

Comments of representatives of the Supervisory Board for implementation of the EITI in the Kyrgyz Republic regarding the Report of the International EITI Secretariat on initial data collection and consultations with stakeholders in the Kyrgyz Republic

Regarding point 4.3.: Barter and infrastructure transactions: Stakeholder Opinions:

A.Rogalsky, the companies' representative on the EITI Supervisory Board, points out a misunderstanding of his words regarding transactions in kind. A.Rogalsky did indeed refer to an instance in 2005-2007, namely, the programme of investments in exchange for resources at the Ishtamberdy deposit, which was the sole negative experience in the Kyrgyz Republic (KR) in respect of barter, and the company subsequently refused to implement the programme. Accordingly, the Law of the KR on Production Sharing never included a provision on barter, as was also confirmed by the representative of the State Committee for Industry, Energy and Subsoil Use. It is also stated that the KR does not use barter transactions in the mining industry. In this respect, we do not believe that this requirement of the EITI Standard is relevant to the KR.

Regarding point 4.4.: Revenues from transportation

Government representatives on the EITI Supervisory Board (representatives of the National Statistics Committee and the State Tax Service) report that they have no information on revenues from transportation and, since the KR is not a transit country for the transport of gas or oil, they assume that there is no such income.

The private sector representative in the Supervisory Board, A.Rogalsky, called attention to the Government Resolution of 2016 on the special regime for gas transportation revenues, but he also noted that the agreement on gas transit from China through the KR, referred to in the Validation Report, may become effective in the future, but has not yet been approved and is not being implemented. The companies' representatives confirmed that they do not consider transport costs to be material.

It is also probable that the issue will be discussed by the EITI Supervisory Board as part of the discussion of materiality of payments.

Regarding point 3.3.: Data on exports

The representative of the Government's National Statistics Committee stated that information on the value of exports (including information for 2013-14) is available in the "External economic activity" section by product types in several forms of statistical reporting (<http://stat.kg/ru/statistics/vneshneekonomicheskaya-deyatelnost/>). We note that information on the value of exports of gold, coal, oil, base metals, mineral products, precious and semi-precious stones, construction materials, and other materials is publicly available via the same link.

We would note that gold represents about 70% of KR exports and that the reports of large gold mining companies, Kumtor Gold Company, Kyrgyzaltyn, KAZ minerals, etc., stating sales volume in kg and ingots, are available on the websites of the companies.

While acknowledging the insufficiency of information on exports in the EITI Report, we consider progress by the KR on this item to be "meaningful" given the broad availability of such statistical data in the KR.

Regarding point 4.6.: Sub-national direct payments

The Independent Administrator indicates on p.67 that payments for retention of licenses pertain to local government bodies. Payments for license retention and deductions for the development and maintenance of locally important infrastructure have been subjected to data reconciliation.

In addition to these payments, local government receives payment for the lease of land, property taxes (which were not found by the EITI Supervisory Board to be material) and the VAT share (included in reconciliation). Since the Report and/or the EITI Supervisory Board reviewed all of these payment types, we consider progress of the KR in implementation of this item to be in accordance with the standard.

Regarding point 4.9.: Data quality, assurance of the accuracy and reliability of the data

Information may not be accurate, since the Independent Administrator referred, during presentation of the Interim Report at the meeting of 16.12.2015, to the procedures for data gathering, including reliability. It appears that the EITI Supervisory Board viewed these procedures with understanding and had no questions/comments.

Commented [m1]: The Russian has "iii" instead of the comma here. This appears to be a typo (maybe a cut and paste mistake)

Regarding point 5.2.: Sub-national transfers: Opinions of stakeholders

The Report sets out a formula for the structure of payments (pp.112-114). Since there were no transfers of funds to local government bodies through the Regional Development Funds in 2013-2014, there is no information on transfers from the state budget. Accordingly, the KR is fully compliant with requirement 5.2. of the EITI Standard.

Regarding point 6.1.: Spending on social needs

The Independent Administrator requested information on social/supplementary payments by companies. Since this type of payments was voluntary in 2013-2014, only data of the companies themselves could contribute to the implementation of this requirement of the Standard. In view of the information in the Report about the largest social payments by Kumtor Gold Company, we consider progress by the KR to be compliant with this requirement of the EITI Standard.

Regarding point 2.2.: Granting of licenses: Documentation of the process

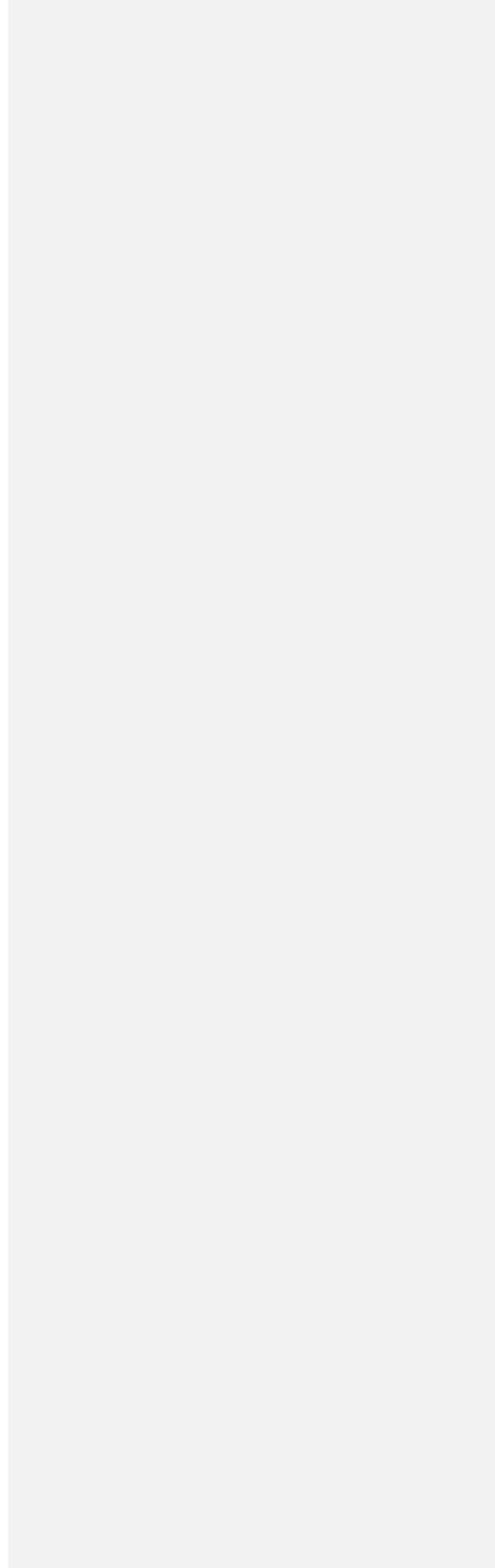
As is noted, auctions were carried out for 14 licenses and auction minutes are available on the website of the State Agency for Geology. The auction procedures are regulated in the Regulation on the procedure and conditions for the conduct of an auction for sub-soil use, which was approved by Decree No. 834 of the Government of the KR, "On the approval of regulatory legal acts regarding sub-soil use", dated 14 December 2012. The representative of the State Agency for Geology gives an assurance that all statutory procedures were observed during the auctions. We see no reason to consider progress of the KR as regards licensing to be incompatible with the requirements of the EITI Standard.

We would also point that informational meetings were held with representatives of local people prior to the auction and that all stakeholders were free to attend the auction itself, as also attested by media reports.

Regarding 2.3.: Registers of licenses: documentation of the process

We believe that the KR has met the requirements of the EITI Standard and that details of license areas are of no interest if an interactive map of KR license areas is available. It seems to us that digital geographical indicators as such are not informative without their placement on the map. The interactive map of the license areas is automatically synchronized with the Nedra [sub-soil resource] interactive system, which includes details of license areas, and timeliness of the

information should not be an issue. In this respect, we believe that the KR has complied with the specified requirement.



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Regarding point 2.4.: Management and operation of the MSG: Nomination of representatives

- from civil society: reports of exclusion of the EFCA from the second re-selection of members of the EITI Supervisory Board do not correspond to the facts. The EFCA had been made aware of the re-selection of civil society members in the EITI Supervisory Board, as it was included in civil society mailing lists. The EFCA did not apply to participate in the second round, so its candidature was not considered.

- from companies: there was no selection procedure from companies, since 2 applications were received, from MDS (5 nominees) and the Kyrgyz Mining Association (1 nominee). The representative proposed by MDS, Aycholpon Zhorupbekova, withdrew her candidacy, so that all proposed candidates were admitted to the Supervisory Board without a further selection procedure.

- Recommendations of the Institutional Report concerning the involvement of media and academics were taken into account: a press release was distributed inviting media representatives to participate in the selection, as evidenced by the fact that a representative of the print publication *Kyrgyz Tuusu* observed the first selection of the civil society members. According to a statement by the press-secretary of the State Geology Agency during the collection of applications, the media did not take an interest in the press release and it was not published in the media.

- Academics were also notified by email. As a result, the first selection of civil society members was attended by the independent researcher, Dr. Doolotkeldiev.

- We strongly recommend consultation with the civil society representatives, who carried out the selection.

Regarding point 2.5 of the work plan: 8 International cooperation on EITI issues:

- The objectives of the work plan are clearly linked to national priorities. All actions in the work plan support Government plans to improve natural resource management, transparency and accountability, and to attract investment.

Regarding point 2.3: Registers of licenses: process documentation:

- Details of license areas are of no interest if an interactive map of KR license areas is available. It seems to us that digital geographical indicators as such are not informative without their placement on the map. The interactive map of the license areas is automatically synchronized with the Nedra [sub-soil resource] interactive system, which includes details of license areas, and timeliness of the information should not be an issue. In this respect, we believe that the KR has complied with the specified requirement..

It should also be remembered that the integrity of boundaries is a matter of constant and occasionally violent international disputes, and Central Asia is no exception in this respect. So the disclosure of details regarding border areas may be sensitive for the Kyrgyz Government, as it wishes to maintain stable and friendly relations with neighboring countries.

- We are pleased to inform you that, from the start of December, info.geology.kg includes information about the date of receipt of license applications.