

*Extractive Industries Transparency Initiative  
in Tajikistan*

*Report on beneficial ownership*



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## 1. Introduction

### 1.1. Background

*Extractive Industries Transparency Initiative (EITI) is a global initiative in the promotion of joint cooperation of the government, businesses, investors, international institutions and civil society for the benefit of increasing the transparency of reporting and management of revenues, received from the use of natural resources.*

*EITI was launched at the World Summit on Sustainable Development in Johannesburg in 2002. In order to ensure transparency in the extractive sector a global EITI standard (the «EITI Standard») was developed in 2013. The new EITI Standard significantly expanded the scope of activities of the country, implementing the EITI principles, and recognized the need for detailed disclosure of information related to the extractive industries, including information on beneficial ownership so that citizens could have all the necessary information on how and who is using mineral resources in the relevant country.*

*In July 2011, Tajik delegation stated that Tajikistan is ready to consider the EITI as an initiative to be implemented in our country. This was a big step towards the development of the process of joining the EITI. In February 2013 Tajikistan was already recognized as a country - candidate for the EITI. Besides, Tajikistan has committed to provide information on beneficial ownership of companies that operate in the extractive industries sector in Tajikistan.*

*In order to realistically assess the possibility of obtaining relevant information on beneficial ownership, a study on scope of the pilot project «beneficial ownership » was done in 2014, and a study «Evaluation of the pilot project on beneficial ownership in Tajikistan» was conducted in 2015. These studies analyzed the legislative framework in the area of beneficial ownership and a willingness of companies to provide the necessary information.*

*EITI Secretariat in Tajikistan, in order to comply with paragraph 3.11 of EITI standard, stated: «implementing countries are recommended to openly maintain the public register of the beneficiaries of corporate organizations that participate in the tender, exploit assets in extractive industries or invest in the sector, with the names of the beneficiaries and their level of participation .... . When these registers are not available or do not contain a complete data, it is recommended for implementing countries to request this information from companies participating in the EITI process, for further incorporation of this information in the EITI Report*

....., to hire consultants to gather information on the beneficial ownership from the 14 target companies».

## **1.2. Objectives**

*The purpose of this report is piloting a study of targeted companies that operate in Tajikistan in order to assess the possibility of obtaining relevant information on the beneficial ownership (as defined in the EITI standards [3.11]), and in the long term, providing the given requirements for all companies that operate in the extractive industries in Tajikistan.*

*The report also contains information on previous reports on beneficial ownership in Tajikistan. It also provides an overview of the key laws governing the disclosure of information on ownership in Tajikistan. It offers a definition of «beneficiary ownership» according to the EITI Standards; it gives an assessment of the timeliness, completeness and reliability of the disclosed information; it provides information about challenges faced during the pilot project; and it has the required information on the targeted companies. The report provides recommendations for the development of the registry of beneficial ownership in Tajikistan. As a result of implementation of recommendations, provided in this report, it is expected that mining companies in Tajikistan will improve transparency and contribute to the effective compliance with the EITI requirements related to an open access to information about the beneficial ownership.*

## **1.3. Reporting template**

*The consultant conducted his work according to recommendations outlined in the Terms of Reference of the Consultant and in close coordination with the EITI Secretariat in Tajikistan and specialized governmental institutions.*

*The given report consists of four (4) sections as follows:*

- *Review of key laws regulating the disclosure of information about the owners of the companies;*
- *Suggestions for identification of beneficial ownership;*
- *Description of information about the beneficial ownership, which must be disclosed in accordance with the EITI requirements;*
- *Obstacles and recommendations related to the disclosure of information on beneficial ownership*

## **2. Legal framework for the disclosure of beneficial ownership information**

### **2.1. Beneficial ownership in the legislation of Tajikistan**

Based on the Resolution # 962 of the Majlisi Namoyandagon, Majlisi Oli of the Republic of Tajikistan, dated on 16th of April 2008, Tajikistan ratified the «**United Nations Convention against Corruption**», where

Article 14 «Measures to prevent money-laundering,» reads as follows:

1. Each State-Party:

a) Establishes a comprehensive domestic regulatory and supervisory regime for banks and non-banking financial institutions, including individuals or legal entities that provide formal or informal services for the transfer of money or valuables and, where appropriate, other bodies that are particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, and moreover this regime is based primarily on requirements for customer identification and, where appropriate, beneficiary-owner identification, record-keeping and the reporting on suspicious transactions;

Tajikistan also adopted rules of «**International Convention for the Suppression of the Financing of Terrorism**», dated on December 9, 1999, where an Article 18 reads as follows:

- Adoption of regulations, prohibiting the opening of accounts, which holders or beneficiaries are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of real participants of such transactions;

The term «beneficial ownership » is also mentioned in the following legislation and regulations of the RT:

- **The RT Law «On banking activities» №524, dated on May 19, 2009.** The term «beneficial» is mentioned in the context of «ultimate beneficial owner of preferential share of participation»; individual (in the articles concerning licensing (Article 9), the creation of branches of foreign banks (Article 12), etc., for example:

Article 9: «Documents, required for obtaining a license»:

1. Lending organizations prior to state registration and obtaining a license must submit an application, documents and the following information in the national language to the National Bank of Tajikistan and obtain a preliminary statement of opinion from the National Bank of Tajikistan:

- A certificate stating the last name, first name, middle name, citizenship, place of residence, occupation or profession of the owner of primary interest, including the final beneficial owner of preferential share of participation, confirming their financial situation.» However, the ultimate beneficial owner, under this Law, may be a legal entity:

Article 26. «The procedure for the acquisition of preferential share of participation»:

3. An application for the acquisition of a qualifying holding includes:

- a copy of the balance sheet and profit and loss account for the last audited year, if a person, claiming to own the preferential share of participation, including the ultimate beneficial owner of such preferential share of participation, is a legal entity.

**In the Republic of Tajikistan Law «On Islamic banking activity», # 1108, dated on July 26, 2014, the term «beneficial» is used in a similar context, including:**

Article 11. «Documents, required to obtain a license»:

- A certificate stating the last name, first name, middle name, citizenship, place of residence, occupation or profession of the owner of primary interest, including the ultimate beneficial owner of preferential interest, confirming their financial situation;

Article 32. «Procedure for obtaining preferential interest»:

- Last name, first name, middle name, citizenship, permanent residence, work or professional activity of the person claiming ownership of preferential interest, including the ultimate beneficial owner of such preferential interest;

- **The Republic of Tajikistan Law «On counteraction to legalization (laundering) of proceeds from crime and financing of terrorism», №684, dated on 25th of March 2011.**

The Law gives the following definition:

«-beneficial owner is an individual or few individuals, who ultimately have the rights of ownership and effectively control the client and (or) the person on whose behalf a transaction is made; (Article 1)

- Organizations engaged in transactions with cash or other property must comply with the following client due diligence procedures 2) identify and verify the identity of the beneficiary owner (Article 5).»

According to the given law, financial institutions and competent authorities have information on ultimate beneficial owner –an individual. However, (Article 13), an authorized body is obliged to «... ensure the appropriate storage, protection and safety of information, received in the normal course of business, which constitutes official, commercial, banking or other secret, protected by law.» That is, this information may not be available to the public.

Thus, currently in Tajikistan, the legislation does not contain provisions that would require companies to disclose their founding documents and information about their beneficiaries, on the other hand, this information is not classified as a commercial secret.

- **The Republic of Tajikistan Law "On mineral resources" No. 983, dated July 20, 1994.**

Article 10 of the Law states:

*“Users of mineral resources can be state, cooperative, public enterprises, institutions, organizations, business entities, irrespective of patterns of ownership, and citizens, including legal entities and citizens of other states, unless otherwise provided by legislative acts of the Republic of Tajikistan”.*

*As drafted, this law does not provide a definition to the beneficiary, and does not provide additional requirements to users of mineral resources. In the beginning of 2016, it is planned to adopt the new law of RT "On mineral resources". It is recommended that additional provisions for a beneficiary to be prescribed in this law.*

*Thus, at the present time, Tajikistan's legislation has no provisions that would have obliged companies to disclose their founding documents and information about its beneficiaries; on the other hand, this information is not classified as a trade secret.*

## **2.2 Brief description of the existing business registers**

*According to the EITI standard as of 2013 (3.9 b) «Implementing countries should maintain public register or the cadastral system (s) and keep it up-to-date with timely and comprehensive information related to each license, held by the companies, represented in the EITI Report:*

- i. Holder (s) of licenses;*
- ii. Coordinates of the licensed plot of land;*
- iii. Date of the application, date of the license, the validity of the license; and*
- iv. In case of mining license - the name of the mined (produced) product ... "*

*According to the Regulation «On licensing certain types of activities», dated on April 3, 2007, №172 (endorsed by the Resolution of the Government of the Republic of Tajikistan), the licensing authorities maintain registries of licensing activities, which licensing they carry out. A separate register is maintained for each licensed activity. Information stipulated in Articles 9 and 15 of the Law «On licensing certain types of activities», and other information, specified in these Regulations (Chapter 13) is entered into the register of licenses.*

*Under the Law, the register shall contain:*

- Information about the license registration in the register of licenses;*
- The base and the date of suspension and renewal of the license;*
- The base and the date of revocation of the license;*
- Other information, determined by the Regulation on licensing certain types of activities.*

*Chapter 59 provisions describe the features of licensing of subsoil use activity. «Licensing authority is the Government of the Republic of Tajikistan, executive licensing authority:*

*General Directorate of Geology under the Government of the Republic of Tajikistan is responsible for the prospecting, evaluation and geological exploration of mineral resources and collection of mineral resources, paleontological and subsurface rocks;*

*Ministry of Energy and Water Resources of the Republic of Tajikistan is responsible for the extraction of oil and gas;*

*Ministry of Industry and New Technologies of the Republic of Tajikistan is responsible for the extraction of coal, the use of other mineral resources of mining and non-mining nature, including the use of industrial mining and processing waste;*

*Ministry of Energy and Water Resources of the Republic of Tajikistan, in agreement with the Government of the Republic of Tajikistan, is responsible for the extraction of oil and gas from abandoned wells; Ministry of Industry and New Technologies of the Republic of Tajikistan, in agreement with the Government of the Republic of Tajikistan, is responsible for the extraction of common mineral resources... "*

*According to the Regulations (Chapter 13), the responsible public authorities should maintain registers: «Licensing authorities maintain registries of licensing activities, licensing of which they carry out. A separate register is maintained for each licensed activity. In case of issuing license by territorial structures of the licensing authority, information to be inserted into the register is sent to the licensing authority without any delay». Besides «information, contained in the register of licenses, is open to get familiar with by individuals and legal entities. Publication of information, contained in the register of licenses, is allowed in the media sources».*

*Website of the Ministry of Energy and Water Resources Management of the Republic of Tajikistan is in the process of development. On the website of the Ministry of Industry and New Technologies of the Republic of Tajikistan, [www.sanoat.tj](http://www.sanoat.tj) there is no section on licensing, but there is a section on enterprises that operate in the sector, which indicates a summary of the largest enterprises in the sector. There is no information in the «Licensing» section on the website of the Main Department of Geology <http://www.gst.tj/>.*

*The website of the State Committee on Investments and State Property Management of the Republic of Tajikistan <http://www.ijozat.tj> contains essential information for obtaining the required license. At the same time, the website of the State Committee does not have an updated information after the restructuring of state institutions, and there is no possibility to get information about companies that received a license.*

*According to the RT Law «On state registration of legal entities and individual entrepreneurs», dated on May 19, 2009, №508, body that carries out state registration is the Tax Committee of the Republic of Tajikistan.*

*Tax Committee of the Republic of Tajikistan maintains the Unified State Register, and provides an access to information on its website <http://andoz.tj/index.php/ru/edinoe-okno/informatsiya-po-gosudarstvennomu-reestru/reestr-yuridicheskikh-lits> In particular it places and regularly updates information on registered, reorganized and dissolved legal entities; registered individual*

entrepreneurs and individual entrepreneurs, who discontinued activities; established branches and offices of foreign legal entities and those that discontinued operations; information about changing data entered into the Unified State Register on its official site.

The state registration of legal entities and individual entrepreneurs is carried out according to the «single window» principle, without a legal expertise of the submitted documents.

Also on the website of the Tax Committee there is a list of "irresponsible taxpayers" [http://www.andoz.tj/images/materiali\\_andoz\\_tj/FAYLi\\_s\\_GLAVNOY\\_STRANICI/Bezotvetstvenni\\_e/](http://www.andoz.tj/images/materiali_andoz_tj/FAYLi_s_GLAVNOY_STRANICI/Bezotvetstvenni_e/) (02.11.2015), which is immediately updated. Name of irresponsible taxpayer is excluded from the named list after elimination of his violations and (or) submission of sound information: [http://www.andoz.tj/images/materiali\\_andoz\\_tj/FAYLi\\_s\\_GLAVNOY\\_STRANICI/Bezotvetstvenni\\_e/](http://www.andoz.tj/images/materiali_andoz_tj/FAYLi_s_GLAVNOY_STRANICI/Bezotvetstvenni_e/) (02.11.2015). Those who were not included in the list of irresponsible taxpayers are responsible taxpayers.

However, information in the tax committee only contains IIN, name, date of registration and status, in other words, the register is related only to the registration process, and there is no information on whether or not a particular legal entity received a mining license.

In Tajikistan, there are about 300 licenses for subsoil use, including more than 50 licences for exploration, and over 210- for extraction (of them - 200 are for the common commercial minerals, about 15 licenses for basic metals). There is no any Common Registry for internal use of the authorized bodies. There is no publicly available register of license holders- subsoil users.

### **3. Beneficial ownership concept and the requirements under the EITI standards.**

#### **3.1. EITI Requirements**

EITI requirements, adopted in 2013, recommend bringing to the attention of the public information on beneficial owners of companies in the extractive industries.

EITI standard provides a basic definition of beneficial ownership, where available information shall include the identity of the beneficial owner or owners of each company, and their level of proficiency. Where information is already available to the public, for example by applications at the stock exchanges, EITI reports should include instructions on how to get this information.

In accordance with the EITI standard, «beneficial owner» is:

i) an individual (s), who directly or indirectly owns or controls property of the corporation (Requirement 3.11 d)

ii) It is recommended for the implementing countries to maintain and keep an open access to public register of beneficial owners of corporate organizations that participate in the tender, use assets of the extractive industries or invest in in the sector, which contains names of the beneficial owners and their level of ownership. If this information is already available to the public, for example through corporate regulators or stock exchanges, the EITI report should include instructions on how to get access to this information (Requirement 3.11 a).

*iii) In cases when such registries are not available or do not contain complete data, it is recommended for implementing countries to request this information from companies that participate in the EITI process for further incorporation of this information in the EITI Report. (Requirement 3.11 b)*

*iv) It is essential for the government and / or state-owned enterprises to disclose their level of beneficial ownership in oil, gas and mining companies that operate in the country, and any changes in the level of beneficial ownership that took place during the reporting period, covered by the EITI report (see requirement 3.6 (c)).*

*In accordance with 3.11 requirement of EITI standard, mining companies, if they are not publicly listed on the stock exchange or are subsidiaries, are required to disclose information on their beneficial owners.*

*Within these parameters, it is the authority of the EITI multilateral group to agree on an appropriate definition of the beneficial owner. The definition should take into account international standards and relevant national laws.*

### **3.2 Definition of the beneficiary owner**

*The term «beneficiary owner» was first mentioned in 1966 in a protocol, signed by the US and the UK as an annex to the bilateral treaty, as of 1945, «Income Tax Treaty». Further, in respect of tax relations, requirements to beneficial ownership have been taken into consideration in the Model Convention of the Organisation for Economic Cooperation and Development (OECD Convention), dated on 1977. Later Model Convention was supplemented by the establishment of the role of intermediaries in beneficiary's activities, clarification of the concept of owner and specifics of beneficiary principles application.*

*Financial Action Task Force on Money Laundering (FATF) defines the beneficial owner as an individual, who ultimately owns or controls a legal person or entity. In this context «Legal entity or entities» are the companies, as well as partnerships, trusts and other legal entities.*

*Third European Union Directive (2005/60 / EC) recognizes beneficial owner as an individual or individuals, who fully control the client and / or an individual on whose behalf the transaction is made or the activities are carried out. This person should have a share of 25% of the shares + 1 in relation to corporates or ownership of 25% or more of the property in respect of foundations and trusts.*

*In the U.S., there is no clear definition of beneficial owner, but he/she may be the one who has the opportunity to vote directly or indirectly, to control and to manage the voting or to manage class of shares. Beneficiary owner is obliged to disclose information about himself/herself if*

*his/her ownership of securities of any class is more than 5%. Formally, the owner determines what category to refer to.*

*Determination of the beneficiary owner, according to the Patriot Act of the USA (2001), is «a person who has a level of control over, or rights to, funds or assets that, from a practical point of view, allow a person, directly or indirectly, control, manage or supervise assets ...».*

*The U.S. federal authorities have introduced a new bill on the transparency of the beneficial owners of companies to the Senate (Incorporation Transparency and Law Enforcement Assistance Act).*

*The the new law provisions (in case of adoption and approval) will require state governments to establish a system of identification of individuals, who create corporate structures. In practice, this will be expressed in the introduction of the name of the beneficial owner of the company to the local registry during the registration. Making such registries publicly available is not planned yet.*

*The UK government intends to go ahead in this issue and have adopted a special action plan aimed at developing a system of identification of beneficial owner of British companies. The ultimate goal is to develop publicly accessible registry, containing data and information on companies' beneficial owners. The proposal to create such a register was officially announced in the Message of the Sovereign (royal letter), as of 5th of June 2014, defining a program of action for the Government.*

*According to the Federal Law, as of 07.08.2001, № 115-FL, «On countering the legalization (laundering) of proceeds from crime and terrorist financing», beneficial owner was defined as «an individual, who ultimately, directly or indirectly (through a third party) controls (has a dominant participation of more than 25 percent of the capital) the client - legal entity or has the ability to control the actions of the client» [2]. The beneficial owner in the Russian Federation has no rights or duties associated with his/her position.*

*Taking into account international practice and EITI standards, Multi-Stakeholders Group of Tajikistan (MSG) has identified the beneficial owner as both an individual and legal entity or few individuals, who ultimately have ownership rights and effectively control the client and (or) the person on whose behalf a transaction is made with ownership interest of 5% or higher. If the beneficiary is a politically-exposed person, his/her share is subject to mandatory disclosure, regardless of the share of ownership.*

## **4. Companies survey**

### **4.1. Beneficiary owner declaration form**

*The format of the beneficial owner has been developed by the EITI International Secretariat (Annex 2). According to this form, the following information must be available:*

- Name of the beneficial owner. Full name (s) of the beneficial owner (s) of the company and information about their identity.*
- Names of politically involved people, if the the owner is politically involved person.*
- Identification of details. Additional details are needed in order to narrow the beneficiary owner down to an individual.*
- Contacts. Legal address of the beneficial owner.*
- Control mechanism. Description of how an actual owner and any politically engaged persons exercise control over the company. If there is a chain of companies between the actual owner and as asset, then the name of each company in the chain should be given. In some cases, private agreement between the beneficial owner and the owner of the latter company in the chain may be an additional link, and in this case, this additional reference should be indicated.*

*Third parties should be able to check some, if not all, information specified in the shareholder register.*

- *Signature. A senior officer of the company must sign a statement to confirm accuracy of information.*

#### **4.2. Methodology of data collection**

*Before requesting data on beneficial ownership, we have prepared written instructions on how to correctly fill out the questionnaire form. This form and the instruction was submitted to the government and relevant ministries that oversee the target companies - Ministry of Energy and Water Resources Management, Ministry of Industry and New Technologies.*

*Consultant on beneficial ownership prepared a letter, jointly with relevant ministries, with an Application form on beneficial ownership. The consultant further helped target companies to complete the form and send the response to the request of the Ministry. These answers were accumulated and incorporated in the report on beneficial ownership (Annex 1).*

*Regarding those companies that did not provide comprehensive complete answers, the consultant further hold consultations with them for their more active participation in the development of transparent business climate in the extractive industries.*

#### **4.3. Respondents**

*The list of companies that were interviewed was based on the fact that these companies met the threshold of materiality and were included in the 1st National Report on the implementation of the Extractive Industries Transparency Initiative in the Republic of Tajikistan (2014).*

***Tajik-American Limited Liability Company, Joint Venture «Anzob mining and processing complex»*** was established according to the Resolution of the Government of the Republic of Tajikistan, № 194, as of April 30, 2004. The founders of the company are: JSC «Anzob» and American company «Comsup Commodities, Inc.». The company specializes in underground mining and ore processing with the production of mercury-antimony concentrate. Anzob mining and processing complex, with a design capacity of 700 thousand tons of ore per year and the production of 30 th. tons of mercury-antimony concentrate, was established in 1970. The actual capacity of mining and processing of ore was on average 350 thousand tons per year.

*The company develops Jijikrut mine. Anzob mining and processing complex consists of the mine, processing plant and auxiliary shops.*

***LLC «Pakrut»*** develops «Pakrut» precious metals mine field, located in Vahdat city. The mine field contains more than 1 million ounce of gold. This mine field was discovered in 1972. 100% of stake in LLC «Pakrut» has been transferred to the Chinese corporation «China Nonferrous Metal International Mining Co., Ltd».

**LLC "Aprelevka"** was created on the basis of Kairakkum gold mine in 1995. 49% of stake of LLC "Aprelevka" used to belong to the Canadian company «Gulf» and its co-owner «Altin-Topkan». In 2011, "Gulf UK" Company has been purchased by «Central Asian Minerals and Resources PLC» (CAMAR) Company. "CAMAR" - created as an investment tool in 2009 to identify investment opportunities in the mining sector, mainly in Central Asian countries. The company is focused on geological exploration and production of non-ferrous metals. The company is based in Douglas city, Isle of Man. Currently, the owners of "Aprelevka" company are the Ministry of Industry and New Technologies of the Republic of Tajikistan and the Company "Gulf Minerals International Ltd".

**"Tebian Electric Apparatus Stock (TBEA)"** is a world leading manufacturer of various types of transformers, reactors, high-voltage electric wires and cables, and solar energy converters. The company operates in Tajikistan since 2006 and it implemented 500 kV transmission line "South – North" and 220 kV "Lolazor –Hatlon" Projects and launched the first Dushanbe CHP-2. Currently, the company received a license for geological exploration and production of gold and related mineral resources at the gold deposits in Tajikistan. The subsidiary enterprise **"TBEA Dushanbe mining"** has been created in order to carry out geological exploration. The company is completing exploration work at the "Eastern Duoba" and "Upper Kumarg" mine fields in Sughd oblast.

**Ltd. «Mining and Industrial Company of Tajikistan and China»** was established in 2007. The Chinese company «China Global New Technology Imp. & Exp» is the main investor and owns 51% of stake of the company. The activities are carried out in the Matcha district of Sughd Oblast, where «Zarnisor» concentrator was commissioned. At present, the factory processes up to 2 million tons of lead-zinc ore.

The joint venture **«Zarafshon»** was established on the basis of the Tajik gold mill, which started operation in 1990. The company produced raw materials (concentrates). In September 1994, jointly with the British company «Common wealth and British Minerals, PLC», joint venture «Zarafshan» was established based on 51:49 ratio. In mid-2007 company's shares have been purchased by the Chinese company «Zi jin Mining Group Co., Ltd». 75% of stake in Tajik-Chinese joint venture «Zarafshan» belongs to the Chinese company «Zi Jin Mining Group Co. Ltd», the remaining 25% is owned by the Government of Tajikistan.

The company has numerous branches and the number of employees is more than 2,000 people. Recently, the company also produced gold by chemical processing of subsurface rocks. In 2008, the mine field Tarror with high content of ore has been developed. In early 2011, the second gold producing mill was commissioned for processing of arsenic ore at the Tarror deposit. Extraction of gold is carried out through the open mine. According to the results of operation, Tajik-Chinese joint venture «Zarafshan» remains the leading enterprise for the extraction of gold in Tajikistan.

**CJSC «Somon Oil»** is oil and gas company. 90% of the stake is owned by the Swiss company «DWM Petroleum AG» and 10% is owned by LLC company Anavak, respectively. CJSC «Somon Oil» operates based on the Production Sharing Agreement (dated on May 7, 2012). The

company is currently completing seismic exploration works at two sites such as «West Sufatog», located on the border of Asht district with Uzbekistan, and «Kayrokum B», located near Kayrokkum water reservoir. In prospective areas of Navobod and Obchai Kalacha a work has been done at the area of 123 linear kilometers in 2D. The company mentioned about investments in operations in the amount of 2.5 mln. Somoni, and 6.2 million USD has been invested in exploration work at the promising deposits in the north-west of Tajikistan.

«**Tethys**» - an international oil and gas exploration and production company. It shares appear on the Toronto Stock Exchange (Canada). The main shareholders of «Tethys» company are the large North American and European financial institutions. «**Total SA**» is one of the largest integrated oil and gas companies in the world, with operations in more than 130 countries.

«**CNPC**» - is the largest China's oil and gas producer and supplier, as well as one of the leading suppliers of oil in the world and a global contractor in engineering construction. CNPC also owns and has operations with Central Asian and Chinese gas pipelines. CNPC is also the parent company of «PetroChina», which shares are listed on the New York Stock Exchange and Hong Kong Stock Exchange.

In 2008 Production Sharing Agreement (PSA) was signed between the Government of Tajikistan and «Tethys Petroleum Limited» company for the first time in the history of Tajikistan. The total effective area, provided by subsidiary company «Tethys- **Kulob Petroleum Limited (KPL)**» under the PSA is about 34.785 km<sup>2</sup> (8.6 mln. Acres). Area under the contract («area of the PSA») is located in the south-west of Tajikistan and covered the original Kulob area, a large highly promising but poorly explored region to date that includes the existing oil and natural gas deposits.

It also covers Khatlon area and the area around the capital Dushanbe city and includes more than 50 different exploration sites. In June 2013 Tethys Petroleum Limited, Total and China National Petroleum Corporation (CNPC) reached an agreement on Bokhtar mine field in Tajikistan. A new operating company «**Bokhtar Operating Company**» has been established. The Government of Tajikistan has added four more promising deposits with total area of 1186.37 square kilometers. The state share is 30%, the remaining 70% are distributed in equal shares between the French Total Company and CNPC (33.335% per each) and Tethys (33,33%).



## 5. Recommendations and Conclusions

### 5.1. Difficulties and challenges in the process of piloting collection of data on beneficial ownership.

*14 companies that met the threshold of materiality have been selected for the study. The selected companies are representative companies for this kind of study as they also map the geography of countries that most actively invest in Tajikistan. Difficulties faced by the consultant in collection of information might be faced by the government in the future in case of implementation of legislative initiative related to beneficial ownership.*

*Receipt of **proper and adequate information** from companies that operate in the extractive industries, in particular, if these companies are international companies. In particular, in the limited liability company «TBEA»-Mining, two officers have provided two mutually exclusive information about the founder. At this stage, there is no any relevant mechanism for validation of received information.*

***There is a reluctance** of some international companies **to provide requested information**. So, in particular, the management of Total SA in Tajikistan, in principle, did not want to provide information on beneficial ownership, arguing that the company is a foreign company and is not obliged to provide information on the beneficial ownership (Total SA, a French company, and France is not a country, which implements the EITI standard). Moreover, the consultant pointed to the responsible person of the company that the questionnaires were poorly filled out. No reaction followed from Total SA. Nevertheless, the Consultant provides information in the report about the company's stock on the exchange, which is publicly available.*

*Another difficulty in gathering information is **time and a long chain of managers**. Some companies that operate in Tajikistan have a long chain of managers. And a mid-level manager of the ultimate company in Tajikistan, who usually fills out the form, does not have sufficient information on ultimate beneficial owner. In order to obtain this information, the request is sent to the parent company, which may ignore the request, misunderstand the meaning of the questionnaire and thus provide incorrect and incomplete answer, delay the response, etc. An example of such company is LLC "Anzob". Despite the efforts of middle managers of the Tajikistan's office to provide information, the company's founders, who do not live in Tajikistan, have not provided a response to sent Declaration on Beneficial ownership in two languages.*

*If any of the companies in the chain, is quoted on the stock exchange, then it facilitates, to a certain extent, the process of obtaining a complete and correct information. Thus, in particular, the founder of the branch of «En Pi Xi Xi Central Eja BV» in the Republic of Tajikistan is the «En*

*Pi Xi Xi Central Eja BV.*», Amsterdam, the Netherlands. Despite the fact that «En Pi Xi Xi Central Eja BV» is not listed, but its founder Al Pi Xi Xi of China National Petroleum Corporation, is listed on several exchanges, one can find information on ultimate beneficial owner.

In the study, there were also cases when the final beneficiary is an international company according to the documents, but it was found during verification that the company was renamed and discontinued its operation. Thus, the founder of LLC «Pakrut», according to the documents, is a British company Kryso Resource Corporation Limited, but in fact, this company was now renamed into China Nonferrous Gold Limited (CNG) in the UK.

Also it worth mentioning about the limited liability company «Bohtar Operating Company BV», which founders are the following three companies: Branch of «En Pi Xi Xi Central Eja BV» in the Republic of Tajikistan, Total E & P Tajikistan BV ., Representation of joint stock company with limited liability «Kulob Petroleum Limited» in the Republic of Tajikistan, which have bene interviewed separately. Therefore, when considering the responses of «Bohtar Operating Company BV», answers of its founders should also been considered.

Most companies that have been the object of research are listed on the exchange. In accordance with the Requirement of 3.11.d.iii of the EITI Standard, company, officially registered on the stock exchange, including their wholly-owned subsidiaries, is not required to disclose information about its beneficiary (beneficiaries). Thus, those companies that are publicly listed, including their wholly-owned subsidiaries, are not required to fill the remaining part of the form of the Declaration on beneficial ownership approved by MSG. In fact, as these companies are listed on exchanges, their beneficiaries can change daily.

## **5.2 Recommended steps for the development of the registry of a beneficial ownership in Tajikistan.**

*It should be taken into account that Tajikistan is a country with a developing economy, and the Government of the Republic of Tajikistan is actively working to raise investments for its economy. This resulted in bringing sufficient foreign investments into the country's economy during the last ten years. Largely investment flows come from such countries as the People's Republic of China, Russia, France, Iran, Turkey, etc., and many of these countries have not yet adopted EITI standards. Consequently, implementation of the norm on compulsory disclosure of ultimate beneficiary companies in Tajikistan may deter some potential investors and those who already operate at the market in Tajikistan.*

*On the other hand, it should be noted that most of the companies that participated in the study are subsidiary enterprises and / or their founders are publicly listed company that are trading at the international stock exchanges and accordingly the required information on ultimate beneficial owner is already available. At the same time, companies that participated in the study, met a certain financial threshold of materiality, and are relatively large and stable companies, listed on stock exchanges. Thus, the normative innovation in the area of the beneficial right, in the first place, might affect the medium-sized companies, which are not yet listed on the stock exchanges and not covered by the study.*

*However, it should be taken into account that the neighboring countries in the region and potential competitors of Tajikistan as far as attracting investments are: the Republic of Kyrgyzstan, the Republic of*

*Kazakhstan, the Islamic Republic of Afghanistan that also introduce norms of beneficial ownership and create a single investment climate. It will have a positive effect on the development of regional market in general.*

***Taking into account the above-mentioned, it is recommended to take the following steps:***

- 1) Publish information about the beneficial ownership of 14 target companies on the web site of EITI Secretariat in Tajikistan and on the website of the State Committee on Investments and State Property Management of the Republic of Tajikistan.*
- 2) Create a register of companies that should not be passive and should be continuously and promptly updated. Registers of companies are valuable sources of information on owners of legal entities. Thus, in particular, according the Recommendation 24 of the FATF, all companies, based in the country, have to be entered into the register, where (at least) basic information about the company must be available, including the name of the company, confirmation of its registration, legal status and form, legal address, legal documents and a list of directors.*
- 3) Study and report on beneficial ownership for a wider number of companies that operate in the field of extractive industries. The purpose of this recommendation is to obtain reliable information about the readiness of the company to disclose information on the beneficial owner, and to prepare the company to disclose such information in the future. While collecting data for this study it is necessary to give more time and request information not only from the subsidiary enterprises that operate in Tajikistan, but also from their founders.*
- 4) Work together with the initiative group from Kyrgyzstan, Kazakhstan and Afghanistan for the simultaneous introduction of beneficial ownership norms in the legislation of the country by 2018.*
- 5) Prior to implementation of legislative initiatives in the area of beneficial ownership, establish a technical subgroup from among the MSG and relevant government insititutions to determine the laws, where it is required to make appropriate changes or possible development of new legislative initiatives. In particular, due to the fact that currently, there are discussion of the new Law of RT "On mineral resources", it is recommended that the MSG gives them its recommendations on the law concerning provisions on the beneficiaries of the mineral resouces.*
- 6) Before making the requirements, related to the beneficial ownership, mandatory for Tajikistan according to the EITI standards, it is necessary to technically support the Government, through training and the establishment of an appropriate EITI regime and the development of institutional framework. So, in particular, it is necessary to find mechanisms to verify information on beneficial owners, provided by companies, operating in the extractive industries.*
- 7) It is necessary to develop mechanisms to verify the information provided by the beneficial owner of companies working in the field of extractive industries.*
- 8) Determine the responsible government institution for the implementation of regulations in the field of Beneficial ownership, monitoring of enforcement of the law, and which has the authority to make request from third countries, exchanges and other institutions about information on the beneficiary firms in Tajikistan.*
- 9) Mechanisms should be developed for the disclosure of indirect beneficiary and the percentage of ownership. In particular, an individual may only own 60% of the company 1, which in turn owns 30 % of company 2. Thus, an individual owns only 18% of the company 2. This chain can go on indefinitely. Therefore, the proposed percent threshold by MSG Tajikistan in the amount of 5% to identify the ultimate beneficiary, is justified.*
- 10) Develop relevant mechanisms to provide information on final beneficial owner of the companies that operate in the extractive industries, during the registration and / or license obtaining*

*process. Verification of information at the initial stage, to some extent, simplifies the process of identification of ultimate beneficiary, since the beneficial owner is interested in the provision of information.*

## Annex 1: Table on beneficial ownership. Part 1

No	Name of the company	TIN	Legal address	Shareholder	Country	% equity participation	Public or private	Trading on the stock exchange
1.	Joint Tajik - Canadian limited liability company «Aprelevka»	560000752	735752 Republic of Tajikistan, Kayrakkum city, Kansai village, R. Nabieva Street, 43	A) Government of the Republic of Tajikistan	Tajikistan	A) 51%	Public	No
				B) GULF International Minerals Ltd.	Canada	B) 49%	Private	
2.	Limited Liability Company «Pakrut»	030008882	734000 Republic of Tajikistan, Dushanbe, Karin Mann 130 Street	Kryso Resource Limited	UK (Virgin Islands)	100%	Private	London Stock Exchange
3.	Limited Liability Company «Tajik-Chinese Mining Company»	020024182	735752 Republic of Tajikistan, Kayrakkum town, Zarnisor village, Somonoiën. 22	LLC «Industrial Company Tibet Everest»	People's Republic of China	100%	Private	«Shanghai Stock Exchange» Quoted Companies Code: 600338
4	Branch of the private Limited Liability Company «Bohtar Operating Company BV» in the Republic of Tajikistan  (Founder «Bokhtar Operating Company B.V.», the Netherlands )	0220001586	724024, Republic of Tajikistan, Dushanbe, 48 Aini Street, BC «Sozidaniye»	CNPC Central Asia B.V.	People's Republic of China	33, 335%	Private	See column 5
				Total E&P Tajikistan B.V.	France	33, 335%	Public	See column 6
				Kulob Petroleum Limited	The Great Britain	33, 33%		See column 7
5.	Branch of «En Pi Xi Xi Central Eja BV» in the Republic of Tajikistan	010092819	724024, Republic of Tajikistan, Dushanbe, 48 Aini Street, BC «Sozidaniye»	En Pi Xi Xi Central Eja BV, Amsterdam, Netherlands This company in turn was established: En Pi Xi Xi = China National Petroleum Corporation	People's Republic of China	100 %	Public	Yes. Shanghai Stock Exchange. Company Code: 601857 Hong Kong Stock Exchange: 0857

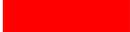
6	Total E & P Tajikistan BV	010092769	724024, Republic of Tajikistan, Dushanbe, 48 Aini Street, BC «Sozidaniye»	Total S.A.	France		Private	NYSE: TOT
7	Representation of joint stock company with limited liability "Kulob Petroleum Limited" in the Republic of Tajikistan	020025595	724024, Republic of Tajikistan, Dushanbe, 48 Aini Street, BC «Sozidaniye»	Joint stock exchange company with limited liability «Kulob Petroleum Limited» was established by Tethys Petroleum Limited	United Kingdom	100%	Private	Tethys Petroleum is listed on the Stock Exchange TSX under the code TPL
8	Joint Venture LLC «Zarafshon»	600000010	Republic of Tajikistan, Rendjikent district, Sogdina village	Government of the Republic of Tajikistan	Tajikistan	25%	Public	
				Zijin Mining Group Co.Ltd	People's Republic of China	75%	Public and private	Shanghai Stock Exchange Company Code 601899 (SHA)
9	Representation of the Joint stock company with limited liability «TBEA»	020022124	Republic of Tajikistan, Dushanbe, 34/1 Zavkibekov Street	Joint stock company with limited liability "TBEA"	People's Republic of China	100%	Private	Shanghai Stock Exchange 600089
10	Limited Liability Company «TBEA Dushanbe Mining»	020034590	Republic of Tajikistan, Dushanbe, 34/1 Zavkibekov Street	Szyan Zhang Ming	People's Republic of China	100%	Private	No
11	Joint stock company LLC «Somon Oil»	020019140	Republic of Tajikistan, Dushanbe, Aini Street 24a	DWM Petroleum AG (100% of shares are owned by MNP Petroleum Corporation)	Switzerland	90%	Private	TSX.V - MNP
				ANAVAK LLC	Tajikistan	10 %	Private	
12	Joint Limited Liability Company «Petroleum	550004828	Republic of Tajikistan, Sughd	Government of Tajikistan	Tajikistan	42,58	Public	

	Sughd»		Oblast, Isfara town, Nefteabad village, Lenin st, house # 3	Company «EPA.at Beteiligungsgezellshaft mbH»	Austria	57,42	Private	
13	LLC «Anzob»			No answer was provided				
14	<b>TBEA «Dushanbe Energy»</b>	Company made an announcement on shutting down the business.						

## Annex 1: Table on beneficial ownerships. Part 2

No	Name of the company	Name and primary data of the owner	Share in the company ownership	Level of political involvement of the beneficiary	Website
1.	Joint Tajik - Canadian limited liability company «Aprelevka»	The owner of the company Gulf international: Oliver John Vaughn Date of birth: July 28, 1946 A citizen of the UK	100 % shares	No	<a href="http://www.gulf-intl.com/index.htm">http://www.gulf-intl.com/index.htm</a>
2.	Limited Liability Company «Pakrut»	N/A	N/A	N/A	<a href="http://www.cnfgold.com">http://www.cnfgold.com</a>
3.	Limited Liability Company «Tajik-Chinese mining companies»	N/A	N/A	N/A	Industrial Company Tibet Everest is a member of the Shanghai Corporation for Haicheng resources  <a href="http://www.haichenggroup.cn">http://www.haichenggroup.cn</a>
4	Branch of Private Limited Liability Company «Bohtar Operating Company BV» in the Republic of Tajikistan	N/A	N/A	N/A	
5.	Branch of «En Pi Xi Xi Central Eja BV» in the Republic of Tajikistan	N/A	N/A	N/A	<a href="http://www.cnpc.com.cn/en/">http://www.cnpc.com.cn/en/</a>
6	Total E & P Tajikistan BV	N/A	N/A	N/A	<a href="http://www.total.com/en">http://www.total.com/en</a>
7	Representation of the Joint Stock Company with limited liability «Kulob Petroleum Limited» in the Republic of Tajikistan	N/A	N/A	N/A	<a href="http://www.tethyspetroleum.com">http://www.tethyspetroleum.com</a>
8	LLC Joint Venture «Zarafshon»	N/A	N/A	N/A	<a href="http://www.zijinmining.com">http://www.zijinmining.com</a>
9	Representation of the Joint Stock Company with limited liability «TBEA»	N/A	N/A	N/A	<a href="http://ru.tbea.com.cn">http://ru.tbea.com.cn</a>

10	Limited Liability Company «TBEA Dushanbe Mining»	Zhang Ming Zyan 7.02.1982 China, Urumchi	100 %	N/A	
11	LLC «Somon Oil»	The owner of ANAVAK LLC Company is Shodiev Fatkhiddin Azimovich, Tajikistan	100%	No	<a href="http://www.mnppetroleum.com">www.mnppetroleum.com</a>
12	JV «Petroleum Sughd»	N/A	N/A	N/A	<a href="http://www.energypartners.a">http://www.energypartners.a</a> <a href="http://www.energypartners.a">t</a>
13	LLC «Anzob»	No response			
14	<b>TBEA «Dushanbe Energy»</b> - made an announcement on shutting down the company.	The company filed the announcement on shutting down the business.			

-  - Complete answer
-  - Partial answer
-  - No answer
-  - Closed



## Annex 2: Beneficial ownership declaration form

### Template beneficial ownership declaration form

This beneficial ownership declaration form has been issued by the EITI International Secretariat as a model template to countries that wish to collect beneficial ownership information as part of the EITI reporting process. The MSG may wish to attach this form to the reporting templates distributed to extractive companies. The template includes sections [bracketed and highlighted in red] to be completed by the extractive company.

### Company identification

<b>Full legal name of the company</b> (including legal form of legal entities)		
<b>Unique identification number</b>		
	Is the company a publicly listed company, or a wholly owned subsidiary of a publicly listed company?  <input type="checkbox"/> Yes. <input type="checkbox"/> No <sup>1</sup>	
<b>Contact address</b> (registered office for legal entities)		
<b>Shareholder(s)</b>	Government/private entity	% interest
<b>Declaration form prepared by</b>	[Name]	[Position]
	[Email address]	[Telephone number]

### Beneficial ownership definition

In accordance with the *EITI Standard*, Requirement 3.11.d.i, a beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity. Further to Requirement 3.11.d and in accordance with the decision of EITI Board of Tajikistan, a **beneficial owner is an individual or legal person or a few individuals, who ultimately have the property rights, as well as effective control of the client and (or) the person on whose behalf a transaction is made, with the share of ownership of 5% or higher. If the beneficiary is a politically-exposed person,<sup>2</sup> his/her share is subject to disclosure on a mandatory basis, regardless of interest.**

<sup>1</sup> In accordance with requirements 3.11.d.iii of EITI standard, the companies, officially registered on the stock exchange, including its wholly owned subsidiaries, are not required to disclose information on its beneficiary (beneficiaries). Thus, any company, publicly listed, including its wholly owned subsidiaries, is not required to fill out the rest of this beneficial ownership declaration form.

<sup>2</sup> PEP (PEP) - Citizens of foreign countries and the Republic of Tajikistan, who have been provided or were entrusted with prominent public functions (the Heads of State or Government, senior politicians, senior officials in the government, the courts, the armed forces, law enforcement and fiscal authorities, as well as managers and leaders of political parties and religious organizations), including persons operating in these positions before.

**Beneficial ownership declaration<sup>3</sup>**

In accordance with the beneficial ownership definition, as per [date] the beneficial owner/s of [company]is/are:

Information about how ownership is held or control over the company is exercised					Date when beneficial ownership was acquired	Means of contact
Identity of the beneficial owner					[date]	[residential/service address] [other contact details]
[Full name as it appears on national identify card]  [Date of birth and/or national identify number]  [Nationality]  [Country of residence]	By shares		By % of voting rights		[Where control over the company is exercised through other companies (legal entities, details should be provided here.) <sup>4</sup>	
	[number of shares]	[% of shares]	[% of direct voting rights]	[% of indirect voting rights]		

Are any of the beneficial owners a Politically Exposed Person (PEP)?

Yes. Name: \_\_\_\_\_ .Public office position and role: \_\_\_\_\_ Date when office was assumed: / /  
Date when office was left, if applicable: / /

No.

**Attestation**

I, undersigned, for and on behalf of the reporting entity confirm that all information provided in the above beneficial ownership declaration is accurate and reliable.

[Name] \_\_\_\_\_

<sup>3</sup> Companies are required to provide information about their beneficiaries. In cases when, in accordance with the definition of beneficial interest, there is more than one beneficiary, information should be provided to all beneficiaries.

<sup>4</sup> For example, if the beneficiary holds the entire shares through separate company, information about the company, its place of registration and identification numbers should be provided here.

[Position] \_\_\_\_\_

[Signature] \_\_\_\_\_

[We attach further information to verify the accuracy of the beneficial ownership information provided:]

....

....