenses were allocated through auctions, tenders and direct negotiations. Section 4.5.2 of the report provides a description of technical and financial criteria stipulated in the Law on Subsoil and respective bylaws. With regards to auctions, the report provides a list of auctions for 2015-2017, including the starting price, highest bid, list of bidders and the winner (pp.98-102). With regards to tenders, the report provides technical and financial criteria for three competitive tenders in 2015-2017 (p.103). With regards to direct negotiations, the report provides technical and financial criteria for companies to submit application for direct negotiations. General criteria for license transfers are provided in the EITI Report (p.89). However, there is no explanation of the license transfers undertaken during the reporting period, 2015-2017.

³⁶ SCIESU website on licensing procedures, accessed [here](#) in November 2019. However, in January 2020 the link did not work.

³⁷ Subsoil Law of 2018, accessed [here](#) in December 2019.

³⁸ SCIESU website page on licensing, accessed [here](#) in January 2020.

License transferee information: After the commencement of Validation (during stakeholder consultations), SCIESU published information about license transfers in 2015-2017³⁹. According to the information from SCIESU, there were 36 license transfers during the reporting period. The table, available on the KEITI website (Open data section), provides license number, type of license, commodity, date of award, date of transfer, former owner and new owner of the license and reference to the License Commission meeting minutes.

Bidding process: The report provides bid criteria for three competitive tenders that took place in 2015-2017 fiscal years with references to respective orders issued by the Government of the Kyrgyz Republic (pp. 103-108). The list of applicants for each tender is disclosed, although an assessment of the process followed is not covered in EITI reporting.

Deviations and comprehensiveness: The report refers to the letter from SCIESU that confirms that there were no deviations from the licensing procedures in accordance with the national legislation between 2015-2019 (Annex 7 on p.188). During stakeholder consultations, representatives of SCIESU confirmed that there were no deviations in the licensing procedures during the reporting period. Some commented that amending license allocation procedures in 2018 had helped to significantly increase effectiveness and reduce corruption risks in licensing. There was consensus among SB members consulted that the regulator's letter was sufficient to ensure no deviations without the need for additional checks.

Efficiency of licensing procedures: The report provides a comprehensive commentary on the weaknesses and issues in the licensing system in the Kyrgyz Republic. The IA comments on the methods the government undertook to address a number of licensing issues that occurred during the reporting period. The IA also provides recommendations on further improvements needed in the licensing procedures. The report notes potential corruption risks related to license allocation through direct negotiations. (pp.101-104).

In its comments on the draft assessment⁴⁰, the Supervisory Board indicated that the Kyrgyz Republic was transitioning to systematic disclosure of license allocation data. While conceding that the 2015-2017 EITI Report did not provide an explicit list of licenses issued through direct negotiations, the Supervisory Board considered that the reference to the SCIESU register was sufficient given the systematic disclosure of licensing data on the SCIESU website. The Supervisory Board also commented that the SCIESU's decisions on license awards and transfers have been made public since 2017. As evident from the documentation above, these decisions were made available from November 2017 onwards and thus do not comprehensively cover the period under review. However, the Supervisory Board did not comment on the feasibility of accessing the list of license awards from the SCIESU license register.

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on license allocation has been partly addressed and that the Kyrgyz Republic has made meaningful progress with considerable improvements on Requirement 2.2. The 2015-17 EITI Report comprehensively describes the process for awarding and transferring the licenses, including technical and financial criteria used for auctions

³⁹ KEITI website, Open Data page, accessed [here](#) in January 2020.

⁴⁰ For additional details, please consult the "Comments of the Supervisory Board on EITI implementation in the Kyrgyz Republic to the draft report " Second validation of the Kyrgyz Republic: Preliminary assessment of the International EITI Secretariat". Available at: <https://eiti.org/document/kyrgyz-republic-validation-2019>

and tenders. Information about the recipients of licenses that have been awarded through tenders and auctions, including the list of bidders and bid criteria. The list of license transfer during the reporting period was disclosed by SCIESU separately. The report lacks a list of licenses allocated through direct negotiations during the reporting period. The report provides a reference to application criteria for the direct negotiations. The government provided a statement to confirm there were no deviations from the licensing procedures, however it is not clear what methodology was applied to make such a conclusion. The government has reformed license allocations by introducing first come-first served for licensing from November 2018. Comments by the Supervisory Board on the draft assessment challenged the fairness of this assessment, arguing that systematically disclosed information should ensure that the corrective action was fully addressed. While improvements in the Kyrgyz Republic's systematic disclosures of licensing information are notable, the Secretariat's final assessment is that there remain gaps in information about awards and transfers of licenses in the period under review (2015-2017).

In accordance with Requirement 2.2, the Kyrgyz Republic should comprehensively disclose the list of licenses awarded during reporting period, in particular license awards through direct negotiations. To strengthen implementation, the Kyrgyz Republic is encouraged to ensure systematic disclosure of the requisite information set out in Requirement 2.2(a-c) through existing public portals, and ensuring that transfers of licenses are also publicly disclosed.

4.4 Corrective action 4: License register (#2.3)

In accordance with Requirement 2.3.b, the Kyrgyz Republic is required to maintain a publicly available register or cadastre system(s) that among other requirements include the coordinates of the license area and the date of the application (Requirement 2.3.b.ii-iii). Where coordinates are not collated, the government is required to ensure that the size and location of the license area are disclosed in the license register and that the coordinates are publicly available from the relevant government agency without unreasonable fees and restrictions. Where registers or cadastres are incomplete the EITI Report should include the information set out in 2.3.b (Requirement 2.3.c).

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress towards meeting this requirement. The government has disclosed considerable information on license holders online, including the name of the license holder, the duration of the license, the applicable commodities, the name and size of the license area and contact details for the license holders. Coordinates of the licenses and the date of application were not disclosed. Whilst available with SAGMR (current SCIESU), the International Secretariat was not able to obtain confirmation that this information was available to the public without restriction.

Progress since Validation

Systematic disclosures

The online license register is accessible on the SCIESU website.⁴¹ The register refers to the legal ownership of license holders via the business register⁴² under the Ministry of Justice and to the Open

⁴¹ SCIESU website with license register, accessed [here](#) in November 2019 -January 2020.

⁴² Business register, access [here](#) in November 2019 – January 2020.

Budget Portal.⁴³ The latter is linked to the State Treasury and provides information on all payments per license. The register also provides a list of license applications⁴⁴ from 2018 to date.

EITI reporting

The 2015-2017 EITI Report provides a link⁴⁵ to the license register of the SCIESU. The license register provides name of license holder, coordinates, date of award and duration of the license, and commodity being produced. A few old licenses on the last page of the register do not have dates of award and duration of the licenses, including for a material state-owned enterprise Kyrgyzaltyn OJSC.⁴⁶

The SCIESU holds a separate register of license applications that provides information on the date of application, the company applying and type of license. However, the register of applications seems to only maintain applications from 29 March 2018 and includes 479 applications to date, whereas the licence register comprises 2405 licenses. Due to limited functions of the outwards facing license register, it was not possible to compare the dates of license application and the approved licenses. Therefore, dates of applications for the licenses allocated in 2015-2017 are not publicly available. During stakeholder consultation, government representatives expressed concern with regards to a lack of technical capacity within SCIESU.

During stakeholder consultations, representatives of the government confirmed that dates of applications for the licenses approved in 2015-2017 were available through SCIESU's internal system. Government representatives consulted confirmed that SCIESU was able to disclose the dates of application, commenting that lack of disclosure was a technical usability issue of the current internal system that limits further disclosures.

The license register includes all licenses held by all companies operating in the country and all extractive sectors, including water and construction materials. However, the search tool that the register offers, seems to be unreliable and does not always show search results.

The report provides a comprehensive commentary on the weaknesses and issues in the licensing system in the Kyrgyz Republic. The IA comments on the ways how the government has already solved some issues that occurred during the reporting period and on the ways to improve the licensing procedures in the future. The report⁴⁷ also comments on potential corruption risks (pp.101-104).

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on license register has been partly addressed and that the Kyrgyz Republic has made meaningful progress with considerable improvements on Requirement 2.3. The government has disclosed considerable information on license holders online, including the name of the license holder, coordinates, date of award and duration of the license, and commodity being produced. In addition to this, the register provides links to the business register with legal ownership information and to the Open Budget Portal of the Treasury with tax and non-tax payments made by license holders. The date of application for the licenses allocated before 29 March 2018 are not available. It is also not possible to compare the

⁴³ Open Budget Portal, accessed [here](#) in November 2019-January 2020.

⁴⁴ List of license application from 29 March 2018 till present, accessed [here](#) in November 2019 - January 2020.

⁴⁵ SCIESU website with license register, accessed here in November 2019 -January 2020.

⁴⁶ The licenses lacking dates of entry/expiry are license 5887AE, 5888AE, 5889AE.

⁴⁷ 2015-2017 EITI Report, accessed [here](#) in January 2020, pp. 90-92

disclosed dates of license applications with the license register of all active licenses due to poor technical usability. The EITI Report discloses gaps and weaknesses of the licensing system in the Kyrgyz Republic and provides recommendations for strengthening the system.

In accordance with Requirement 2.3, the Kyrgyz Republic should disclose date of application, date of award and duration of all licenses active during the reporting period. The Kyrgyz Republic is encouraged to maintain the up-to-date online register that includes information about licenses held by all entities, including companies and individuals or groups that are not included in the EITI Report. To strengthen systematic disclosure of the licensing information, SCIESU could upgrade its online license register to be user friendly, searchable and comparable with the list of licenses applications.

4.5 Corrective action 5: Contract disclosure (#2.4)

In accordance with Requirement 2.4.b, the next EITI Report should document the government's policy on disclosure of license agreements that govern the exploration and exploitation of minerals. This should include actual disclosure practices and any reforms that are planned or underway.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress towards meeting this requirement. Although the 2013-14 EITI Report described the actual practice on contract transparency, the government's policy was not fully explained and lacked references to relevant legal provisions and commentary on reforms underway.

Progress since Validation

Government policy: According to Regulation #834 on licensing procedures from 14 December 2012, the licensing agreements should be published on the website of the SCIESU.⁴⁸ Article 6 (15) clarifies that "*The responsible government entity should upload online on its website data on the active licenses, license coordinates, conditions of license agreements and beneficial owners.*" Also Article 41 (6)⁴⁹ stipulates that "*All licenses and license agreements for the right to use subsoil provided through a tender or auction shall be uploaded on the website of the authorized state entity on subsoil use within six months from the date of the official publication of this Law*".

However, the report comments that the SCIESU has not implemented this provision. The report does not comment on the government's plans to address the issue. However, during stakeholder consultations, government representatives consulted explained that SCIESU had capacity issues with scanning and uploading more than 2000 licence agreements on their website. It was noted that SCIESU was seeking donor support to implement the transparency provision.

Actual practice: The report provides link to the Kumtor agreement from 2009⁵⁰ and provides the main provisions of the agreement. (pp. 108-111) No other licenses agreements are published in practice, by government nor by third parties.

⁴⁸ 2015-2017 EITI Report, accessed [here](#) in January 2020, p.112

⁴⁹ Law on Subsoil dated 19 May 2018, accessed [here](#) in January 2020.

⁵⁰ Law on the new agreement on Kumtor project, accessed [here](#) in March 2020. The full text of the agreement is [here](#).

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on contract disclosure has been addressed and that the Kyrgyz Republic has made satisfactory progress on Requirement 2.4. The report explains the government policy on contract transparency and comments on the actual practice of contract disclosure. The report also discloses the only publicly available contract with the Kumtor Gold Company.

To strengthen implementation of Requirement 2.4, the Kyrgyz Republic is strongly encouraged to implement the transparency provisions of the Law on Subsoil Use and publish all license agreements online. According to the 2019 EITI Standard, the Supervisory Board should develop a 2020 work plan on enabling license agreement transparency for all allocated exploration and exploitation licenses, concessions and PSAs from January 2021 onwards.

4.6 Corrective action 6: State participation (#2.6)

In accordance with Requirement 2.6.a, the Kyrgyz Republic must disclose an explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises (SOEs), e.g., the rules and practices governing transfers of funds between the SOE(s) and the State, retained earnings, reinvestment and third-party financing. It should also disclose their level of ownership in mining companies operating within the countries mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period. Any loans or loan guarantees provided by the government or SOE(s) to oil, gas and mining companies operating within the country should be disclosed (Requirement 2.6.b).

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made inadequate progress towards meeting this requirement. The 2013-2014 EITI Report noted that the state had interests in 11 state-owned enterprises engaged in the extractive sector. Only one of these companies – Kyrgyzaltyn OJSC – was described in some detail. There was no information about the rules and practices governing the financial relationship between the state and the companies in which the state had an interest, nor did the report disclose the level of ownership of the state in the 11 companies and their subsidiaries (if any). It was unclear if there were any changes in government ownership in SOEs or mining projects in 2014. There was also no information on loan or loan guarantees provided by the state or by SOEs to other oil, gas and mining companies.

Progress since Validation

Systematic disclosures

Since the first Validation, the State Property Management Fund (SPMF) created a pilot website providing information on state participation in the economy (not extractive-specific).⁵¹ State-owned

⁵¹ State Property Management Fund (2019), 'Information on state-owned enterprises and joint-stock companies with a state share'. Accessed on 15 October 2019. Available at: <http://finance.page.kg/>

enterprises (SOEs) are separated into three types; open or closed Joint Stock Companies⁵² (OJSCs/CJSCs), Limited Liability Companies (LLCs), and State Enterprises (SEs).

For all sectors, the website lists 36 JSCs and 99 SEs in which the government participates fully, or partially. The site does not identify extractive sector SOEs specifically. The website provides key information for the various companies through profile-pages, such as numbers for authorised capital, the state's share, the number of staff, the main activities of the company and references to their websites where applicable. In addition, SOEs' profile pages contain key financial figures for 2015-2017, and maintain lists of each SOEs' board of directors, secretaries to the board, executive units/departments and members of each company's audit commissions.

During consultations, SPMF clarified that they never progressed past the piloting phase, with another portal underway for routine disclosure of information pertaining to SOEs. A review of the current pilot portal covered seven companies⁵³, none of which had complete information.⁵⁴ It is the SPMF's intention to ensure that SOEs' audited financial statements (AFSs) are disclosed in the future.

EITI reporting

Materiality: The government participates in the extractive industries through the three types of companies listed above. The 2015-2017 EITI Report lists material companies in section 3.1.2 (pp.12-13, English version). Based on the list of SOEs listed in section 4.4.3 (pp.69-70), two SOEs are considered material, namely Kyrgyzaltyn OJSC and Kyrgyzneftegaz OJSC. Two non-material SOEs are also mentioned intermittently, namely Khaidarkan Mercury JSC and Kyrgyzkomur SE. Alтынкен LLC, a minority-owned subsidiary of Kyrgyzaltyn, is deemed material, though not as an SOE but as a private company.

The basis for materiality was determined by the SB, using the same materiality thresholds as for the selection of all companies i.e. total payments to governments exceeding USD 1m, or KGS 69m.⁵⁵ The source of data was the open budget portal of the Ministry of Finance.⁵⁶ No stakeholders consulted had any concerns regarding these materiality decisions and civil society representatives indicated that the only concerns were related to a common understanding of quasi-fiscal expenditures (see *Requirement 6.2*).

Financial relationship with government: The prevailing rules and some practices regarding financial relationships and accountability of SOEs are covered in sections 4.4.3 and 4.4.4 (pp.10-76).

In general, the 2015-2017 EITI Report explains that all SOEs are *owned* by the SPMF. The report also explains that all State Enterprises (SEs) are managed by their line ministries, despite the SPMF holding their equity. Meanwhile, all Joint Stock Companies (JSCs) are listed on the Kyrgyz Stock Exchange (KSE), whether owned by the government or private individuals. Listed SOEs are managed through regular shareholders' meetings and do not operate differently from other private sector companies – i.e. the company is controlled by the board of directors and its shareholders who decide

⁵² JSCs are companies listed on the Kyrgyz Stock Exchange (KSE) where the government owns a majority of the shares/stocks. These JSCs can either be open, i.e. freely traded on the stock exchange, or closed, i.e. meaning that the companies' shares are not freely traded without shareholders' consent. LLCs are commercial companies owned by the state, while SEs are public corporations created through legislation.

⁵³ The companies reviewed are Kyrgyzaltyn OJSC, Kyrgyzneftegaz OJSC, Khaidarkan Mercury OJSC, Kyrgyzkomur SE, Kyrgyztemirzholu SE, Kyrgyzteploenergo SE, and North-Kyrgyz Geological Expedition SE.

⁵⁴ The lack of complete information refers to both from the perspective of the EITI Standard, and the perspective of the website's own potential content for each SOE.

⁵⁵ Thresholds were confirmed by MSG meeting minutes of 20 March 2018.

⁵⁶ Ministry of Finance (2019), 'Open budget portal'. Accessed on 15 October 2019. Available at: <https://budget.okmot.kg/en/>

issues such as dividends, retained earnings, reinvestment and third-party financing.⁵⁷ The main difference is that government officials are then appointed to serve as members of these boards, by the SPMF on behalf of the government as the shareholder. However, the EITI Report also notes that SCIESU maintains management responsibilities for any SOE in the extractive sector in practice (pp.72-73). Consultations with SOEs and government representatives confirmed this arrangement, albeit without precise details of the SCIESU's oversight.

The rules and practices regarding *transfer of funds* between the state and JSCs are not specifically described, except related to the issue of privatisation (p.72), regulated by the Law on Privatization of State Property in the Kyrgyz Republic (p.72).⁵⁸ Additionally, "strategic objects" are subject to additional rules under the Law on Strategic Objects of the Kyrgyz Republic (p.72), awarding the government a right of first refusal in mergers and acquisitions involving companies or objects of national interest.⁵⁹ The report does not explicitly assess whether the practices described conform or deviate from statutory rules, but does clarify that the government's indirect interest of 26.6% in CJSC Kumtor Gold Company is defined as a "strategic object" arrangement (p.72). Thus, any changes in ownership of Kumtor Gold Company CJSC are subject to additional restrictions as per the two laws cited above.

As an example, the report describes the changing terms of agreements (not ownership) between Kumtor Gold Company, Centerra Gold Inc., Kyrgyzaltyn OJSC, and the government (pp.109-111). The agreements changed both ahead of and during the reporting period, and resulted in Kumtor Gold Company and Centerra Gold completing several transactions during the reporting period. These are further described in the assessments of SOE transactions (see *Requirement 4.5*) and comprehensiveness (see *Requirement 4.1*).

Lastly, the management and appointment of SOEs' boards of directors are governed by the government resolution "on new principles for the formation and use of candidate staff reserve for the positions of Boards of Directors, Audit Commissions and Secretaries of Entities with state participation".⁶⁰

The report does not comment or disclose data on the practice of material SOEs' retained earnings and reinvestments in the period under review, though it does provide data on net profits of SEs and JSCs (p.75). This information is not available through audited financial statements that are publicly available, which do not clarify SOEs' equity interests in other companies either. Both Kyrgyzaltyn OJSC and Kyrgyzneftegaz OJSC are listed on the KSE and should have their audited financial statements published online (p.72). Kyrgyzaltyn's audited financial statements are available through the stock exchange (KSE) website⁶¹, albeit without the financial notes that constitute its largest part. Kyrgyzneftegaz has not published its audited financial statements through the KSE, although some key figures have been published on their website.⁶² During consultations, Kyrgyzneftegaz provided information suggesting that their 2017 audited financial statements were published via the official

⁵⁷ SOEs have the same opportunities to seek financing as other companies, subject to the decision of its shareholders/board of directors. This includes debt or equity financing. The only restriction seems to be made for "strategic importance", as highlighted in the subsequent paragraph.

⁵⁸ Ministry of Justice of the Kyrgyz Republic (2002), 'Law on the privatization of state property in the Kyrgyz Republic, 2 March 2002'. Accessed on 28 November 2019. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/978>

⁵⁹ Ministry of Justice of the Kyrgyz Republic (2008), 'Law on strategic objects of the Kyrgyz Republic, 23 May 2008'. Accessed on 28 November 2019. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/202305>

⁶⁰ Ministry of Justice of the Kyrgyz Republic (2014), 'Resolution of the Government of Kyrgyz Republic on New principles for the formation and use of candidate staff reserve for the positions of Boards of Directors, Audit Commissions and Secretariat of Entities with state participation, 19 December 2014'. Accessed on 29 November 2019. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/97390>

⁶¹ Kyrgyz Stock Exchange (2019), 'Audited Financial Statement for 2018'. Accessed on 15 October 2019. Available at: <http://www.kse.kg/Listing/KALT-auditreport-2018-12-31.pdf>

⁶² Kyrgyzneftegaz (2019), 'Company Performance'. Accessed on 15 October 2019. Available at: <http://www.kng.kg/ru/node/pokazatel.html>

gazette, the 27 April 2018 issue of Erkin Too.⁶³ However, upon review the publication is not comprehensive as it does not include the auditor's opinion or financial notes.

Government ownership: A brief overview of the structure of government ownership is provided (p.70), although it does not cover subsidiaries of the different SOEs. The report later lists SOEs involved in the upstream operations (pp.73-76) beyond the two material companies. It provides a general description of Kyrgyzneftegaz OJSC and Kyrgyzaltyn OJSC, and others, including listing their subsidiaries:

- **Kyrgyzaltyn OJSC's** (100% state owned) ownership structure is described (pp.73-74). The company owns shares in three private enterprises. The terms attached to its equity stakes are not disclosed beyond that Kyrgyzaltyn receives dividends and management fees from its associated projects.
- **Kyrgyzneftegaz OJSC's** (85.47% state owned) full ownership of one subsidiary is described (p.74). The type of equity or terms of ownership are not explained. Consultations clarified that Kyrgyzneftegaz also participates in several (at least ten) joint ventures and holds majority interest in one additional company. None are covered in the EITI Report.

Ownership changes: The report highlights a single change in ownership, related to Kyrgyzaltyn's shareholding in Centerra Gold in 2016. The shares were reduced from 32.1% to 26.6% due to issuance of new shares (p.74). Additionally, the company Sulyuktakomur OJSC was declared bankrupt in 2017 (pp.77-78). The company was therefore not included in the scope of reconciliation, though the loans associated with the company are described (see *below*).

The report confirms the lack of other changes to the state's ownership during the reporting period (p.76), which was also confirmed by stakeholder consultations.

Loans and guarantees: Loans and guarantees are covered under section 4.4.5 of the report (pp.76-78). State loan guarantees have been banned, except in instances of intergovernmental/donor agreements and where international treaties obligate the government to cover arrears toward creditors (p.76). Loans and other liabilities between the state and SOEs are allowed.

According to the report, Kyrgyzaltyn received loans from the government, as did other non-material SOEs, among others Kyrgyzkomur SE. The details of transactions and payables are described (pp.76-78). The report also provides loan details and transactions in 2006-2012 of Sulyuktakomur OJSC (pp.77-79), including its outstanding liabilities. However, Sulyuktakomur OJSC was not active in the period covered by the EITI Report.

The report does not clarify whether potential loans and guarantees have been reviewed by the Accounts Chamber of the Kyrgyz Republic. The report comments extensively on various government orders related to loans, including specific amounts and interest rates, but does not state whether the information provided is comprehensive or reliable, nor reference underlying financial statements or other supporting evidence. Upon consultations, multiple stakeholders from various government agencies confirmed that loans and loan guarantees did occur during the period under review, though the statements were not supported by any documentation (e.g. from the Ministry of Finance, the sole

⁶³ Erkin Too (2018), 'Erkin Too issue 27 April 2018'. Accessed on 29 November 2019. Available at: <http://erkintoo.kg/gezitter>

authority to issue so-called “credits and credit guarantees”).⁶⁴ The existence of such loan agreements was confirmed by stakeholders and through review of relevant regulations.⁶⁵

Several transactions, related to loan settlements and repayments, occurred in the reporting period and are noted for each SOE in section 4.4.5. However, the report does not provide a precise overview of these transactions nor a clear description of their effective dates. Based on the International Secretariat’s calculations, the difference between total debt obligations reported and outstanding balances amount to more than KGS 83m⁶⁶, although given that these figures cover a substantial time-period (of three years) it is not possible to identify whether the transactions occurred during the last reporting period of 2017 (see Annex A for details).

Secretariat’s Assessment

The International Secretariat assessment is that the corrective action on state participation has been partly addressed and that the Kyrgyz Republic has made meaningful progress on Requirement 2.6.

The information provided in the 2015-2017 EITI Report marks improvements on several, though not all, aspects of the corrective action. The report identifies ten state-owned enterprises engaged in the extractive sector (in addition to one which was declared bankrupt in 2017). Two of these companies were considered material, Kyrgyzaltyn OJSC and Kyrgyzneftegaz OJSC. The report does contain some information about rules governing the financial relationship between the government and SOEs, though these rules are not extended towards subsidiaries and joint ventures of SOEs. The report lacks information on actual practices, albeit providing details for dividends and some third-party financing practices in the period under review. State ownership levels are provided for the material companies, although the existence of additional joint ventures and majority-owned subsidiaries of SOEs that were not named in the EITI Report were highlighted in stakeholder consultations (especially relating to Kyrgyzneftegaz OJSC). Due to lack of coverage of these entities in the EITI Report, it is not possible to conclude that the review of government ownership of extractive SOEs’ joint ventures and subsidiaries is comprehensive. Loan and loan guarantees are addressed for all four mentioned SOEs. However, documentation of debt agreements with the Ministry of Finance were not accessible at the commencement of Validation, implying that it is not possible to confirm whether the EITI Report’s coverage of loans and guarantees is comprehensive.

In accordance with Requirement 2.6, the Kyrgyz Republic should ensure that a description of practices regarding the financial relationship between the government and SOEs is publicly disclosed, including coverage of transfers of funds between the SOE(s) and the government, SOEs’ retained earnings, reinvestment and third-party financing. The level of state participation in SOEs’ subsidiaries and joint ventures should be comprehensively disclosed, including the terms attached with all state and SOE equity in extractive companies. Any loans or loan guarantees provided by the government or SOE(s) to oil, gas and mining companies operating within the country should be disclosed. The Kyrgyz Republic may wish to ensure public access to debt agreements between the state (Ministry of Finance) and extractive companies to ensure that disclosures of existing loans and loan guarantees between central government agencies, SOEs, and extractive sector companies are comprehensive. To strengthen implementation in accordance with the 2019 EITI Standard, the Kyrgyz Republic is encouraged to ensure that the audited financial statements of SOEs are publicly, including the

⁶⁴ Ministry of Justice (2017), ‘Regulation on the State Agency for Budget Credit Management under the Ministry of Finance of the Kyrgyz Republic’. Accessed on 29 November 2019. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/99730>

⁶⁵ Ministry of Justice (2018), ‘Regulation on work with budget loans provided from the republican budget’. Accessed on 29 November 2019. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/12847>

⁶⁶ Equivalent to approximately USD 1.2 million, values in USD were converted to KGS using exchange rate KGS 68.8395 to USD 1.

auditor's opinions and the detailed financial notes. The Kyrgyz Republic may wish to use EITI reporting as a means of monitoring SOEs' compliance with their statutory obligations to publish this information, working with the State Property Management Fund to ensure that their planned portal includes annual information on SOEs' dividends, retained earnings, reinvestment, third-party financing and loans and loan guarantees.

4.7 Corrective action 7: Production data (#3.2)

In accordance with Requirement 3.2, the Kyrgyz Republic must disclose production data for the fiscal year covered by the EITI Report, including the value of production by commodity, and by region where relevant.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress towards meeting this requirement. The 2013-14 EITI Report provided production volumes by commodity. The data was not disaggregated by state or region. Production values were not disclosed.

Progress since Validation

Systematic disclosure

There is limited systematic disclosure of both production volumes and values by commodity in the Kyrgyz Republic. On 19 November 2019, after the commencement of Validation, the new government data portal '*Open data Kyrgyzstan*'⁶⁷ disclosed datasets from the National Statistics Committee (NSC) containing aggregated data on production values for quarrying, coal and lignite production, crude oil and gas condensates, and natural gas. There is no evidence of further disaggregated production data.

EITI reporting

Volumes and values: The report provides production volumes and values by commodity for gold, coal, crude oil, natural sands, salts, marble and other limestones, and for an additional category called "other" (table 4.7.1b, p.121). The 2015-2017 Report (p.121) clarifies that data on coal and gold was collected from the SCIESU, rather than from the NSC, which is not allowed to disclose such data designated as state secrets:

"Information on the production of gold, mining of precious and rare metals is classified as "Top Secret" in accordance with the "List of information to be classified for the National Statistical Committee of the Kyrgyz Republic". In this regard, as well as due to the lack of data on quantity from the National Statistics Committee, the amount of gold and coal in the table below is indicated according to data collected by the EITI Secretariat from the SCIESU for the 2015-2017 Report." (2015-2017 EITI Report, p. 121, English version)

The data SCIESU provided, however, represent volumes of production from material companies only. Detailed data is presented in Appendix 9 (p.191) but the totals are larger than the numbers provided in table 4.7.1b. The lack of comprehensive gold and coal data was confirmed by government stakeholders (for gold volumes, data exceeds the numbers of table 4.7.1b). It is unclear whether the

⁶⁷ Government of Kyrgyzstan (2019), 'Industrial Production - Mining'. Accessed on 27 November 2019. Available at: <https://data.gov.kg/dataset/proizvodstvo-promyshlennoj-produkcii-gornodobyvayushaya-promyshlennost>

report provides comprehensive production data, especially when comparing to the remaining 40+ commodities for which deposits have been identified (table 4.7.2a, pp.125-127). Reported data does confirm either production or “payments” associated with iron, silver and copper production (Appendix 9, pp.191-192), though data only covers material companies, i.e. does not reflect total production.

Additionally, the report includes a table presenting data on gold ore⁶⁸ mining (table 4.7.1c, p.122), and the IA indicated in consultations that figures on gold ores also encompassed copper alloys. Government representatives consulted confirmed that production data was collected per individual commodity, including the concentrate grade for each subcomponent. Such statistical monitoring was also confirmed by industry stakeholders, even if data was not presented in the report.

According to Kyrgyz legislation, the report explains that production data for gold and other precious metals is considered a state secret (p.121), albeit without specifying the precise legislation that classifies this data as a state secret. The report does not mention how the SB intends to mitigate this lack of disclosure, nor describe any on-going or planned activities to remove barriers to public disclosures. Several government representatives confirmed the classification of production data on gold, silver, uranium and mercury as a state secret. Consultations implied that the decree itself was also considered a state secret, and therefore the full list of commodities deemed a state secret is unknown. The International Secretariat has not confirmed the designation for coal. Consultations further clarified that the SB has attempted to overcome this obstacle by approaching the Prime Minister’s office. Subsequently the SB has approached the National Security Committee to amend the decree, though these efforts are still underway. These efforts were not covered by the EITI Report.

Finally, additional data published by the national secretariat *after* commencement of Validation on 27 November 2019 provides estimates for production volumes of gold, silver, mercury, copper, iron, and antimony, albeit without an explanation of sources nor further descriptions.⁶⁹ A comparison of the different production data sets is provided in Annex C of this assessment, highlighting the inconsistencies between different production data provided for gold, silver, mercury, copper, iron, coal and antimony.

State/region: The report provides a breakdown of gold production by region (table 4.7.1d p.125).

Calculation: The report refers to the NSC for data for all commodities, and additionally SCIESU for coal and gold production. The report does not describe the methodology for calculating production values, but does provide some explanation of the source of production volumes and values in footnotes (pp.119,121-123).

In its comments on the draft assessment⁷⁰, the Supervisory Board confirmed that publication of production data for gold and other precious metals by the National Statistics Committee are not permitted, but that such publications by the SCIESU are permitted. The Supervisory Board further clarified that it considered table 4.7.1b to be the dataset with the government’s comprehensive

⁶⁸ Not to be confused with gold mining, as ore is alloyed with other minerals such as copper and silver. Ores are often reported in thousands of tonnes, while gold production is in kg or troy ounces.

⁶⁹ Kyrgyzstan EITI (2019), ‘Production volumes in 2015-17’. Accessed on 27 November 2019. Available at: <https://keitiweb.wordpress.com/%d0%be%d1%82%d0%ba%d1%80%d1%8b%d1%82%d1%8b%d0%b5-%d0%b4%d0%b0%d0%bd%d0%bd%d1%8b%d0%b5/>

⁷⁰ For additional details, please consult the “Comments of the Supervisory Board on EITI implementation in the Kyrgyz Republic to the draft report “Second validation of the Kyrgyz Republic: Preliminary assessment of the International EITI Secretariat”. Available at: <https://eiti.org/document/kyrgyz-republic-validation-2019>

production disclosures. However, the comments did not address the issue of missing production data for silver, mercury, copper, iron and antimony.

Furthermore, the Supervisory Board's comments clarified some of the differences between the various tables provided in the 2015-2017 EITI Report. The comments clarified that production data could not be inferred from deposits data contained in table 4.7.2a, since changes in data may have a multitude of explanations. However, the Supervisory Board did not comment on whether production volumes and values were available for each of the 40+ commodities referenced in table 4.7.2a.

Lastly, the Supervisory Board's comments provided additional information on the methodology for calculating production data. The on-going efforts to amend the "national security" classification of gold and precious metals were briefly described, alongside reference to a Supervisory Board decision to include intermediate products in production data to be disclosed in future EITI reporting.

Secretariat's Assessment

The International Secretariat assessment is that the corrective action on production data has been partly addressed and that the Kyrgyz Republic has made meaningful progress with considerable improvements on Requirement 3.2. The Kyrgyz Republic has disclosed production volumes and values for some commodities; gold, coal, crude oil, natural sands, salts, marble, "other limestones" and "other". The report also provides estimates of gold, silver, iron and coal mining data by each material company, and by region. However, comprehensive disclosures of production data on silver, mercury, copper, iron and antimony do not appear to be publicly accessible. The Kyrgyz EITI has therefore begun its efforts to overcome the obstacle of state secrecy to ensure clear and comprehensive disclosure of production volumes and values, though this barrier was still in effect by the commencement of their second Validation. The Kyrgyz Republic also published data after the commencement of Validation, although the disclosures did not cover all gaps in disclosures of the EITI Report. There are inconsistencies in the various information on production data in the EITI Report, with uncertainty around which data is considered comprehensive and reliable. While the Supervisory Board's comments on the draft assessment clarified some of these inconsistencies, the differences between different production data sets in the 2015-2017 EITI Report are not adequately explained in any publicly-accessible document. The Kyrgyz Republic shows significant efforts in pursuing comprehensive disclosure of production data for all significant commodities. However public disclosures of the EITI Report continue to fall short of providing clear and comprehensive estimates of production volumes and values for all commodities produced in the Kyrgyz Republic in the period under review.

In accordance with Requirement 3.2, the Kyrgyz Republic should disclose production data annually for all extractive commodities produced, including production volumes and values disaggregated for each commodity. Gold concentrates, iron, silver, coal and copper are of particular importance, given that several are produced by companies considered material for EITI reporting. The Kyrgyz Republic is also encouraged to explore ways to ensure that constraints linked to state secrecy considerations do not hinder its systematic disclosures of production volumes and values for all extractive commodities. To ensure comparability of production data, the Kyrgyz Republic is encouraged to make use of internationally recognised methodologies and standards, such as the United Nations' Central Product Classification (CPC), Harmonised System Codes (HS), or the International Standard Industrial Classification of All Economic Activities (ISIC rev 4).

4.8 Corrective action 8: Export data (#3.3)

In accordance with Requirement 3.3, the Kyrgyz Republic must disclose export data for the fiscal year covered by the EITI Report, including total export volumes and the value of exports by commodity, and, when relevant, by state/region of origin.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made inadequate progress towards meeting this requirement. Kyrgyzstan exported gold and coal, and some other minerals. Only export values for gold and export volumes for coal were available in the report; as comprehensive disclosure of export volumes and values per individual commodity were not provided.

Progress since Validation

Systematic disclosure

The NSC publishes annual statistics on the Kyrgyz Republic's foreign trade.⁷¹ The latest report covers 2013-2017, including export of goods according to the Eurasian classification (CIS), which is compatible with HS (Harmonised System) commodity codes used internationally. The reports are available in Kyrgyz and Russian, and therefore the level of disaggregation has not been assessed (2-, 4-, 6- or 10-digit codes imply higher levels of disaggregation). Similar to production data, government representatives consulted noted that the NSC cannot publish granular or disaggregated data due to state secrecy legislation, but that data is collected and archived in internal systems at a highly disaggregated level.⁷²

EITI reporting

Volumes and values: Export data is presented by commodity for gold, silver, oil and oil products, coal, cement, stone and "other construction materials" (table 4.7.5c-e, pp.145-147). However, the data contained in these tables are not always complete for all commodities. Export *volumes* are provided for silver, crude oil, coal, cement, and stones and other aggregates. Export *values* are available for the same commodities, in addition to gold and a category named "Others". Therefore, export *volumes* are missing for gold, the most significant commodity exported. Thus, the 2015-2017 EITI Report does not report disaggregated export data for all commodities. The report itself does not mention how the SB intends to mitigate this lack of disclosure, nor describe any on-going or planned activities to remove such barriers to public disclosures. During consultations, several government stakeholders indicated that internal government systems record export volumes and values to a high degree of detail, but data is only available upon request. Government representatives confirmed that certain commodities were affected by state secrecy regulations in the same way as production data (see *Requirement 3.2*). Stakeholders further indicated that the National Security Committee was being approached regarding which commodities were covered by state secrecy provisions with a view to determining how to overcome this obstacle to public disclosure.

Subsequent to the commencement of Validation on 11 October 2019, the IA and the KEITI Secretariat published more comprehensive data disaggregated by 4-digit HS codes, including gold volumes and

⁷¹ National Statistics Committee (2019), 'Foreign trade of the Kyrgyz Republic'. Accessed on 15 October 2019. Available at: <http://www.stat.kg/kg/publications/sbornik-vneshnyaya-torgovlya-kyrgyzskoi-respubliki/>

⁷² References were made to 10-digit HS codes, representing a high level of granularity.

values (HS code 7108).⁷³ It provides disaggregated data per commodity, but does not encompass copper exports, nor other ores and concentrates covered by chapter 26 of the HS codes (metal ores).⁷⁴ According to the UN's Comtrade database⁷⁵ these commodities represent approximately USD 500,000, or less than 0.1% of the Kyrgyz Republic's total exports of the extractive sector in 2017.

State/region: The states of origin for exports are also listed in tables 4.7.5.c-e referenced in the above paragraphs.

Calculation: The report provides links to sources of export data and information on how export volumes and values disclosed in the EITI Report were calculated. Stakeholders indicated that a lack of specific commodity list for export data presented a challenge in providing data for EITI purposes.

Secretariat's Assessment

Subject to the Board's consideration of new information published after the commencement of Validation, the International Secretariat's assessment is that the corrective action on export data has been addressed and that the Kyrgyz Republic has made satisfactory progress on Requirement 3.3. At the commencement of validation, the Kyrgyz Republic had disclosed export volumes and values for most commodities. However, some gaps remained, and disclosure efforts were hampered by state secrecy laws, in particular for gold export volumes and data on metal commodities. The Kyrgyz EITI has begun its efforts to overcome the obstacle that state secrecy decrees pose to comprehensive disclosure of export volumes and values, but this barrier was still in effect by the commencement of their second Validation. However, on 11 October 2019 (after the commencement of Validation), the Kyrgyz Republic provided fully disaggregated export data, using international data standards for commodities, covering in excess of 99% of all extractive exports. The remaining ~1% relates to exports of metal commodities, under the Harmonised System code for metal ores.

To strengthen implementation, the Kyrgyz Republic may wish to consider regular publication of all extractive commodities exported at a level of 4- or 6-digit Harmonised System codes for chapters 24 to 27, which cover all mining, quarrying and petroleum commodities.

4.9 Corrective action 9: Barter and infrastructure arrangements (#4.3)

In accordance with Requirement 4.3, the Supervisory Board and the Independent Administrator are required to consider whether there are any agreements, or sets of agreements involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities. Where the Supervisory Board concludes that these agreements are material, the Supervisory Board and the Independent Administrator are required to ensure that the EITI Report addresses these agreements, providing a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. Where reconciliation of key transactions is

⁷³ Kyrgyzstan EITI (2019), 'Open data: Exports KR 2015-2017'. Accessed on 15 October 2019. Available at: <https://keitiweb.wordpress.com/открытые-данные/>

⁷⁴ HS Codes chapter 26 encompass ores and concentrates, including but not limited to Iron, Manganese, Copper, Nickel, Aluminium, Lead, Zinc, Tin, Chromium, Tungsten, Uranium, Molybdenum and Titanium.

⁷⁵ United Nations (2019), 'Comtrade Database: Search parameters included all HS codes for chapter 26 Ores and concentrates, 2017, from Kyrgyzstan to all countries, excluding precious ores'. Accessed on 15 October 2019. Available at: <https://comtrade.un.org/data>

not feasible, Supervisory Board should agree an approach for unilateral disclosure by the parties to the agreement(s) to be included in the EITI Report.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made no progress towards meeting this requirement. The 2013-14 EITI Report did not provide information on infrastructure and barter transactions, nor did the SB appear to have discussed the issue.

Progress since Validation

According to the EITI Report, the SB discussed infrastructure and barter provisions on 20 March 2018 and concluded that this requirement was not applicable (p.12). Upon request from the Supervisory Board, SCIESU provided a letter confirming that infrastructure and barter provisions did not take place during the reporting period (annex 7). The methodology supporting this assessment does not appear to be documented. Nonetheless, there was consensus among stakeholders consulted from all constituencies that neither barter nor infrastructure provisions were applicable in the Kyrgyz Republic in the period under review. Stakeholders further specified that no licenses were awarded on the basis of bartering current or future production, and considered SCIESU's letter as sufficient documentation. This was confirmed by SB meeting minutes from 18 August 2017.

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on infrastructure and barter arrangements has been addressed and that Requirement 4.3 was not applicable to the Kyrgyz Republic in the period under review.

4.10 Corrective action 10: Transportation revenues (#4.4)

In accordance with Requirement 4.4, where revenues from the transportation of oil, gas and minerals are material, the government and state-owned enterprises (SOEs) are expected to disclose the revenues received. The Supervisory Board should evaluate the materiality of any transportation revenues collected by the government, and if applicable, endure an adequate disclosure process.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made no progress towards meeting this requirement. The 2013-14 EITI Report did not provide information on whether revenues from transportation of oil, gas or minerals were material. There were conversations with the Independent Administrator and the National Statistics Committee about disclosing this information, however the data was not available.

Progress since Validation

Materiality: The 2015-2017 EITI Report refers to a decision of the SB in 2018 that considered transportation payments immaterial (p.12), given that transportation revenues were only generated by

product imports, not domestic production. Meeting minutes from 20 March 2018⁷⁶ confirm that the applicability and materiality of transportation revenues were discussed, concluding that no transportation revenues as defined under EITI Requirement 4.4 existed. No transit revenues exist and revenues from transportation collected by both Kyrgyzaltyn OJSC or Kyrgyztemir Jolu SE were not deemed extractives-specific, rather general rates of transportation used for both commodities and other goods alike. Consulted stakeholders unanimously supported this conclusion.

Disclosure: Although the SB considered that there were no extractive-specific transportation revenues, the report provides a table with revenues collected by the two SOEs, Kyrgyztemir Jolu SE and Kyrgyzaltyn OJSC. Total revenues in 2016 amounted at KGS 302m (USD 3m). The report does not indicate a value for transportation revenues for 2017, although data sourced from the SPMF was disclosed by the national secretariat after commencement of Validation on 27 November 2019 that demonstrated that transportation revenues totalled KGS 7.3m and thus were not material.⁷⁷

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on transportation revenues has been addressed and that Requirement 4.4 was not applicable to the Kyrgyz Republic in the period under review.

4.11 Corrective action 11: SOE transactions (#4.5)

In accordance with Requirement 4.5, the Supervisory Board must ensure that the reporting process comprehensively addresses the role of SOEs, including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made inadequate progress towards meeting this requirement. It was not possible to ascertain whether there were additional transactions between the government and SOEs beyond regular payments by the company to the government, for the period 2013-2014.

Progress since Validation

Systematic disclosure

Transactions between SOEs and the government and companies are partially covered in audited financial statements of the SOEs, i.e. as part of aggregate cash-flows, liabilities and payables with *related parties*. But as only one SOE, Kyrgyzaltyn OJSC had published parts of its audited financial statements, these numbers are not comprehensive of all SOE transactions. Kyrgyzneftegaz' profit & loss statement and balance sheet for 2017 are accessible through the official gazette.⁷⁸ However, the

⁷⁶ Kyrgyzstan EITI (2018), 'Supervisory Board meeting minutes of 20 March 2018'. Accessed on 13 December 2019. Available at: <https://keitiweb.wordpress.com/%d0%bf%d1%80%d0%be%d1%82%d0%be%d0%ba%d0%be%d0%bb%d1%8b-%d0%b7%d0%b0%d1%81%d0%b5%d0%b4%d0%b0%d0%bd%d0%b8%d0%b9/>

⁷⁷ Kyrgyzstan EITI (2019), 'Transportation data for 2017'. Accessed on 27 November 2019. Available at: <https://keitiweb.wordpress.com/%d0%be%d1%82%d0%ba%d1%80%d1%8b%d1%82%d1%8b%d0%b5-%d0%b4%d0%b0%d0%bd%d0%bd%d1%8b%d0%b5/>

⁷⁸ Erkin Too (2018), 'Erkin Too issue 27 April 2018'. Accessed on 29 November 2019. Available at: <http://erkintoo.kg/gezitter>

detailed financial notes were not available, meaning that disaggregated information on revenues and payments were not accessible (see *Requirement 2.6*). Some additional details for the most important project of the Kyrgyz Republic, in which Kyrgyzaltyn OJSC holds a minority share, are available through Centerra Gold Inc's audited financial statements⁷⁹ and annual reports. It covers aggregated data (on an accrual basis) for the balances and transactions between Centerra Gold Inc, Kumtor Gold Company, Kyrgyzaltyn and the government.

EITI reporting

Company payments to SOEs: SOEs do not act as fiscal agents in the Kyrgyz Republic, i.e. they do not collect payments from extractive companies on behalf of government. However, other payments from companies to SOEs do take place. Kyrgyzaltyn OJSC collects dividends in line with its 26.6% equity interest in the Kumtor Gold Mine (a joint venture with Centerra Gold) and 40% ownership in Alтынкен (p.74). In addition, according to the "Restated Gold and Silver Sale Agreement" between Kyrgyzaltyn, Kumtor Gold Company and the government, Kyrgyzaltyn also collects management fees (pp.75-76).⁸⁰ Stakeholder consultations confirmed that management fees accrue to Kyrgyzaltyn from Alтынкен and Kumtor Gold Company as compensation for administering any dealings with government, on behalf of the subsidiaries.

Kyrgyzaltyn's dividend income and management fee revenues averaged more than USD 4.4m (KGS 303.7m) and USD 1m (KGS 69.3m) per year respectively (though dividend income is reported as zero for 2017 only).⁸¹ This is higher than the general materiality threshold of USD 1m. These revenues were not reconciled, but reported unilaterally by Kyrgyzaltyn OJSC (pp.75-76). They are confirmed through audited financial statements of Centerra Gold Inc.

Kyrgyzneftegaz pays dividends to the government, but the EITI Report is unclear about whether Kyrgyzneftegaz receives dividends from subsidiaries. There are indications to suggest that the SOE holds majority equity interests in at least one company (Kyrgyz Petroleum Company CJSC) in addition to the one mentioned in the EITI Report (see *Requirement 2.6*). According to the financial data published through the national gazette, the company may have retained a dividend income of KGS 97.15m (over USD 1.4m) in 2017⁸², though it has not been confirmed as their audited financial statements are not sufficiently disaggregated as previously mentioned.

SOE transfers to government: The report confirms that JSCs pay dividends to the government. The government also receives "Deductions from net profits" from SEs. Table 4.4.4a provides unilateral disclosures of data on SE transfers to the government for the seven SEs considered material (see *Requirement 2.6*), based on the SPMF's reporting. These payments are not reconciled, as the SEs were not deemed material. The state's dividend incomes from Kyrgyzaltyn OJSC and Kyrgyzneftegaz OJSC, the two material SOEs, are reconciled (pp.75,157,199). The report notes that more information on SOEs' financial operations is available through SPMF's pilot website⁸³, although review of the pilot site indicates that this information is not routinely published for either SEs or JSCs. Revenues from

⁷⁹ Centerra Gold Inc (2019), 'Financials'. Accessed on 16 October 2019. Available at: <https://www.centerragold.com/investor/financials>

⁸⁰ Centerra Gold Inc (2018), 'Consolidated Financial Statements For the Years Ended December 31, 2017 and 2016', page 55. Accessed on 16 October 2019. Available at: <https://s3.amazonaws.com/centerragold/financials-files/July2018/OU8u2g3EWHj3bSxMI2Dj.pdf>

⁸¹ Values in USD were converted to KGS using exchange rate KGS 68.8395 to USD 1. According to the EITI Report page 76, Dividend payments were USD 11 765 000 (2015), USD 8 824 000 (2016) and USD 0 (2017). Management fees were KGS 65 365 000 (2015), KGS 71 496 000 (2016) and KGS 71 186 000 (2017).

⁸² Taken from the Statement of changes in equity from 1 January 2017 to 1 January 2018.

⁸³ State Property Management Fund (2019), 'Information on state-owned enterprises and joint-stock companies with a state share'. Op.cit.

dividends collected by the state from the two material SOEs amounted to USD 4.8m (KGS 330.4m) in 2017.

Government transfers to SOEs: The report indicates that there were no government transfers to SOEs, beyond transactions related to loans or loan guarantees. These transactions, and related terms, are covered under Requirement 2.6 (p.76).

Ad-hoc transfers between SOEs and government: The report indicates that there were no *ad hoc* transfers between SOEs and the government.

Though not assessed for the purpose of this requirement, we include the following for clarity and information: The *minority*-owned subsidiary (and thus not an SOE) of Kyrgyzaltyn OJSC, Kumtor Gold Company CJSC, did perform several ad hoc transfers as a result of a Strategic Agreement on Environmental Protection and Investment Development between Centerra Gold Inc, the government, Kumtor Gold Company CJSC, Kumtor Operating Company CJSC, and Kyrgyzaltyn OJSC (pp.110-111). The report highlights all the transactions related to this agreement, including USD 57m in 2017, of which USD 7m to the Foundation for Support of Cancer Aid, with the remaining directed towards the Nature Development Fund (pp.110,165). However, as the transactions relate to a company in which the government does not hold majority shares, it is not assessed in the context of Requirement 4.5 but rather in the context of material companies' payments to government (see *Requirement 4.1 and 6.1*).

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on SOE transactions has been partly addressed and that the Kyrgyz Republic has made meaningful progress on Requirement 4.5. The report discloses but does not reconcile certain material dividend incomes and management fee revenues collected by Kyrgyzaltyn OJSC from its subsidiaries. Additionally, there is some indication that other company payments to SOEs have not been considered in the EITI Report, such as dividend incomes collected by Kyrgyzneftegaz OJSC, even though a summary of its financial statements indicate such transactions occurred in 2017. The EITI Report and stakeholder consultations confirm that no transfers occurred between SOEs and governments in the reporting period, besides SOEs' regular payments to governments and dividend transfers.

In accordance with Requirement 4.5, the Kyrgyz Republic should ensure that transactions involving each material SOE, including their subsidiaries and joint ventures, are comprehensively and reliably disclosed annually. These disclosures should include material payments collected by material SOEs from each joint venture and subsidiary, including but not limited to dividend incomes and management fees. It also encompasses their other non-revenue transactions either received from, or paid to, government agencies. This may include transactions related to loans and loan repayments, and other material transfers.

The Kyrgyz Republic may additionally wish to work with the State Property Management Fund to ensure their planned online portal includes information on company payments to SOEs and SOEs' transactions with government are routinely disclosed. The Kyrgyz Republic is further encouraged to explore whether such transactions may be disclosed through SOEs' audited financial statements published in full, which should include related-party transactions.

4.12 Corrective action 12: Direct subnational payments (#4.6)

In accordance with Requirement 4.6, it is required that the Supervisory Board establish whether direct payments, within the scope of the agreed benefit streams, from companies to subnational government entities are material. Where material, the multi-stakeholder group is required to ensure that direct company payments to subnational government entities and the receipt of these payments are disclosed and reconciled in the EITI Report.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made inadequate progress towards meeting this requirement. It was difficult to ascertain what type of payments, if any, were collected by local governments and the materiality of such payments. The SB did not appear to have adopted a systematic approach to defining payment flows from companies to subnational governments nor identified a workable approach to EITI reporting.

Progress since Validation

Systematic disclosure

All tax- and non-tax revenues collected by national and subnational government agencies are transferred to the consolidated Treasury account, and are covered in the Ministry of Finance's Open budget portal.⁸⁴ Real-time, though unaudited, data is available on a per-company basis (based on taxpayer identification numbers – INN), per oblast and district, as well as in aggregate for the government as a whole. Revenues and expenditures of Local and Regional Development Funds are also covered in the portal. However, revenue flows are not presented based on the standard government budget codes.⁸⁵ Secondly, the Ministry of Finance provides regular sub-annual reports for allocations to local governments.⁸⁶ The reports of the Ministry of Finance do not identify extractive revenues specifically and it is difficult to identify specific extractive company payments in the Open budget portal.

EITI reporting

Materiality: The report states that all payments are recorded in the state's single treasury account, but identifies three distinct revenue streams as direct company payments to local government entities (p.10, footnote 3): "Opportunity cost of provided land plots", "Payments established by agreements with the government", and "Support for social infrastructure". In contradiction to the above, section 4.3.5 (pp.59-63) also states that the SB does not consider any payments to be direct subnational payments with the exception of payments associated with social packages, i.e. "Payments established by agreements with the government" and "Support for social infrastructure". However, social packages are considered forms of mandatory social expenditures for the purposes of EITI reporting (see *Requirement 6.1*). Therefore, the single material subnational payment is "Opportunity cost of provided land plots".

Reconciliation: The single material subnational payment, opportunity costs, is not recorded separately from the consolidated budget, and is therefore recorded regularly through the Open budget portal.

⁸⁴ Ministry of Finance (2019), 'Open budget portal'. Accessed on 15 October 2019. Op.cit.

⁸⁵ National Statistics Committee (2019), 'Classifications'. Accessed on 16 October 2019. Available at: <http://stat.kg/en/klassefikatory/>

⁸⁶ Ministry of Finance (2019), 'Reports on the execution of local budgets'. Accessed on 16 October 2019. Available at: <http://www.minfin.kg/novosti/otchet-y-po-ispolneniyu-byudzheta/zhergiliikt-byudzhetterdin-atkarylyshy-tuuraluu-otc>

Consequently, the same method was used for data reliability and assurances as for all other revenues, whether directed at national or subnational levels. The reported total subnational payment was therefore KGS 1 638 900 (USD 23 800⁸⁷) or less than 0.01% of government revenues.⁸⁸ The report still notes that these payments were only reconciled for the subnational government entities that provided data for EITI reporting, and lists the ones that did not provide data (p.150).

Due to the amount of non-submission by local government units (LGUs), the SB and IA attempted to estimate the actual receipts of LGUs by relying on company reporting, but were unable to disaggregate these payments by individual LGU. An estimation of the significance of omissions was thus not undertaken per individual LGU. Nonetheless, the aggregate value of omissions for companies in the scope of reconciliation is estimated at less than 0.01% of total government extractive revenues.

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on direct subnational payments has been partly addressed and that the Kyrgyz Republic has made meaningful progress on Requirement 4.6. As all revenue streams are recorded in the State's single treasury account, any subnational revenue stream was treated identically to national level revenues. The Supervisory Board made progress in considering which revenue streams are paid directly to subnational budgets, and clarified which payments are deemed mandatory social expenditures versus regular fiscal instruments. Still, full government disclosures of the sole direct subnational payment, 'Opportunity cost of provided land plots', has not been achieved as several local government units did not provide data for the purpose of EITI reporting. Although these revenues are most likely not material, the SB did include them in the reconciliation exercise and the report was unable to provide full unilateral disclosure by the relevant government entities.

In accordance with Requirement 4.6, it is required that the Kyrgyz Republic establish whether direct payments, within the scope of the agreed benefit streams, from companies to subnational government entities are material. Where material, the multi-stakeholder group is required to ensure that direct company payments to subnational government entities and the receipt of these payments are disclosed and reconciled in the EITI Report.

Additionally, the Supervisory Board is encouraged to provide a clear assessment of reconciliation coverage of subnational payments in relation to total revenues received per individual revenue stream, and per local government unit, for all payments made to the single treasury account.

4.13 Corrective action 13: Data quality (#4.9)

In accordance with Requirement 4.9.b.iii, the Supervisory Board and the Independent Administrator are required to agree a Terms of Reference for the EITI Report based on the standard Terms of Reference and the 'agreed upon procedure for EITI Reports' endorsed by the EITI Board. Where the multi-stakeholder group concludes that there is routine disclosure of data required by the EITI Standard (e.g. Open Budget Portal) and is subject to credible audit, the SB may seek approval from

⁸⁷ Values in USD were converted to KGS using exchange rate KGS 68.8395 to USD 1

⁸⁸ Calculated based on Kyrgyz Republic's Summary data for 2017:

https://eiti.org/sites/default/files/spreadsheets/2017_kyrgyz_republic_summary_data_san_0.xlsx

the EITI Board to mainstream EITI implementation in accordance with the ‘Agreed upon procedure for mainstreamed disclosures’ (Requirement 4.9.c).

In accordance with Requirement 8.3.c.i, the Supervisory Board is required to disclose a time-bound action plan for addressing the weaknesses in data reliability documented in the initial assessment and the Validator’s Report within three months of Board’s decision, i.e. by 8 June 2017.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made inadequate progress towards meeting this requirement. The SB significantly deviated from the “agreed upon procedures” with regards to the inception phase and data collection phase. The SB did not consult the Independent Administrator on reporting templates. There was no evidence that a review of audit and assurance practices were undertaken prior to data collection and the Independent Administrator was not involved in any discussion about data assurances. Furthermore, there had been limited discussion about potential conflicts of interest in having the national secretariat and the State Agency for Geology and Mineral Resources (SAGMR) [now known as SCIESU or GKPEN] responsible for collecting data from companies and government entities.

Progress since Validation

Since their first Validation, the Kyrgyz Republic developed an action plan⁸⁹ for addressing all the corrective actions decided by the Board. The SB’s plan was originally to apply to the EITI Board for an alternative procedure, supported by the results of a feasibility study prepared by the International Secretariat in March 2018.^{90,91} However, this application was not submitted due to severe funding constraints. The SB subsequently opted for amending existing regulations concerning EITI reporting procedures in the Kyrgyz Republic, further embedding data collection into government systems.^{92,93} In 2019, the SB had to opt for traditional EITI reporting using an IA, as in previous years.

EITI reporting

Terms of Reference for the IA: The draft ToRs for the IA was published alongside the call for expressions of interest, published by Kyrgyzstan EITI.⁹⁴ The final ToRs for the IA was approved by the SB during their meeting of 25 March 2019.⁹⁵ The ToRs follows the EITI Board-approved procedures of

⁸⁹ Kyrgyzstan EITI (2018), ‘2018 Validation action plan’. Accessed on 11 December 2019. Available at:

<https://keitiweb.wordpress.com/%d0%bd%d0%b0%d0%b1%d0%bb%d1%8e%d0%b4%d0%b0%d1%82%d0%b5%d0%bb%d1%8c%d0%bd%d1%8b%d0%b9-%d1%81%d0%be%d0%b2%d0%b5%d1%82/%d1%80%d0%b0%d0%b1%d0%be%d1%87%d0%b8%d0%b5-%d0%bf%d0%bb%d0%b0%d0%bd%d1%8b-%d0%b8%d0%bf%d0%b4%d0%be/>

⁹⁰ EITI (2018), ‘Feasibility study: Systematic disclosures of EITI data in Kyrgyz Republic’. Accessed on 11 December 2019. Available at:

<https://eiti.org/document/feasibility-study-systematic-disclosures-of-eiti-data-in-kyrgyz-republic>

⁹¹ Kyrgyzstan EITI (2018), ‘EITI Integration’. Accessed on 11 November 2019. Available at:

<https://keitiweb.files.wordpress.com/2018/06/russian-feasibility-study-systematic-disclosures-of-eiti-data-in-kyrgyz-republic.pdf>

⁹² Ministry of Justice of the Kyrgyz Republic (2018), ‘Resolution No. 631 of 25 December 2018 On Amending the Decree of the Government of the Kyrgyz Republic “On Improving the Implementation of the Extractive Industries Transparency Initiative in the Kyrgyz Republic” dated December 8, 2010 No. 317’. Accessed on 9 December 2019. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/12845?cl=ru-ru>

⁹³ Kyrgyzstan EITI (2019), ‘Changes to the EITI legal act’. Accessed on 11 November 2019. Available at:

<https://keitiweb.wordpress.com/2019/01/15/%d0%bd%d0%bf%d0%b0-%d0%b8%d0%bf%d0%b4%d0%be/>

⁹⁴ Kyrgyzstan EITI (2019), ‘Request for Expression of Interest: Advisory services for the preparation of the EITI Report 2015-17’. Accessed on 9 December 2019. Available at: <https://keitiweb.wordpress.com/2019/02/28/%d0%b7%d0%b0%d0%bf%d1%80%d0%be%d1%81-%d0%bd%d0%b0-%d0%b2%d1%8b%d1%80%d0%b0%d0%b6%d0%b5%d0%bd%d0%b8%d0%b5-%d0%b8%d0%bd%d1%82%d0%b5%d1%80%d0%b5%d1%81%d0%b0-%d0%ba%d0%be%d0%bd%d1%81%d1%83%d0%bb%d1%8c/>

⁹⁵ Kyrgyzstan EITI (2019), ‘Supervisory Board meeting minutes of 25 March 2019’. Accessed on 9 December 2019. Available at: <https://keitiweb.files.wordpress.com/2019/08/d09fd180d0bed182d0bed0bad0bed0bb-25-03-2019.pdf>

the Standard Terms of References for IA services.⁹⁶ However, the selection of revenue streams is not based on share of total extractive revenues as these numbers were not included. The statement of materiality which is included refers to the Government decree number 317 of 8 December 2010 “On improving the process of implementing the Extractive Industries Transparency Initiative in the Kyrgyz Republic”, and its subsequent amendment: Government decree number 631 of 25 December 2018.⁹⁷ It effectively meant that full government disclosure would need to be clarified through EITI reporting, rather than performed ahead of reconciliation to determine the scope of revenue streams to include (see *Requirement 4.1*).

Appointment of the IA: The appointment of the IA, Kreston Bishkek, was unanimously supported by the SB, as documented by meeting minutes from 25 March 2019.⁹⁸

Agreement on reporting templates: The various reporting templates used to collect data from companies are provided in Appendix 1-5 (pp.179-186). The SB’s decision on the format of reporting templates were taken on 25 December 2018 via government decree.⁹⁹ The report does not comment on the content of the templates, but recommends that future reporting templates be submitted in excel format (p.178).

During consultations the IA confirmed their lack of involvement in developing the reporting templates. The IA still claimed that this had no implication for the integrity of the data, as the amendment of the decree meant that data collection was undertaken and archived as part of regular corporate filings to the SCIESU.

The reporting via regular corporate filing systems began in 2018. Data is submitted per individual license, using the form LS-D-TPI (ЛС-Д-ТПИ)¹⁰⁰, by 31 January of the subsequent year. The submissions are kept by the SCIESU for final submission to the IA upon their appointment. Submissions are still performed in hard copy, given the lack of digital signatures that would allow for electronic submission. Dual submission (i.e. in both hard and soft copy) is technically possible, but not required. Actual submissions are therefore only available in soft copy for certain companies. The data is therefore transposed manually to electronic excel files for the purpose of EITI reporting and reconciliation.

Review of audit practices: The report describes audit requirements for government agencies in section 4.3.6 (pp.63-65). All government audits are conducted annually by the Chamber of Accounts for all state entities and are publicly available on their website.¹⁰¹ This was confirmed in stakeholder consultations, which clarified that OJSCs were subject to audit by the AC once every two years. Nonetheless, SOEs underwent annual audits by external auditors in order to submit the results to both the AC and the SPMF, as well as their respective line ministries. Public accessibility is only guaranteed for audit reports that are submitted to Parliament.

⁹⁶ EITI (2016), ‘Standard Terms of Reference for Independent Administrator services’. Accessed on 9 December 2019. Available at: <https://eiti.org/TOR-IA>

⁹⁷ Ministry of Justice of the Kyrgyz Republic (2018), ‘Resolution No. 631 of 25 December 2018 On Amending the Decree of the Government of the Kyrgyz Republic "On Improving the Implementation of the Extractive Industries Transparency Initiative in the Kyrgyz Republic" dated December 8, 2010 No. 317’. Op.cit.

⁹⁸ Kyrgyzstan EITI (2019), ‘Supervisory Board meeting minutes of 25 March 2019’. Op.cit.

⁹⁹ Ministry of Justice of the Kyrgyz Republic (2018), ‘Resolution No. 631 of 25 December 2018 On Amending the Decree of the Government of the Kyrgyz Republic "On Improving the Implementation of the Extractive Industries Transparency Initiative in the Kyrgyz Republic" dated December 8, 2010 No. 317’. Op.cit.

¹⁰⁰ SCIESU (2019), ‘Forms: LS-D-TPI’. Accessed on 27 November 2019. Available at: <http://www.gkpen.kg/images/basa/blank/LS1.rar>

¹⁰¹ Accounts Chamber (2019), ‘Audit Results’. Accessed on 16 October 2019. Available at: https://www.esep.kg/index.php?option=com_content&view=category&layout=blog&id=26&Itemid=136&lang=ru

Publicly listed companies must undergo external audits annually, while non-public companies such as LLCs are not covered (p.63). The report further references the Law on Auditing of 2002¹⁰², clarifying that all publicly listed companies are also required to publish their full audit reports in the media. The report comments that eight out of 14 companies were subject to external financial audits in the period under review (pp.170-171), though these findings do not mean that audited financial statements were submitted to the IA. During consultations the IA indicated that companies only provided an answer as to whether they had been subject to an audit rather than submitting the audited financial statements. Two reports were publicly available, that of Kyrgyzaltyn OJSC and Kyrgyzneftegaz OJSC, although these public documents do not include the associated financial notes.¹⁰³ Kumtor Gold Company CJSC's audited financial statements are part of Centerra Gold Inc's consolidated financial statements.¹⁰⁴ Combined, revenues from these two companies in 2017 accounted for 71% of reconciled revenues, or 56% of total government revenues from the sector.¹⁰⁵

Of reporting government entities, five had undergone audits for some of the years (mainly 2015, 2016), but the report does not indicate any weaknesses noted in these audits (p.73). Based on a preliminary review, most of these audits resulted in qualified statements. The materiality of revenues collected by non-complying government entities is not explicitly presented in the report, although it is possible to calculate this based on reconciled revenues provided.

Assurance methodology: The report describes the methodology adopted for the reconciliation of company payments and government revenues (ISRS 4400 and ISA 505, pp.15-16). The report states that the work and agreed procedures were conducted in accordance with only *some* international auditing standards, namely ISRS4400 and ISA505 (pp.7,15-16). The report provides additional summaries of assurance procedures, according to Government Decree 317 from 8 Dec 2010, amended in December 2018¹⁰⁶ (p.170).

The assurances of reliability (p.15) included:

- **Signatures** and/or seals of senior officials guaranteeing the correctness of the data.
- **Cross-sectional comparisons**, i.e. across time and across other payments.
- **Additional signatures** from companies' CEOs or delegated authorities on the correctness of data.
- Request of **additional documentation** in the case of discrepancies.
- If government data was not available, these were supplanted by corporate accounts or reporting.

In addition, data from the Open budget portal¹⁰⁷ supplemented the analysis of existing data if government and company data was missing or differences were unexplained. During consultations the IA confirmed it did not undertake a review of audit practices of companies and government agencies

¹⁰² Ministry of Justice of the Kyrgyz Republic (2002), 'Law on Auditing, 30 July 2002, No. 134'. Accessed in December 2019. Available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/1091>

¹⁰³ Kyrgyz Stock Exchange (2019), 'Kyrgyzaltyn's audited financial statements 2018'. Op.cit.

¹⁰⁴ Centerra Gold Inc (2018), 'Consolidated Financial Statements For the Years Ended December 31, 2017 and 2016'. Op.cit.

¹⁰⁵ EITI (2019), '2017 Kyrgyz Republic Summary data'. Accessed on 16 October 2019. Available at: https://eiti.org/sites/default/files/spreadsheets/2017_kyrgyz_republic_summary_data_san_0.xlsx

¹⁰⁶ Ministry of Justice of the Kyrgyz Republic (2018), 'Resolution No. 631 of 25 December 2018 On Amending the Decree of the Government of the Kyrgyz Republic "On Improving the Implementation of the Extractive Industries Transparency Initiative in the Kyrgyz Republic" dated December 8, 2010 No. 317'. Op.cit.

¹⁰⁷ Ministry of Finance (2019), 'Open budget portal'. Accessed on 15 October 2019. Op.cit.

ahead of SB agreement on these assurances, but that there had been no objections or concerns about this methodology.

Confidentiality: The report did not clarify any additional measures to ensure confidentiality or validity of the data collected and maintained by SCIESU or the Kyrgyz EITI Secretariat, beyond those contained in ISRS4400. Consultations revealed that hardcopies of government data were collected and submitted by the national secretariat to the IA, while hardcopies of company submissions were collected and forwarded by the SCIESU to the IA. As corporate filings were maintained by SCIESU, signatures were needed for checking out information from SCIESU's archive.

Reconciliation coverage: The reconciliation coverage is unclear due to issues related to full unilateral government disclosures (see *Requirement 4.1*). The report clarifies that only 30% of district and state agencies provided data, and 75% of central government agencies reported and were reconciled. The report itself provides information on tax-payments from all extractive companies (p.45), but there is less clarity on total non-tax payments for extractive companies outside the scope of reconciliation. Based on consultations with the IA and submission of summary data¹⁰⁸, full government revenues from extractive companies can be estimated at KGS 17.3bn¹⁰⁹, although some payments may also encompass non-extractive companies.¹¹⁰ Using this estimate as a total, final reconciled data totalled KGS 14.4bn¹¹¹, or 81% of total revenues listed above.¹¹²

Assurance omissions: The report states that all material companies provided the necessary assurances. Three central government agencies did not certify 2017 data by providing stamps, seals or signatures. These were the State Agency for Environmental Protection and Forestry, State property Management Fund and SCIESU amounting to KGS 263m¹¹³ or 2% of total reconciled revenues.

Additionally, only four of the 14 district administrations reported. The report does not provide information on seals of district governments, per individual LGU, nor does it provide an estimate of the significance of revenues associated with assurance omissions per LGU. The significance of these omissions was not presented in the report, although it is possible to calculate this using total reconciled revenues. These omissions total at least KGS 596m¹¹⁴, or 4%.

The SB discussed this issue with the IA and agreed that due to the limited discrepancies of the four government entities that did provide assurances, they considered that the omissions did not affect the comprehensiveness or reliability of reconciled financial data (p.170). None of the stakeholders consulted expressed any concerns regarding these omissions.

Data reliability assessment: The report provides an informative summary of the work performed by the IA (pp.14-16). The IA provides an opinion that the reconciled financial data are considered comprehensive ("full") and reliable (p.16). However, the IA also cautions that there may be significant other payments that were not considered by state or companies, which may affect the comprehensiveness of the report (p.16). The IA did not assume responsibility for assuring the

¹⁰⁸ EITI (2019), 'Summary data'. Accessed on 17 October 2019. Available at: <https://eiti.org/summary-data>

¹⁰⁹ Roughly equal to USD 251.3 million, calculated using an exchange rate of KGS 68.8395 per USD.

¹¹⁰ E.g. the total revenues from "Tax on income of foreign companies" is identical to the State Tax Service's estimates of total revenues, also including non-extractive companies.

¹¹¹ Equal to roughly USD 209.2 million, calculated using an exchange rate of KGS 68.8395 per USD.

¹¹² EITI (2019), '2017 Kyrgyz Republic Summary data'. Op.cit.

¹¹³ Equal to roughly USD 3.8 million, calculated using an exchange rate of KGS 68.8395 per USD

¹¹⁴ Equal to roughly USD 8.7 million, calculated using an exchange rate of KGS 68.8395 per USD

information in the report and asserted that the objective was to ensure payments were disclosed, not to audit the companies (pp.7,15).

All representatives consulted, including from civil society, considered the EITI data reliable given that EITI reporting was already integrated into companies' statutory filings to SCIESU. The process was viewed as especially rigorous considering additional assistance was sought of the Chamber of Accounts. Any concerns of stakeholders were therefore directed toward other issues such as licensing, payments related to social packages and development funds (see Requirements 2.2, 2.3, 5.2 and 6.1), and does not mean that the reported data are not reliable, but directed towards concerns of comprehensiveness.

Sourcing of information: The IA largely provides sources of data, although some sources were too general to verify or triangulate precisely. This was in part due to vague references or general URLs. Information gaps related Requirement 6.3 on the contribution to the economy may have been possible to resolve with more precise sourcing.

Summary data: Summary data for 2015-2017 was submitted to the EITI Secretariat on 27 September 2019. The submissions seem to be the only or closest estimate available of full government disclosure (see Requirement 4.1), and provide additional disclosures which influence comprehensiveness of reporting. The SB did not seem aware of this data, nor its difference from the EITI Report.

Recommendations: The IA provides a status for addressing past recommendations from previous report in section 6.2 (pp.172-178). In terms of follow up on recommendations, targeted government agencies were consulted to express their views on the usefulness of recommendations from EITI reporting, though individual government agencies did not seem to be aware of recommendations that targeted them specifically (see Requirement 7.3).

Seven new recommendations are included based on reporting for 2015-2017 (pp.170-171). Of these, six are related to improving EITI reporting. One of them also related to disclosures outside EITI, while the last recommendation refers to improvement of audit practices by government agencies and companies. Again, no new recommendations are highlighted on wider governance issues, despite the report's extensive discussion of corruption risks associated with license allocation procedures (see section 4.5.4, pp.90-92).

Secretariat's Assessment

The International Secretariat assessment is that the corrective action on data quality has been addressed and that the Kyrgyz Republic has made satisfactory progress toward Requirement 4.9. The Kyrgyz Republic continues to use the Standard Terms of Reference for Independent Administrator services, though the IA's involvement ahead of data collection, and in determining quality assurances, remains limited. The IA did not undertake a review of auditing practices prior to agreeing quality assurance procedures, as these were already pre-defined by government decree with inputs from the SB. Nonetheless, the IA did not have any concerns that would have led to revisions to the reporting templates nor the additional assurances agreed. Therefore, the IA was able to provide an assessment on the comprehensiveness and reliability of reconciled financial data, even if accompanied with several caveats.

Significant improvements have still been made in data collection by embedding EITI requirements and data in annual corporate filings to the regulator, SCIESU. Filings are also subject to additional measures to guarantee integrity, as the archive follows strict procedures for data storage. The Supervisory Board's plan for addressing the corrective action has not yet been completed, but progress has been made towards more routine collection and publication of reliable revenue data.

To strengthen implementation and enhance the added value of EITI reporting, the Kyrgyz Republic is encouraged to consider alternative assurance procedures, with the aim of ensuring routine publication of government revenues and company payments, alongside documentation of assurances. The Kyrgyz Republic is encouraged to use EITI reporting as an annual diagnostic of public and private sector audit practices and publications, to ensure compliance by state-owned, publicly listed, and private companies with auditing and assurance requirements.

4.14 Corrective action 14: Subnational transfers (#5.2)

In accordance with Requirement 5.2.a, the Kyrgyz Republic should disclose the revenue sharing formula, if any, as well as any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made inadequate progress towards meeting this requirement. The 2013-14 EITI Report included only limited information on some subnational transfer mechanisms. Stakeholder consultations pointed to considerable confusion around the current systems. Although the International Secretariat was not aware of any transfers that took place in 2013-14, Validation concluded that significant further work was needed to establish sufficient transparency mechanisms and systems covering those funds.

Progress since Validation

Systematic disclosures

The Ministry of Economy developed a portal¹¹⁵ for development funds, although it only provides data on provisional and actual revenues. According to stakeholder consultation, the Ministry of Economy publishes the transfers to the local development funds annually on its website, although it did not appear to be publicly accessible at the start of Validation.

EITI reporting

Chapter 4.3.4¹¹⁶ of the 2015-2017 EITI Report provides a description of subnational transfers in the Kyrgyz Republic. Government Degree #633 from 10 November 2014¹¹⁷ establishes local and regional development funds to develop and maintain social infrastructure and contribute to social-economic development of regions. Regional development funds are established and managed by the government, whereas the district development funds are established by local governments as non-

¹¹⁵ Portal for development funds, accessed [here](#) in January 2020.

¹¹⁶ 2015-2017 EITI Report, accessed [here](#) in January 2020, pp. 54-58.

¹¹⁷ Government Degree #633 from 10 November 2014, accessed [here](#) in January 2020.

profit organisations, managed by a board. Regulations¹¹⁸ passed in 2014 and amended in 2019 define sources of revenues for development funds, including formulas for allocation between regional and district funds. For the purpose of development funds, the Treasury maintains a separate account where three types of non-tax payments from the extractive companies are directed. These include 3% of the licence value during tenders, excluding bonus; payments for retaining licenses; and 2% of revenues from the sale of commodities as outlined in the Law on Non-Tax Payments.¹¹⁹ In addition to this, the government distinguishes two categories of deposits, such as deposits with gold reserves over 50 tons or deposits of national importance and deposits with gold reserves less than 50 tons. The first category has the following revenue distribution formula: 50% to regional development funds, 30% to district development funds and 20% to local government units. The second category distributes 80% of revenues to district funds and 20% to local government units. The regulation also allows donors and charitable organisations to provide additional revenue for development funds. The estimated allocation based on the formula in legislation is compared to actual receipts of License retention fees¹²⁰. However, it is not clear how the government calculates allocations from the special account in the Treasury to separate regional and district funds. During stakeholder consultation, the government representatives explained that the Ministry of Finance calculates prognosed transfers while the STS executes them. The estimated transfer amounts from the Ministry of Finance was not publicly accessible at the start of Validation.

During the reporting period, there were four regional and 18 district development funds in the Kyrgyz Republic. The report provides data on revenues received by the regional and district development funds in 2015-2018. However, the actual payments are not compared with the notional transfers calculated in accordance with the relevant revenue sharing formula. The report provides information on types of projects that the local development funds finance and amounts that were received by the regional and district development funds. The IA lists gaps and weaknesses in the transparency and accountability of the local development funds.¹²¹

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on subnational transfers has been partly addressed and that the Kyrgyz Republic has made meaningful progress on Requirement 5.2. The EITI Report addresses material transfers between the Treasury's special account to fund subnational transfers to regions for the development and maintenance of social infrastructure and contribution to social-economic development. Although the revenue-sharing formula is provided in the government regulation, it remains unclear how the government calculates the transfers for each of the four regional and 18 district funds, due to the complexity and a large number of development funds. The report provides the actual amounts that were transferred between the central government and each development fund, and disaggregates the expenses by project and beneficiary. However, the transfer amount calculated in accordance with the relevant revenue-sharing formula is not provided.

In accordance with Requirement 5.2, the Kyrgyz Republic is required to disclose the revenue sharing formula and any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each of the regional and district funds during the reporting period.

¹¹⁸ Government Regulation on Development Funds, amended in February 2019, accessed [here](#) in January 2020.

¹¹⁹ Law on Non-Tax Payments of the Kyrgyz Republic, accessed [here](#) in January 2020, Article 19-3.

¹²⁰ 2015-2017 EITI Report, accessed [here](#) in January 2020, pp. 58.

¹²¹ Ibid., p. 58.

4.15 Corrective action 15: Social expenditures (#6.1)

In accordance with Requirement 6.1.a, where material social expenditures by companies are mandated by law or the contract with the government that governs the extractive investment, the Kyrgyz Republic must disclose and, where possible, reconcile these transactions. The Supervisory Board should establish the existence and materiality of mandatory and discretionary social expenditures and ensure that any material expenditures are disclosed in accordance with Requirement 6.1.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made inadequate progress towards meeting this requirement. The 2013-14 EITI Report included limited information about mandatory and voluntary social expenditures, and there was little evidence in SB meeting minutes that the SB had considered the issue in any detail. Stakeholder consultations revealed a mix of seemingly mandatory and voluntary practices and approaches to social expenditures.

Progress since Validation

Systematic disclosures

Social payments are mandatory in the Kyrgyz Republic, with several requiring companies to contribute to social needs. There does not seem to be any information on social package contributions available online.

EITI Reporting

Mandatory social expenditures: The EITI Report describes that social packages are agreements between a subsoil user (a license holder) and a local government unit. Social packages are mandatory for extractive activities related to natural resources of national importance. The agreements are developed based on the program of socio-economic development of the local community. The amount of social-economic investment for a social package is indicated in the license tender (recall that extraction of natural resources of national importance must be allocated through a tendering process; see Requirement 2.2).

Legal provisions do not specify what should be included in the social package agreements, though they may include building infrastructure, providing education services and/or employment of local citizens, etc. During stakeholder consultations, representatives of the Ministry of Finance admitted that the government did not keep records of the social package payments.

The EITI Report provides unilateral disclosure from all material companies that have active social package agreements during the reporting period. The report lists three agreements, their conditions, amounts that companies committed to pay and beneficiaries.¹²² The report also provides the nature and the deemed value of the in-kind transactions.

The report provides information and revenues received by the Issyk-Kul development fund that has a special status and is fully financed by Kumtor Gold Company.¹²³ The report compares state budget

¹²² Ibid, pp. 60-62.

¹²³ Ibid, pp. 61-62

projections and actual receipts of the fund. The Issyk-Kul fund has a website¹²⁴, where citizens can track the payments received, projects financed, etc. In addition to this, there were significant payments to government reported by Kumtor Gold Company and Centerra Inc, as part of a Strategic Agreement signed in 2017 (pp.109-111). These payments are listed in the EITI Report as two separate transactions, amounting to USD 57m (pp.110-111), or KGS 3 924m. These payments were made to two separate funds, managed by the Kyrgyz Republic; Fund for the Development of Nature, and Foundation for Support of Cancer Aid (p.111). These payments are described in more detail under the coverage of comprehensiveness (see *Requirement 4.1*), given the uncertainty about whether they represent payments to government or mandatory social expenditures.

Voluntary social expenditures: Extractive companies in the Kyrgyz Republic undertake voluntary social expenditures. The report refers to websites of a few companies that are transparent about their voluntary social expenditures. However, most companies do not disclose their social payments. The IA recommends that the SB reviews materiality of the voluntary social expenditures for the future reporting.

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on social expenditures has been addressed and that the Kyrgyz Republic has made satisfactory progress on mandatory social expenditures. The 2015-2017 EITI Report clarifies that social payments are mandatory, as indicated in the license tender. The report provides unilateral disclosure of social package payments from companies that have signed social package agreements during the reporting period. In addition, the report provides detailed information on the social payments to the Issyk-Kul development fund that is fully funded by the Kumtor Gold Company, the biggest extractive industry taxpayer. The report clarifies that most companies do not disclose voluntary social payments.

To strengthen implementation of Requirement 6.1, the Kyrgyz Republic is encouraged to consider the materiality of voluntary social expenditures with a view to achieving a level of transparency commensurate with that of mandatory social expenditures.

4.16 Corrective action 16: SOE quasi-fiscal expenditures (#6.2)

In accordance with Requirement 6.2, the Kyrgyz Republic must include disclosures from SOE(s) on their quasi-fiscal expenditures. The Supervisory Board is required to establish the materiality of any quasi-fiscal expenditures and develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made no progress towards meeting this requirement. The 2013-14 EITI Report did not address quasi-fiscal expenditures of state-owned enterprises, nor was there any evidence that the SB has discussed this. Stakeholder consultations revealed that quasi-fiscal expenditures exist.

¹²⁴ Issyk-Kul development fund website, accessed [here](#) in January 2020.

Progress since Validation

Systematic disclosure

There are not many systematic disclosures related to quasi-fiscal or extrabudgetary expenditures (QFEs) undertaken by SOEs. No QFEs or other expenses on behalf of related parties were identified in the only extractive SOE (Kyrgyzaltyn OJSC) whose audited financial statements are publicly accessible, albeit without the financial notes. The key financial information of Kyrgyzneftegaz OJSC, published in the *Erkin Too* gazette¹²⁵, does not identify any quasi-fiscal expenditures. The Accounts Chamber of the Kyrgyz Republic performs Budget Performance Audits, which includes extra-budgetary funds.¹²⁶ However, the performance audit confirms that there are extrabudgetary sources of financing of the republican budget, although these are not extractive-specific nor seem to constitute quasi-fiscal activities.

EITI reporting

Materiality: The report provides a definition of QFEs in line with the IMF definition (p.88), although it does not determine whether QFEs are material. The two material SOEs disclosed their QFEs during the reporting period, amounting to KGS 43m, or USD 625 000 (pp.78-79), which is less than the general materiality threshold of USD 1m. The report provides limited explanation on infrastructural projects, financed by Kyrgyzneftegaz and on housing. However, during consultations it became clear that these assets are owned and maintained by the company itself, and therefore do not constitute QFEs. Additionally the report describes communal services provided by Kyrgyzaltyn's subsidiary, Makmal Gold Mining Plant (p.79). These expenses carried by Makmal are currently being phased out according to various government agencies. Khaidarkan Mercury OJSC and Kyrgyzkomur SE did not report QFEs.

The finding that QFEs occurred in the past but became less relevant in recent years seems to coincide with findings of other institutions. The government budget does not seem to cover QFEs, which is confirmed by a report of the IMF in 2008 reaching a similar conclusion.¹²⁷ The most recent Article IV consultation of the IMF also mentions QFEs but only explicitly identifies the central bank, not the extractive sector.¹²⁸

Reporting process: The report does not identify efforts to ensure that QFE disclosures are comprehensive, nor elaborate on any methodology or efforts for comparing SOE and the line ministry data and views on these payments. The data provided for QFEs are based on reporting to the IA by SPMF and SOEs, and are not subject to reconciliation nor comparison.

Adherence to process: The report clarifies that the SB provided SOEs with a clarification of the definition of QFEs to improve reporting. Nevertheless, original data submissions did not include QFEs at first and were only disclosed following a more detailed explanatory note. The IA and other

¹²⁵ Erkin Too (2018), "Erkin Too issue 27 April 2018". Accessed on 29 November 2019. Available at: <http://erkintoo.kg/gezitter>

¹²⁶ Accounts Chamber (2018), "Budget Performance Audit Report of 2017". Accessed on 17 October 2019. Available at: https://www.esep.kg/index.php?option=com_content&view=category&layout=blog&id=63&Itemid=166&lang=ru

¹²⁷ International Monetary Fund (2008), 'Kyrgyz Republic: Report on Observance of Standards and Codes – Fiscal Transparency Module'. Accessed on 17 October 2019. Available at: <https://www.imf.org/external/pubs/ft/scr/2008/cr08151.pdf>

¹²⁸ International Monetary Fund (2019), 'Kyrgyz Republic: 2019 Article IV Consultation – Press release and Staff Report'. Accessed on 17 October 2019. Available at: <https://www.imf.org/~media/Files/Publications/CR/2019/1KGZEA2019001.ashx>

stakeholders consulted confirmed their confidence in this assessment, as did SB meeting minutes.^{129,130}

Secretariat's Assessment

The International Secretariat assessment is that the corrective action on quasi-fiscal expenditures has been addressed and that the Kyrgyz Republic has made satisfactory progress on Requirement 6.2. The Supervisory Board discussed and agreed definitions throughout the reporting process for the 2015-2017 EITI Report. While the report may not cover all quasi-fiscal expenditures of all (non-extractive) state-owned enterprises, it provides comprehensive disclosures for two material SOEs; Kyrgyzaltyn OJSC and Kyrgyzneftegaz OJSC. There was consensus among stakeholders consulted that these disclosures were comprehensive.

To strengthen implementation, the Kyrgyz Republic is encouraged to explore the extent to which quasi-fiscal disclosures could be systematically disclosed through routine publication of SOEs' audited financial statements. The Kyrgyz Republic may wish to consider ways of embedding regular disclosure of SOEs' quasi-fiscal expenditures through government systems such as the Open budget portal.

4.17 Corrective action 17: Contribution of the extractive sector to the economy (#6.3)

In accordance with Requirement 6.3, implementing countries must disclose information about the contribution of the extractive industries to the economy for the fiscal year covered by the EITI Report, including the size of the extractive industries in absolute terms and an estimate of informal sector activity (Requirement 6.3.a). Total government revenues generated by the extractive industries (including taxes, royalties, bonuses, fees, and other payments) in absolute terms should also be disclosed in the next EITI Report (Requirement 6.3.b).

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress towards meeting this requirement. The 2013-14 EITI Report provided an overview of the contribution of extractive industries, including the share of the extractive industries in GDP, share in total revenues, share of exports, employment in absolute terms and percentage in total employment, as well as main region of production. The report did not address the size of extractive industries in absolute terms; an estimate of informal sector; and total government revenues generated by the extractive industries in absolute terms.

Progress since Validation

Systematic disclosures

¹²⁹ Kyrgyzstan EITI (2018), 'Supervisory Board meeting minutes of 20 March 2018'. Accessed on 11 December 2019. Available at: <https://keitiweb.wordpress.com/%d0%bf%d1%80%d0%be%d1%82%d0%be%d0%ba%d0%be%d0%bb%d1%8b-%d0%b7%d0%b0%d1%81%d0%b5%d0%b4%d0%b0%d0%bd%d0%b8%d0%b9/>

¹³⁰ Kyrgyzstan EITI (2019), 'Supervisory Board meeting minutes of 27 May 2019'. Ibid.

The employment and salary information¹³¹ as well as export data are available on the NSC website, while an interactive geological map is available on the SCIESU website.¹³² Data on gold exports, although classified as a state secret, are also available through the UN Comrade website¹³³, however the IA comments that there is 6% discrepancy in comparison to the data by the NSC.

EITI Reporting

The report provides the size of extractive industries in absolute terms and as percentage of GDP¹³⁴ for 2015, 2016 and 2017. The report provides a definition of artisanal mining according to the national legislation and the size of artisanal production, including production volume and employment (p.47).

Total government revenues from the extractive industries in absolute and relative terms are available in the report (p.5). However, table 4.2.4a (p.45) indicates the extractive sector revenues amount to KGS 9 861 213 000 in 2017, and compares this to total state revenues of KGS 149 547 451 000, or at 6.6% (pp.53,55). However, this does not seem to constitute full government disclosure of revenues, as evident from reconciliation results – showing more than KGS 14bn received by the 14 largest companies alone.

The report provides exports from the extractive industries in absolute terms and in percentage of total export for 2015-2017 (pp.4-5). In addition, the report provides disaggregation by type of commodities and by the region of production (pp.143-147). However, data available on the NSC's website¹³⁵ suggests a much lower contribution of USD 162 924 629 to total exports.

The report provides employment in the extractive industries in absolute terms and as a percentage of total employment (pp.141-143). However, the data sources referenced in the report, such as the NSC website, provides different figures for total employment in the country, namely 2.35m people formally employed in 2017 of which 12.8% were employed in the mining and quarrying industries.

The report provides a map of natural resources (p.133) and the key production regions (pp.135-139).

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on contribution to the economy has been addressed and that the Kyrgyz Republic has made satisfactory progress on Requirement 6.3. The information about the contribution of the extractive industries to the economy is covered in the 2015-2017 EITI Report with a commentary from the IA that there is 6% discrepancy in comparison to the data by the NSC. The report provides information on the extractives industries' contribution to government revenues, exports and employment, although the IA does not comment on the methodology used to calculate these values.

To strengthen implementation, the Kyrgyz Republic is encouraged to consider public disclosure of the methodology used by the government sources, such as NSC, in calculating the contribution of the extractive industries to the economy.

¹³¹ Website of the National Statistics Committee of the Kyrgyz Republic, accessed [here](#) in January 2020.

¹³² SCIESU interactive map, accessed [here](#) in January 2020.

¹³³ UN Comrade website, accessed [here](#) in January 2002.

¹³⁴ 2015-2017 EITI Report, p.3.

¹³⁵ NSC website, accessed [here](#) in March 2020.

4.18 Corrective action 18: Public debate (#7.1)

In accordance with Requirement 7.1, Supervisory Board must ensure that the EITI Report is comprehensible, actively promoted, publicly accessible and contributes to public debate. Key audiences should include government, parliamentarians, civil society, companies and the media. The Supervisory Board should ensure that outreach events, whether organised by government, civil society or companies, are undertaken to spread awareness of and facilitate dialogue about the EITI Report across the country (Requirement 7.1.e).

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress towards meeting this requirement. The SB, in particular the government and civil society representatives, had taken some steps towards ensuring comprehensiveness of the EITI reports, their promotion and public access. The national EITI secretariat had held some communication activities that targeted limited groups of citizens, such as the national EITI Conference. However, it does not seem that all SB members had been substantively engaged in dissemination activities. The 2013-14 EITI Report was circulated in hard copies in the main languages spoken in the country (Russian and Kyrgyz) at trainings and conferences held throughout the country. It was also available online. However, a fair amount of the work plan activities dedicated to generating public debate had not been conducted due to the funding constraints. Although some dissemination activities had been carried out, in particular in the last half year, there was no evidence that the EITI was contributing to public debate in the Kyrgyz Republic.

Progress since Validation

On 24 April 2017, the SB agreed¹³⁶ the EITI communication strategy. It includes a broad range of activities tailored for various target groups and proposes key messages. The communication objectives are:

1. To raise awareness among relevant stakeholders and target audiences regarding the impact of planned mining projects, their beneficial ownership and encourage active public participation in decision-making.
2. To provide active access to information on extractive industries and decisions related to the management of environmental and natural resources.
3. To provide opportunities for public participation in extractive industry decision-making.
4. To increased quality information on EITI implementation and establish media relations.

The KEITI website contains key documents related to EITI implementation. The 2015-17 EITI Report¹³⁷ is available in Kyrgyz, Russian and English in hard copies and online, including annexes in excel format. A popular summary version of the report shows the main facts and findings on the extractive sector in charts and tables. The popular summary version of the report is available in three languages in PDF format online and in hard copies. Summary data for 2015-2017 were submitted to the International Secretariat in June 2019 and is available on KEITI website¹³⁸.

¹³⁶ SB meeting minutes of 24 April 2017, accessed [here](#) in January 2020.

¹³⁷ 2015-2017 EITI Report, available in Kyrgyz, Russian and English, accessed [here](#) in November 2019.

¹³⁸ KEITI website EITI reports page, available [here](#).

Dissemination activities: In July-September 2019, the CSO Coalition conducted EITI dissemination activities¹³⁹ in Bishkek and five extractive regions, namely Chatkal, Ala-Buka, Kochkor, Ton and Talas. Local communities, administration units and companies received the latest EITI Report, discussed relevant mining issues, mining legislation and channels for voicing concerns at the national level. The local communities shared concerns about mining and received explanations regarding social payments, employment and other benefits from the local extractive companies. In August-September 2019, the SCIESU conducted an EITI dissemination activity in the Ala-Buka region. In September 2019, the CSO Coalition conducted three press briefings to inform media about the EITI and the 2015-2017 EITI Report.¹⁴⁰ The three press briefings resulted in 25 media articles about the EITI.¹⁴¹ In August-September 2019, the CSO Coalition organized a mass media contest on the best publication related to the EITI. On September 27, the contestants attended the award ceremony with the participation of Karybek Ibrayev, SB Chair and KEITI Secretariat. On 16 September 2019, the SCIESU organised a press briefing on EITI and held the national EITI Conference to launch the 2015-2017 EITI Report and discuss its findings.

Stakeholders consulted explained that funding constraints in 2017-2018 stalled most of the EITI work plan's activities, including publishing the EITI Report. For this reason, all dissemination activities were undertaken after the 2015-2017 EITI Report was published in June 2019. Civil society representatives explained that the NGO Consortium was undergoing re-organisation in 2017-2018 and did not have funding for the EITI activities, which effected the EITI process.

Open data policy: In December 2016, KEITI published its open data policy. The SB agreed to publish data from EITI Reports in machine readable format online and in a timely manner. The SB agreed to encourage systematic disclosure of revenues and payments on government and company websites. The policy does not indicate whether this will also be applied to previous EITI Reports, or solely for new publications, although it does indicate that open data will be made available as quickly as possible after publication of a new EITI Report. The policy also notes that data will be available in open data format. The revenue data from the 2015-2017 EITI Report has been published online¹⁴² in machine-readable format. In addition, the SCIESU publishes licensing information in open data format on the government Open Data portal¹⁴³.

Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on public debate has been addressed and considers that the Kyrgyz Republic has made satisfactory progress on Requirement 7.1. The Supervisory Board has ensured that the EITI Report is comprehensible and accessible to the general public. Civil society and SCIESU are engaging with a wide range of media, and several outreach and dissemination events have been organised in key mining regions. While there have been limited efforts to promote the EITI during 2017-2018 due to restricted funding, extensive work conducted by the SB and civil society in 2019 in particular contributed to generating public debate across the country. The SB is following the agreed open data policy by publishing the EITI Report in the machine-readable format and as an open source.

¹³⁹ Reports and photos from the dissemination activities are on the CSO Consortium Facebook page, accessed [here](#) in January 2020.

¹⁴⁰ Ibid.

¹⁴¹ The media outlets include: BBC, Prevention.kg, Sputnik.kg, Ecostan.kg, ktrk.kg, Ekoi.net, MKA-TV, Ekonmist.kg, mk.kg

¹⁴² 2015-2017 EITI Report data in machine-readable format, accessed [here](#) in December 2019.

¹⁴³ Open Data Portal of the Government of the Kyrgyz Republic, accessed [here](#) in January 2020.

To strengthen implementation, the Kyrgyz Republic is encouraged to find innovative ways of undertaking outreach and dissemination despite funding constraints.

4.19 Corrective action 19: Recommendations from EITI Reports (#7.3)

In accordance with Requirement 7.3, the Supervisory Board is required to take steps to act upon lessons learnt; to identify, investigate and address the causes of any discrepancies; and to consider the recommendations resulting from EITI reporting.

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made inadequate progress towards meeting this requirement. There was little evidence the SB 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 2013-14 EITI Report. The SB meetings minutes did not show that there had been any discussions on the recommendations and lessons learnt from the publication of the 2013-2014 EITI Report, and no assessment of recommendations had been provided in the Annual Progress Report.

Progress since Validation

The 2017-2018 KEITI work plan includes an activity (8.3) on addressing recommendations from 2013-2014 EITI Report. The 2019 KEITI work plan includes an objective (4) on preparation for Validation and the EITI's institutional set up. There are four activities related to implementation of recommendations from the previous EITI Report and Validation. The SB's meeting minutes¹⁴⁴ document detailed discussions on the corrective actions, recommendations from the previous EITI Report and the mainstreaming feasibility study.

The 2019 APR includes a section on EITI Standard and Recommendations that assess the progress made in addressing the corrective actions in 2017-2018. It includes assessment of the SB's work, legislative amendments, exploration and extraction, revenue collection, revenue allocation, social and economic expenditures, outcomes and impact of EITI.

The 2015-2017 EITI Report provides an overview of the Supervisory Board responses to addressing recommendations from the previous EITI report.¹⁴⁵ Most of the recommendations were related to the reporting process and quality of data. To address these recommendations, the government enabled mandatory EITI reporting on an annual basis. It also provides the rationale for the SB's decision not to implement certain recommendations. For instance, introducing penalties for failure to report and sanctions to non-reporting government entities. However, the government introduced mandatory reporting for all extractive companies. Section 5.3 of the 2015-2017 EITI Report on "results of selected procedures"¹⁴⁶ investigates and addresses the causes of discrepancies in the report.

With regards to the mechanism for considering the recommendations resulting from EITI implementation, the SB has used its regular meetings to review the status of follow-up on

¹⁴⁴ Supervisory Board meeting minutes, available in Russian, accessed [here](#) in December 2019.

¹⁴⁵ 2015-2017 EITI Report, pp.172-178, accessed [here](#) in January 2020.

¹⁴⁶ Ibid., pp.164-169.

recommendations. The SB meeting minutes confirm regular and structured discussions on the recommendations¹⁴⁷ from the EITI Reports and corrective actions from Validation.¹⁴⁸

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on discrepancies and recommendations from EITI Reports has been addressed and that the Kyrgyz Republic has made satisfactory progress on Requirement 7.3. The Supervisory Board ensured that there has been adequate follow up of the recommendations from EITI Reporting, including identifying, investigating and addressing the causes of discrepancies.

To strengthen the implementation of Requirement 7.3, the Kyrgyz Republic is encouraged to follow up on recommendations from the mainstreaming feasibility study to enable systematic disclosures across government entities and extractive companies' systems.

4.20 Corrective action 20: Outcomes and impact of EITI implementation (#7.4)

In accordance with Requirement 7.4, the Supervisory Board is required to review the outcomes and impact of EITI implementation on natural resource governance. The Supervisory Board is required to list each recommendation and corresponding activities that have been undertaken to address the recommendations and the level of progress in implementing each recommendation through the annual activity reports (APRs) (Requirement 7.3.a.iii). The APR should also include a narrative account of efforts to strengthen the impact of EITI implementation on natural resource governance, including any actions to extend the detail and scope of EITI reporting or to increase engagement with stakeholders (Requirement 7.3.a.v).

Findings from the first Validation

The first Validation found that the Kyrgyz Republic had made meaningful progress towards meeting this requirement. The SB had been reviewing progress and outcomes of implementation on a regular basis, including by publishing annual progress reports over the past two years. Although these reports provided a useful snapshot of last year's activities, they lacked an assessment of the impact and outcomes of the objectives. Even though the Supervisory Board noted that recommendations from the 2016 Validation would be addressed in the following EITI Report, the discussion of the recommendations from EITI reports were not documented in detail. KEITI was encouraged to consider undertaking an impact assessment, with a view to identify opportunities to increase impact.

Progress since Validation

The annual progress report (APR) covering EITI in 2018¹⁴⁹ was approved by the Supervisory Board on 22 June 2019 and subsequently published on the KEITI website.¹⁵⁰ The APR is available in Russian.

¹⁴⁷ Supervisory Board meeting minutes from 23 March 2017, accessed [here](#) in January 2020.

¹⁴⁸ Supervisory Board meeting minutes from 23 March 2017 [here](#) and from 18 August 2017, accessed [here](#) in January 2020.

¹⁴⁹ 2018 Annual Progress Report of the Kyrgyz Republic, accessed [here](#) on 12 November 2019.

¹⁵⁰ KEITI national website, can be accessed [here](#).

The APR includes a summary of activities held in 2017-2018. It provides details on the SB meetings, beneficial ownership capacity building, legislation development and preparation of the EITI Report.

Impact: With regards to the assessment of the impact and outcomes of the objectives, the Supervisory Board has reviewed the outcomes and impact of the EITI implementation on an annual basis through annual progress reports. The 2017, 2018 and 2019 work plans include activities on undertaking impact review of the EITI implementation. However, restricted funding limited the SB's outcomes and impact review to producing annual progress reports. The 2018 APR includes a section on outcomes and impact that provides graphical analysis of the work plan execution, strengths and weakness of the process and actions that the government and the SB should undertake to ensure impact of EITI implementation. In terms of impact, legal reform to enabled mandatory EITI reporting, beneficial ownership and contract transparency are some of the major achievements. To improve on the EITI's impact and relevance, the APR suggests embedding the EITI into the government systems, enable more frequent inter-governmental collaboration, and increase information dissemination activities.

Follow-up on EITI recommendations: With regards to the SB's responses to and progress made in addressing the recommendations from reconciliation and Validation, a section in the APR on the EITI Standard and recommendations provides a detailed assessment of progress with meeting and maintaining compliance with each EITI Requirement. With regards to steps taken to exceed the requirements, SCIESU initiated legislative amendments to the Law on Subsoils that enable disclosure of licence agreements and beneficial owners. The APR provides an assessment and progress made in addressing the corrective actions in 2017-2018. It lists each of the 22 corrective action from the first Validation, the corresponding activities undertaken to address each corrective action and the level of progress in implementing each. With inputs from the SB, the 2015-2017 EITI Report provides an overview of the SB responses to addressing recommendations from the previous EITI Report.¹⁵¹

With regards to the implementation of the Beneficial Ownership Roadmap, the APR outlines progress with implementation of beneficial ownership and politically exposed persons disclosures. The amendments to the Law on Subsoil Use enable disclosure of beneficial owners of extractive companies when applying for licenses.

Consultations: With regards to consultations aimed at giving all stakeholders an opportunity to provide feedback on the EITI process and the impact of the EITI, the SB had sufficient time and opportunity to consult respective constituencies and provide feedback to the APR. During stakeholder consultations, SB members confirmed that the national secretariat was tasked to prepare the first draft of the APR and share it for consultation. The SB members confirmed that they were consulting their constituencies on the relevant issues. The SB meeting minutes from 10 July 2019¹⁵² confirm that the draft APR was discussed during the meeting and that the SB members submitted their feedback in writing.

Secretariat's Assessment

The International Secretariat's assessment is that the corrective action on outcomes and impact of EITI implementation has been addressed and that the Kyrgyz Republic has made satisfactory progress on Requirement 7.4. The Supervisory Board reviews the outcomes and impact of the EITI implementation on a regular basis through annual progress reports. The 2018 APR includes a

¹⁵¹ 2015-2017 EITI Report, pp.172-178, accessed [here](#) in January 2020.

¹⁵² Supervisory Board meeting dated 20 July 2019, accessed [here](#) in January 2020.

summary of EITI activities held in 2017-2018, assessment of progress in meeting each EITI Requirement, steps undertaken to exceed the requirements, an overview of the SB's response and progress made in addressing the recommendations from reconciliation and Validation and assessment of BO Roadmap implementation. The Supervisory Board was given an opportunity to provide feedback on the EITI process and the impact of the EITI that was reflected in the APR.

To strengthen implementation of Requirement 7.4, the Kyrgyz Republic is encouraged to undertake an impact assessment study in accordance with its three consecutive EITI work plans.

5. Requirements assessed as satisfactory in 1st Validation

In the course of undertaking this assessment, the International Secretariat has also considered whether there is a need to review additional requirements, i.e. those assessed as “satisfactory progress” or “beyond” in the first Validation. In particular, the Secretariat reviewed possible back-sliding in the 2015-2017 EITI Report on requirements related to comprehensiveness (Requirement 4.1). The Secretariat's view is that there is evidence to suggest progress has fallen below the required standard on Requirement 4.1 and warrant consideration by the EITI Board, for downgrade to “meaningful progress”.

5.1 Assessment of Comprehensiveness (#4.1)

Findings from the first Validation

The first Validation found the Kyrgyz Republic had made satisfactory progress towards this requirement: In accordance with Requirement 4.1, the Supervisory Board had agreed a list of material revenue streams, agreed reporting thresholds for companies, and identified the reporting entities. Although the Independent Administrator was not consulted on the templates, neither the Independent Administrator nor other stakeholders have expressed any concern about the revenues covered in the template. Some government entities and companies did not report, nor did the government disclose *total* government revenues. However, per consultations with the Independent Administrator, the omissions appeared to be immaterial and payments by companies could be accessed online from the portal www.budget.okmot.kg. Stakeholder consultations during the initial assessment revealed a need for modernising the reporting format currently in use, moving away from hard copy format to an electronic system.

Progress since Validation

Systematic disclosure

All tax- and non-tax receipts of government agencies, that enter the single treasury account, are covered in the Ministry of Finance's Open budget portal.¹⁵³ Data is available on a per-company basis (provided that a taxpayer identification is available for each company – the INN), per oblast and district, and for the government as a whole, in real time. Revenues and expenditures of Local and Regional Development Funds are also covered. However, revenue flows are not using the standard

¹⁵³ Ministry of Finance (2019), 'Open budget portal'. Accessed on 15 October 2019. Op.cit.

government budget codes.¹⁵⁴ None of the mentioned disclosures seem to single out extractive sector revenues specifically.

EITI reporting

Materiality threshold for revenue streams: The SB included all revenue streams from the extractive industries, implicitly setting a materiality threshold of zero. The revenue streams are adequately listed (pp.10-11), though does not appear to encompass ad hoc payments to the government, which were extensive in 2017 (estimated as USD 57m, as part of Kumtor Gold Company's strategic agreement with the government, see below).

Descriptions of material revenue streams: A detailed description of 16 of the 33 material revenue streams is included (pp.35-41), although the report provides a list of all 33 revenue streams, including references to the legal provisions mandating each revenue stream in Appendix 8 (pp.189-190).

However, there were significant payments reported by Kumtor Gold Company and Centerra Inc, as part of a Strategic Agreement which was entered in 2017 (pp.109-111). These payments are listed in the EITI Report as two separate transactions, amounting to USD 57m (pp.110-111), or KGS 3 924m.¹⁵⁵ These payments were made to two separate funds, managed by the government, namely Fund for the Development of Nature, and Foundation for Support of Cancer Aid (p.111). Neither of these funds, nor their line ministries, were identified as reporting entities, and thus there is insufficient information in the report to confirm the function of the funds or the nature of the payments. It is not clear if stakeholders or the SB consider the payments to be made to *government*, or to be other forms of payments such as social expenditures or bond-type guarantee funds to cover rehabilitation. Lastly, it is not clear whether the payments were considered material, and therefore subject to reconciliation. Stakeholders consulted did not voice concerns regarding the reliability of these figures. The public accessibility of Centerra Gold Inc's audited financial statements did help confirm of the existence of these payments. However, it is not clear whether government-sided disclosures exist or comprehensive (see full government disclosure below).

In its comments on the draft assessment report, the Supervisory Board indicated that payments under the Strategic Agreement between Centerra Gold Inc and the government were not considered as conventional payments to government given that they were transferred to the government's extrabudgetary funds, and that they should thus be covered under other requirements of the EITI Standard. Nonetheless, the Supervisory Board's comments appear to indicate that these company payments represented "other significant payments and material benefit to government"¹⁵⁶ that should have been considered material since their value was higher than the materiality threshold set by the MSG for selecting revenue flows for reconciliation.

Materiality threshold for companies: Government Decree 317 on 8 December 2010 established a threshold for selecting companies of USD 1m in total payments to government annually, which the SB continued to follow in the 2015-2017 EITI Report.¹⁵⁷

Material companies: The SB selected 14 extractive companies identified in table 4.2.4a (p.45). In 2015, Alliance Altyl LLC paid made payments of more than USD 100m as a result of a tender award for the Jerooy/Jeruy deposit, the second-largest gold deposit in the country, but the company was not

¹⁵⁴ National Statistics Committee (2019), 'Classifications'. Accessed on 16 October 2019. Available at: <http://stat.kg/en/klassifikatory/>

¹⁵⁵ Calculated using the stated exchange rate of the 2017 Summary data; KGS 68.8395 to USD 1.

¹⁵⁶ EITI (2019), "EITI Standard: Requirement 4.1.c". Available at: <https://eiti.org/document/eiti-standard-2019#r4-1>.

¹⁵⁷ Kyrgyzstan EITI (2018), 'Supervisory Board meeting minutes of 20 March 2018'. Op.cit.

included in reconciliation since it had not yet commenced operations (pp.60,91-92,104-105). Neither the report nor the SB meeting minutes justified this deviation with a basis on materiality of omissions. In fact, this payment alone does not seem to be considered as part of full government disclosures for 2015, as total bonus payments in 2015 were reported as USD 28.2m (KGS 2 141m). Additionally, the company Anbang was also selected in the scope of reconciliation, but was later excluded on the grounds of termination of its subsoil use rights and non-materiality of its payments to government in the years under review. The company only made payments equivalent to 0.03% of reconciliated data in 2017 (p.14). It is unclear why Anbang was selected as a material company in the first place, and combined with the issue of Alliance Altyn LLC, raises concerns regarding the Kyrgyz Republic's approach to selecting companies for reconciliation. In its comments on the draft assessment¹⁵⁸, the Supervisory Board justified the lack of reconciliation of payments by Alliance Altyn LLC given that they represented a bonus for the award of the Jerooy/Jeruy license. The Supervisory Board argues that reconciliation of these payment streams was not required given that there had been extensive public coverage and unqualified audits of the payments by the Chamber of Accounts. The Supervisory Board's comments also imply that attempts at obtaining data from the company were unsuccessful. However, the omission of these company payments to government appears to have significantly affected the comprehensiveness of the reconciliation, given the materiality of these payments.

Kyrgyzstan EITI provides the data used for company selection online¹⁵⁹, and the Supervisory Board's comments on the draft assessment clarified that the data was sourced from SCIESU and STS. The comments further implied that several companies did not seem to operate in the upstream extractive sector, although such issues were also not clarified in the EITI Report nor in SB meeting minutes. At least ten companies¹⁶⁰ in the data used for company selection in 2017 made payments to government exceeding the materiality threshold of USD 1m¹⁶¹ but were not included in the scope of EITI reporting. Several companies presumably do not operate in the upstream extractive sector, as several company names suggest that they operate in the tobacco, airport and other non-extractive sectors, which was confirmed in the Supervisory Board's comments on the draft assessment. The exclusion of companies based on their primary business activities was explained in the Supervisory Board's comments as a manual process every year ahead of the Supervisory Board's materiality discussions at the inception phase of EITI reporting. There is no clear public documentation of the rationale for categorising companies as primarily engaged, or not, in the extractive industries. There is thus insufficient publicly-accessible information to clarify the reason or rationale for the exclusion of certain companies that held extractive licenses and made material payments to government in the period under review.

Material company reporting: All 14 companies chosen for reconciliation are presented in table 3.1.22.b (pp.12-13). The report confirms that all companies submitted reporting templates for the three years under review.

¹⁵⁸ For additional details, please consult the "Comments of the Supervisory Board on EITI implementation in the Kyrgyz Republic to the draft report " Second validation of the Kyrgyz Republic: Preliminary assessment of the International EITI Secretariat". Available at:

<https://eiti.org/document/kyrgyz-republic-validation-2019>

¹⁵⁹ Kyrgyzstan EITI (2018), 'List of subsoil users 2015-17 EITI'. Accessed on 13 December 2019. Available at:

<https://drive.google.com/file/d/1hysVG3Cne9gD15Xi0dRJ2Gqxd5U5HIPq/>

¹⁶⁰ These companies include "TOP-NIGHT" (tobacco products) LLC, Zhongda China Petrol Company LLC, National Electric Network of Kyrgyzstan OJSC, International Airport Manas OJSC, Gazprom Kyrgyzstan LLC, ARPA OJSC, Bishkekvodokanal Production and Operational Management, Zhusup Balasagyn Natinoal Kyrgyz University, National Bank of the Kyrgyz Republic and Gazpromneft-Aero Kyrgyzstan.

¹⁶¹ Calculated using the stated exchange rate of the 2017 Summary data; KGS 68.8395 to USD 1..

Material government entities: The SB decided that all relevant government agencies in accordance with Government Decree 317 were considered material. Eight central government entities and 14 local government units were therefore selected (p.13).

Government reporting: The IA comments on discrepancies, indicating that the government entities made several mistakes in completing their reporting templates. The report indicates that 10 district administrations did not provide the requested data (pp.150). The entities in question are clearly identified in the report, including the value of their combined revenues, but not disaggregated by non-reporting government entity.

In addition, the same section indicates that data was not submitted by the State Inspectorate for Environmental and Technical Safety, nor by the State Registration Service (pp.149-150). The report further clarifies that even when government entities provided the data, several mistakes were made that created discrepancies (pp.164-166). In addition to reconciling government and company data, the IA also compared some data from the Open Budget portal with company EITI reporting, concluding that there were almost no discrepancies (pp.166-169). Lastly, investigations of the non-reporting of the State Inspectorate for Environmental and Technical Safety later revealed that the agency is not responsible for collecting payments (this is the responsibility of the SCIESU), meaning that its lack of reporting did not affect the comprehensiveness of the reconciliation (pp.151,177).

Discrepancies: There were significant initial discrepancies in the reconciliation, although the final unresolved discrepancies only amounted to 0.49% of total reconciled government extractive revenues (p.5). Initial discrepancies, however, amounted to KGS 2.85bn, or around 20% of total government reconciled revenues. Additionally, the original reported revenues and payments from both government entities and companies were more than double the value of the final reconciled data (p.5). Adjustments to government-reported data amounted to KGS 15.9bn in 2017 (even more in the previous reporting years), exceeding the final reconciled revenues. The reasons for these discrepancies were mainly (i) incorrect inputs of units, i.e. amounts presented as KGS were actually in thousands of KGS; (ii) incorrect designation of payment types; and (iii) company-reported data which was not supported by corresponding government-reported data (pp.150-151). The majority of the differences, at least for 2017, was due to misstatements of the State Agency for Environmental Protection and Forestry (tables 5.2g to 5.2i, pp.161-163).

Full government disclosure: Although 33 revenue streams are identified as part of the scope of reconciliation, full government disclosure of revenues from all extractive companies does not seem to have been comprehensively provided. In addition to the issues uncovered under the section of material companies above, several figures may constitute full government disclosure as part of EITI reporting. However, it has not been possible to determine which of the following estimates represents full government disclosure of extractive revenues:

- **Option 1:** According to the EITI Report, “full reported tax revenues” amount to KGS 9,861m in 2017 (pp.45,52), though the number most likely excludes non-tax revenues.
- **Option 2:** The final reconciliation results for all revenues, but covering only 14 companies, amount to KGS 14,303m in 2017 (pp.5,151,157,160,163).

- **Option 3:** Summary data for 2017¹⁶² indicate total government revenues from the extractive sector of KGS 17,316 m.¹⁶³
- **Option 4:** The total payments to government indicated as part of the full list of subsoil users, i.e. the list used for material companies' selection, amounted to KGS 16,140m in 2017.¹⁶⁴

Lastly, neither the EITI Report nor summary data sufficiently clarifies whether ad hoc payments of Kumtor Gold Company CJSC and Centerra Gold Inc as a result of their Strategic Agreement with the Government of the Kyrgyz Republic were deemed as payments to the government, nor whether they are included in any of these estimates.

Representatives from one of the key government entities consulted confirmed that information on full government disclosure of tax and non-tax revenues, including from companies outside of the scope of reconciliation, have been routinely collected as of January 2018, but also indicated that full government disclosures have not been satisfied for the periods covered by the 2015-2017 EITI Report. During consultations with the IA, it was claimed that the submission of summary data for 2017 is the closest estimate of full government disclosure of extractive revenues.

The Supervisory Board's comments on the draft assessment provided additional clarifications on full government disclosure of extractive revenues. They explained that *Option 1* represented companies registered at STS with "mining" as their main economic activity. However, they noted that several companies had changed their main business activities without altering their registration with the STS. They noted that *Option 2* referred to full government disclosure of revenues from companies in the scope of EITI reporting (i.e. from material companies only), including voluntary social expenditures. They explained that *Option 3* was determined based on submissions of summary data, which the Supervisory Board indicated "excludes non-tax payments".¹⁶⁵ Finally, they noted that *Option 4*, which together with option 3 remained the closest estimates of full government disclosures, represented the government's full disclosure of revenues from all extractive license-holders recorded by Ministry of Finance and the STS. However, they noted that option 4 may also include payments from companies with no extractive activities, or whose primary economic activities were not in the extractives.

Secretariat's Assessment

The International Secretariat assessment is that requirement on comprehensiveness has not been fully addressed and that the Kyrgyz Republic has made meaningful progress on Requirement 4.1. The 2015-2017 EITI Report includes the Supervisory Board's definition of materiality thresholds for revenue streams and companies to be included in reconciliation. All revenue streams were deemed material and included by decision of government decree, though there is a lack of clarity over whether significant ad hoc payments associated with a Strategic Agreement represent payments to government and should have been reconciled. In addition, certain companies listed as subsoil users that made material payments to government appear to have been excluded from the scope of reconciliation, without explanation. While the Supervisory Board provided detailed explanations of its materiality decisions in its comments on the draft assessment, there do not appear to be publicly-accessible documents adequately describing the rationale for excluding material revenue streams and

¹⁶² EITI (2019), '2017 Kyrgyz Republic Summary data'. Op.cit.

¹⁶³ But as noted under Requirement 4.9, there is a concern that summary data may contain payments that also encompass non-extractive companies. E.g. the total revenues from "Tax on income of foreign companies" is identical to the State Tax Service's estimates of total revenues, also including non-extractive companies.

¹⁶⁴ Kyrgyzstan EITI (2018), 'List of subsoil users 2015-17 EITI'. Op.cit.

¹⁶⁵ The Supervisory Board's assertion is not entirely correct: Summary data templates includes full government disclosures as per IMF's GFS framework, but excludes tax payments made by companies on behalf of individuals, such as personal income taxes.

companies from the scope of reconciliation. There is thus some uncertainty over whether certain material payments and companies may have been excluded from the scope of reconciliation. Government entities that did not report are named, and the value of their extractive revenues are provided relative to reconciled revenues. The report does provide an assessment of comprehensiveness of the reconciled financial data. Full government unilateral disclosure of material revenues, including those from non-material companies, has not been sufficiently clarified in EITI reporting for 2015-2017. The Supervisory Board's comments on the draft assessment provided further explanations of which numbers provided better estimates for full government disclosure. However, there do not appear to be any public documents explaining the barriers to full government disclosure of extractive revenues nor any Supervisory Board plans to address weaknesses in full government disclosure in future. In light of the lack of clarity surrounding the selection of material companies and inconsistencies in the provision of full government unilateral disclosures of extractive revenues, the International Secretariat's assessment is that the Kyrgyz Republic has not confirmed the comprehensiveness of reconciliation.

In accordance with Requirement 4.1 (a-c), the Kyrgyz Republic should ensure that all material extractive payments and revenues are comprehensively disclosed. All companies making material payments to the government are required to comprehensively disclose these payments in accordance with the agreed scope. In order to publicly demonstrate the comprehensiveness of its EITI disclosures, the Kyrgyz Republic is encouraged to ensure that the Supervisory Board's decisions on which companies and revenue streams are deemed material is clarified in publicly-accessible documents. In accordance with Requirement 4.1.d, the government is required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds. Where this data is not available, the Kyrgyz Republic should be transparent about the barriers to the government's full unilateral disclosure of extractive revenues and draw on any relevant data and estimates from other sources in order to provide a comprehensive account of the total government revenues. The Kyrgyz Republic may wish to ensure full government public disclosure of extractive revenues through existing government systems, such as the Open budget portal.

6. Conclusion

Having reviewed the steps taken by the Kyrgyz Republic to address the 20 corrective actions requested by the EITI Board as of the commencement of its second Validation (2 October 2019), it can be reasonably concluded that twelve of the 20 corrective actions have been fully addressed and that the Kyrgyz Republic has made satisfactory progress on the corresponding requirements, subject to the Board's consideration of developments related to Requirements 1.4 and 3.3 that took place after the commencement of Validation. In addition, the Secretariat's assessment is that there has been backsliding in Requirement 4.1 on the comprehensiveness of disclosures. The outstanding gaps relate to government engagement (Requirement 1.1), license allocation (Requirement 2.2), license register (Requirement 2.3), state participation (Requirement 2.6), production data (Requirement 3.2), comprehensiveness (Requirement 4.1), SOE transactions (Requirement 4.5), direct subnational payments (Requirement 4.6), and subnational transfers (Requirement 5.2).

Annexes

Annex A: Overview of state lending and SOEs

Company	Period	Total debt obligations reported (KGS)	Balance at end of period (KGS)	Potential size of transactions (KGS)
Kyrgyzaltyn OJSC*	2014-2019	64,389,788	-	64,389,788
Kyrgyzkomur SE	2014-2017	65,000,000	39,000,000	26,000,000
Sulyuktakomur OJSC**	2006-2017	17,780,000	24,500,000	- 6,720,000
Total		147,169,788	63,500,000	83,669,788

EITI Secretariat calculations based on the Kyrgyz Republic's EITI Report for 2015-2017, English version, pages 76-78.

** Debt obligations in USD were converted to KGS using exchange rate KGS 68.8395 to USD 1*

*** The debt balance of Sulyuktakomur OJSC may indicate that the company also received additional financial support.*

Annex B: Supervisory Board attendance chart

Kyrgyzstan-EITI MSG meeting attendance chart																	
MSG meeting	25.aug.16	15.des.16	23.mar.17	24.04.2017	18.aug.17	18.des.17	20.mar.18	12.jul.18	25.des.18	25.mar.19	27.mai.19	07.jun.19	10.jul.19	14.okt.19	Not attended	Attended	Not a MSG member at that time
Government																	
Jogoku Kenesh Deputy E.Baibakpaev															2	3	9
MSG Chair/State Committee on Industry, Energy and Subsoil Use															0	14	
Ministry of Finance															8	6	
National Statistical Committee															1	13	
State Fiscal Service															1	13	
State Customs Service															5	9	
Ministry of Economy															3	2	9
State Agency for Local Self-Governance															5	0	9
Civil society																	
Public Fund "Nash Vek"															1	13	
NGO "Official Development Forum"															10	4	
"Consortium of NGOs in Support of EITI in Kyrgyzstan"															6	8	
"Precedent" Partners' Group															3	11	1
"Consortium of NGOs in Support of EITI in Kyrgyzstan"															10	4	6
Companies																	
Kyrgyz Mining Association															0	14	
International Business Council (IBC)															5	9	
Kumtor Gold Company (IBC)															10	4	
Talas Copper Gold (IBC)															3	3	8
Khaidarkan Mercury Plant (IBC)															5	0	9
"Chaarat ZAAV" (IBC)															5	2	7
Manas Resources (IBC)															6	1	7
Kyrgyzaltyn (IBC)															2	0	12

Annex C: Production data comparison (2017 data only)

Commodity	Unit	Table 4.7.1b*	Appendix 9 **	Data after commencement ***
Gold, volumes	kg	17,766 (+ 6,456,000 tonnes of ore)	22,265	16,431.37
Gold, values	KGS million	118,687	Not provided	Not provided
Silver, volumes	Tonnes	Not provided	9.94	22.54
Silver, values	KGS million	Not provided	Not provided	Not provided
Mercury, volumes	Tonnes	Not provided	Not provided	0
Mercury, values	KGS million	Not provided	Not provided	Not provided
Copper, volumes	Tonnes	Not provided	8,351	8,790
Copper, values	KGS million	Not provided	Not provided	Not provided
Iron, volumes	Tonnes	Not provided	0	755
Iron, values	KGS million	Not provided	Not provided	Not provided
Coal, volumes	Thousand tonnes	1,927	0	Not provided
Coal, values	KGS million	2,269	Not provided	Not provided
Antimony, volumes	Tonnes	Not provided	Not provided	263,968
Antimony, values	KGS million	Not provided	Not provided	Not provided

EITI Secretariat calculations based on the Kyrgyz Republic's EITI Report for 2015-2017, English version, pages 121, 191-192. Combined with additional data published [here](#).

* Total coverage, with the exception of gold and coal data, which covers material companies according to the report.

** Material company coverage only, according to the report.

*** No description of scope or coverage, though cited during stakeholder consultation.