
This note has been issued by the EITI International Secretariat to provide guidance to implementing countries on meeting the requirements in the EITI Standard. Readers are advised to refer to the EITI Standard directly, and to contact the International Secretariat to seek further clarification. Contact details can be found at www.eiti.org

Social expenditures

Guidance note 17 – Requirement 6.1

1. Summary

In addition to taxes levied by central, regional and local governments, extractive companies often make contributions to regional or local governments, communities, NGOs or other third parties in the areas where they operate. These transactions are interchangeably called “social expenditures”, “social payments”, or “social investments”. In the EITI Standard, these payments are addressed in section 6.1 as “social expenditures” (see box 1). Social expenditures can take multiple forms, and may involve cash payments such as donations, grants or other types of cash transfers, the transfer of assets such as the construction of roads or schools, or the provision of services like training and health care. In some cases, these social expenditures are based on legal or contractual obligations. In other cases, companies make voluntary social contributions. Several EITI implementing countries already disclose or reconcile mandatory and/or voluntary social expenditures in their EITI Reports, including Kazakhstan, Kyrgyzstan, Liberia, Mongolia, Mozambique, Peru, Republic of Congo, Togo, Yemen and Zambia. This note provides guidance to multi-stakeholder groups (MSGs) on how to report on social expenditures.

2. Requirements related to this topic

6.1 Social expenditures by extractive companies

a) Where material social expenditures by companies are mandated by law or the contract with the government that governs the extractive investment, implementing countries must disclose and, where possible, reconcile these transactions. Where such benefits are provided in kind, it is required that implementing countries disclose the nature and the deemed value of the in kind transaction. Where the beneficiary of the mandated social expenditure is a third party, i.e. not a government agency, it is required that the name and function of the beneficiary be disclosed. Where reconciliation is not feasible, the countries should include unilateral company and/or government disclosures of these transactions.

b) Where the multi-stakeholder group agrees that discretionary social expenditures and transfers are material, the multi-stakeholder group is encouraged to develop a reporting process with a view to achieving transparency commensurate with the disclosure of other payments and revenue streams to government entities. Where reconciliation of key transactions is not possible, e.g. where company payments are in kind or to a non-governmental third party, the multi-stakeholder group may wish to agree an approach for voluntary unilateral company and/or government disclosures to be included in the EITI Report.

Source: EITI Standard 2016, p. 28

3. Guidance

The EITI International Secretariat recommends the following step-by-step approach to MSGs for addressing social expenditures:

Step 1- Identify whether companies make social expenditures, including whether these are mandatory or discretionary

In order to identify whether companies provide social expenditures, the MSG is advised to consult:

- Extractive companies and industry associations with a view to understanding the type and nature of any social expenditures, and whether social expenditures are discretionary or part of the companies' legal and/or contractual obligations.
- The legal and regulatory framework governing the extractive sector to identify whether social expenditures are mandated by law. Where mandated by law, the MSG may wish to include a reference to the relevant legal provisions in the EITI report.
- Agreements and contracts, where available, in order to understand whether social expenditures are obligatory or voluntary.

It is recommended that the findings from this work are documented in MSG minutes, scoping studies or in the EITI report itself.

Examples

Article 31 of the Afghanistan - Qara Zaghan contract states that “during the first two years of [the] contract [the company] shall spend a minimum of US\$ 50,000 for implementation of social programmes as per the Social Development Plan.”

Guinea’s Mining Code (2011 amended) includes the following provisions:

Article 130: Development of the Local Community

A holder of a Mining Operation Title must enter into a Local Development Agreement (LDA) with the Local Community residing on or in the immediate vicinity of its Mining Operation Title. The terms for drafting these agreements are set out in a joint order of the Minister in charge of Mines and the Minister in charge of Decentralization.

The purpose of the Local Development Agreement is to establish conditions that are conducive to the efficient and transparent management of the Contribution to Local Development paid by the holder of the Mining Operation Permit, and to strengthen the capacities of the Local Community in the planning and implementation of the community development programme.

The Local Development Agreement must include among other things, provisions for training the Local Community and, more generally, Guineans, environmental protection and health measures for the Local Community, and processes for the development of social projects. Principles of transparency and consultation will be applied to the management of the Local Economic Development Fund and to any Local Development Agreement which will be published and made available to the Local Community.

The amount of the Contribution to Local Development, the financial contribution of the holder of a Mining Operation Title to the development of the Local Community, is fixed at zero point five percent (0.5 %) of the turnover of the company made on a Mining Title of a zone for category 1 mine substances and one percent (1%) for other mine substances.

A Local Development Fund (LDF) is created which will be financed by this Contribution to Local Development from the holder of the Mining Title from the Date of First Production. The terms for using this Contribution to Local Development and the rules for the operations and management of the Local Development Fund are set out by decree of the President of the Republic.

Step 2- Assessing the materiality of social expenditures

Where the MSG has determined that extractive companies make i) mandatory or ii) discretionary social expenditures, the MSG needs to establish whether these payments are material. The general approach set out in requirement 4.1(a) should inform this process:

In advance of the reporting process, the multi-stakeholder group is required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds. Payments and revenues are considered material if their omission or misstatement could significantly affect the comprehensiveness of the EITI Report. A description of each revenue stream, related materiality definitions and thresholds should be disclosed. In establishing materiality definitions and thresholds, the multi-stakeholder group should consider the size of the revenue streams relative to total revenues. The multi-stakeholder

group should document the options considered and the rationale for establishing the definitions and thresholds.

In some cases, the data needed to make this assessment will already be publicly available from companies, government authorities or other sources. In other cases, it may only be possible to estimate the size of the payments through consultations with stakeholders. While social expenditures may be insignificant in absolute value compared to taxes and royalties, the impact on small local economies and social and institutional arrangements may still be considerable.

In accordance with requirement 6.1, where the MSG determines that **mandatory social expenditures** are material, the EITI Report must disclose and, where possible, reconcile these transactions (see step 3 below). If the MSG concludes that these flows are immaterial, the basis for this assessment should be documented. In such circumstances, it may be useful to provide a summary in the EITI Report.

Where the MSG determines that **discretionary social payments or transfers to government entities** are material, the MSG is encouraged to cover these flows in the EITI Report (requirement 6.1.b). A reconciliation procedure is encouraged where feasible. If agreed, reconciliation might follow the same approach suggested for mandatory social expenditures (see step 3 below).

Step 3- Disclosure and reconciliation of social expenditures

Where the MSG has established that social expenditures payments or transfers to government entities are material, additional work may be needed to design appropriate reporting templates and agree procedures for disclosure and, where possible, reconciliation of the data. In order to agree an appropriate reporting procedure, the MSG is advised to review:

- **The nature of the social expenditures**, including whether the social expenditure is provided in-kind for example through access to services or infrastructure, through financial transactions, or a combination. In accordance with requirement 6.1.a, where such benefits (i.e. mandatory social expenditures) are provided in-kind, it is required that the EITI Report discloses the nature and the deemed value of the in-kind transaction.'
- **The parties involved in the transaction (i.e. the provider and the recipient of the social expenditure)**, which in addition to the extractive company, may include a government entity, or a third party recipient such as, a charitable organisation or other types of associations. The beneficiary of the social expenditure is the recipient of the benefit i.e. the person or body who owns or controls or uses the asset or service. In accordance with requirement 6.1a, 'where the beneficiary of the mandated social expenditure is a third party, i.e. not a government agency, it is required that the name and function of the beneficiary be disclosed'.

Depending on the nature of the social expenditure and the parties involved in the transaction, the MSG needs to determine whether the transactions can be reconciled, or whether it is more appropriate that the company making the payment and/or government entity receiving the benefits unilaterally disclose

the nature and the value of the transaction (requirement 1.5.c.ii). Where the social expenditure is a financial transaction between an extractive company and a government entity, or a community development fund, reconciliation will in most cases be feasible. However, where the social expenditure is provided in-kind or the payment is made to a contractor for the implementation of a project or to an NGO, reconciliation may well be challenging. In such cases the reporting template should be designed so that the extractive company describes the nature of the social contribution provided and the deemed monetary value at the time that the expenditure was made. Similarly, where the beneficiary is not a government agency but a third party, the reporting template should enable the name and function of the beneficiary to be disclosed. The MSG is advised to explain and document the agreed approach for reporting on social expenditures. The MSG may also wish to task the Independent Administrator with proposing templates for reporting on social expenditures.

4. Examples:

Mongolia's EITI Report includes detailed reconciliation and description of the social expenditures provided in-kind, noting the value of the in-kind transaction:

Mongolia 5th EITI Reconciliation Report 2010

Appendix U- /B/ Donation and supportings provided to Khanbogd soum

Donation and supportings	Corrected (000' MNT)		Unresolved discrepancy	Name of company provided donations and aids
	Local government	company		
Floor provided to school at soum and maintenance work	15,000.0	15,000.0	-	ONTRE LLC
Furniture and equipment provided to hospital at soum	15,000.0	15,000.0	-	ONTRE LLC
Total amount of ONTRE LLC	30,000.0	30,000.0	-	
400 Albums of Sightseeings at soum	9,280.0	9,280.0	-	Ivanhoe Mines Inc Mongolia /Oyu Tolgoi/LLC
Put signboard on the places of sightseeings to protect cultural heritage	2,363.1	2,363.1	-	Ivanhoe Mines Inc Mongolia /Oyu Tolgoi/LLC
Mountain worship at Bayan bag	300.0	300.0	-	Ivanhoe Mines Inc Mongolia /Oyu Tolgoi/LLC

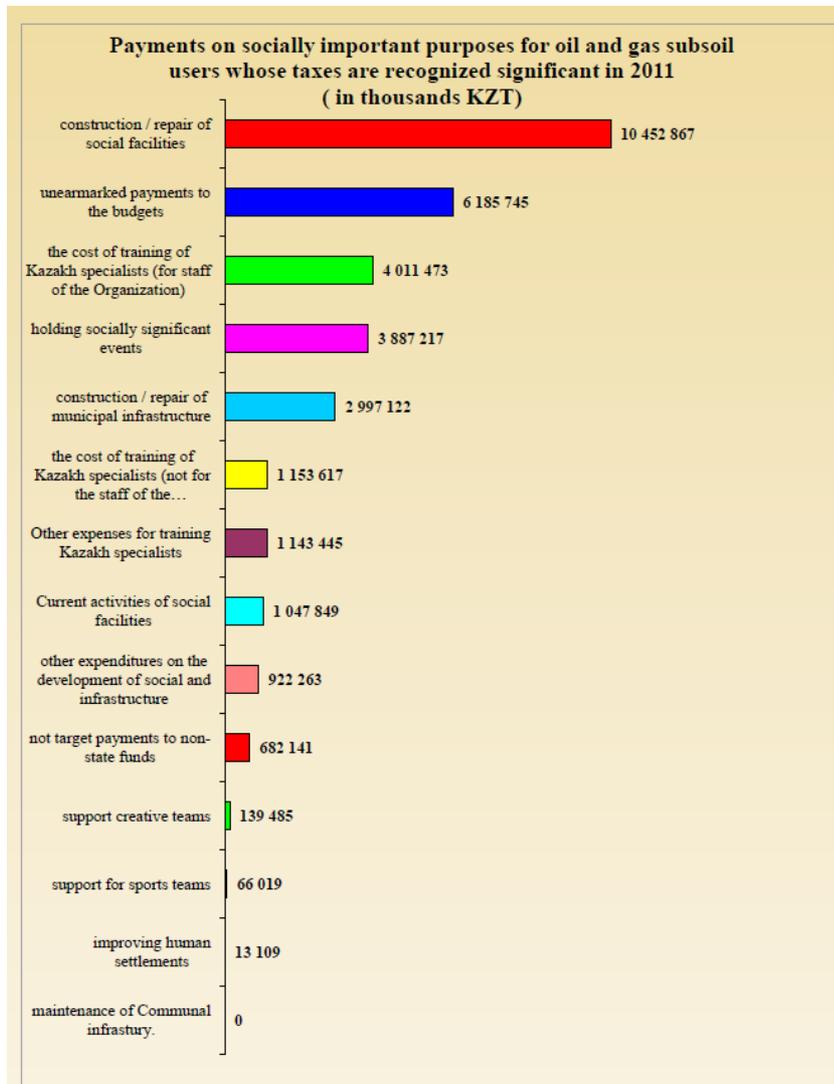
Mongolia's EITI reports also reconcile monetary donations to government agencies and other entities:

Mongolia 5th EITI Reconciliation Report 2010

E-8. "Ivanhoe Mines Mongolia Inc" (Oyu Tolgoi) LLC

#	2678179		Initial difference		Amount reported by Government Entities which exceed (+), under (-) the corresponding amounts reported by companies	Adjustments made		Adjusted		
	Indicators		Government (DRCSBO)	Company		Government (DRCSBO)	Company	Government (DRCSBO)	Company	
2.3.1	Stamp fee			1,550.0	(1,550.0)	1,550.0		1,550.0	1,550.0	
2.3.2	Service fee			68.0	(68.0)	68.0		68.0	68.0	
2.4 Dividends on state and local property										
2.4.1	Dividends on state property									
2.5 Others										
2.5.1	Penalty		-	-	-	815,181.6	815,181.6	815,181.6	815,181.6	
3. Other payments and expenses										
3.1 Advance to costs disbursed to environment protection										
3.1.1	In kind contribution at rate of 50% to Environment protection special account		6,880.0	6,880.0	-	-	-	6,880.0	6,880.0	
3.2 Donation and assistance to Government organizations			901,002.0	2,437,044.6	(1,536,042.6)	1,536,042.6	-	2,437,044.6	2,437,044.6	
3.2.1	Ministries and agencies	Monetary donation and assistance		1,672,793.8	(1,672,793.8)	1,672,793.8		1,672,793.8	1,672,793.8	
3.2.2		Non cash donation and assistance		45,443.7	(45,443.7)	45,443.7		45,443.7	45,443.7	
3.2.3	Aimags and capital city	Monetary donation and assistance	129,418.0	140,207.0	(10,789.0)	10,789.0		140,207.0	140,207.0	
3.2.4		Non cash donation and assistance			-					
3.2.5	Soums and districts	Monetary donation and assistance	724,334.0	6,263.1	718,070.9	(718,070.9)		6,263.1	6,263.1	
3.2.6		Non cash donation and assistance	47,250.0	516,787.0	(469,537.0)	469,537.0		516,787.0	516,787.0	
3.2.7	Other entities	Monetary donation and assistance		55,550.0	(55,550.0)	55,550.0		55,550.0	55,550.0	
3.2.8		Non cash donation and assistance								
Total			36,231,239.6	44,797,938.5	(8,566,698.9)	71,616,172.1	63,049,473.2	107,847,411.7	107,847,411.7	

In Kazakhstan, companies have a contractual obligation to spend a certain percent of profits on social investments. The type of benefit to be provided is typically negotiated between the company and the local government. The EITI Report provides a unilateral disclosure by the companies of the value and nature of the social expenditures. A summary is provided below:



In some cases companies make both mandatory and voluntary social expenditures. Kazakhmys, one of the main copper producers in Kazakhstan, spend a total of US\$200 in social investments in 2010. 89 % of this was voluntary spending and 11% was required under the license agreement. Of the 2010 social investments, support to education accounted for 71 % of Kazakhmys social spending, and included support to the Kazakhstan National Library and Education Centre in Astana.

In Zambia's 2011 EITI Report, companies unilaterally disclosed the value of social expenditures provided in cash and in-kind:

8.2. Social payments

The companies were requested to report social payments and transfers made during 2011. We set out in the table below the amounts reported by the extractive companies:

No.	Company	<i>Amounts in k ZMW</i>		
		Cash Payments	In Kind Payments	Total
1	KANSANSHI MINING PLC	-	56,205	56,205
2	CNMC LUANSHYA COPPER MINES PLC	17,014	395	17,409
3	LUMWANA MINING COMPANY LIMITED	225	13,016	13,241
4	KONKOLA COPPER MINES PLC	10,580	-	10,580
5	MOPANI COPPER MINES PLC	2,711	3,456	6,167
6	NFC AFRICA MINING PLC	1,280	-	1,280