# **REPUBLIC OF ALBANIA**

# **EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE**



# EITI Report 2009



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> Working Group of the Extractive Industries Transparency Initiative (EITI) TIRANA – ALBANIA

To the President of EITI Working Group Albania

**SUBJECT: Albania EITI Report 2009** 

Dear Sir,

The Extractive Industries Transparency Initiative (EITI) is designed to help increase transparency and credibility in the oil, gas and mining sector. The Republic of Albania adhered to EITI in May 2009, and received candidate status on 20 March 2010.

A Working Group, in charge of implementing EITI in Albania, was established beforehand in December 2008. This Group is conceived of the various Initiative stakeholders (State, companies, civil society). In its work, the Working Group relies on a Technical Secretariat set up in January 2011.

Fair Links was selected by way of tender as an independent expert in order to collect, reconcile and compile data both on:

- (i) the revenues the State declared to have received in 2009 from the extractive companies;
- (ii) the payments companies declared to have made in the same year.

Under EITI Rules, the State revenues and the corresponding payments made by companies are defined as benefit streams.

This Report was written in compliance with the best international practices for EITI Reporting. Such practices specifically entail a high degree of integrity and observance of ethics, as well as rigorous following of the procedures designed to ensure the pertinence, quality and impartiality of work, including work management procedures, resource management and internal control.



The Report discusses the following main factual and analytical items:

Section I. National context of the Albanian extractive industries

Section II. Choice of the Working Group in relation to the Scope adopted for the Albanian EITI Report for 2009

Section III. Nature and extent of our work

Section IV. Reconciliation of data on the oil sector

Section V. Reconciliation of data on the mining sector

**Section VI. Conclusions: comments and recommendations** 

Paris, 30 April 2011

A. Pélard de Feuardent.

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Partner



#### Section I. National context of the Albanian extractive industries

# A. Description of the extractive sector in Albania

In Albania, the extractive sector is basically represented by an industrial oil sector, contributing to the greatest and growing share of the State revenues, and a medium and small-scale mining sector thriving largely on chromite, copper and nickel extraction.

#### Oil sector

Since 1990, various petroleum agreements with international companies have been granted and a legal framework (Petroleum Law n° 7746, dated 27 July 1993 "Exploration and Production", and Law n°7811 dated 12 April 1994 "On the Fiscal System in the Hydrocarbons Sector") has been implemented to attract foreign investors.

In 2009, the oil sector was represented by:

- → Two international onshore production companies:
  - Bankers Petroleum (around 8,000 bbl/day)
  - Stream Oil & Gas (around 1,500 bbl/day)
- → A National Oil Company, both a partner to private oil companies and a State Collecting Agency:
  - Albpetrol
- → Six international companies at the exploration phase:
  - Capricorn Albania (a subsidiary of Cairn)
  - IEC Visoka
  - Island International Exploration (a subsidiary of San Leon Energy)
  - Manas Adriatic (a subsidiary of DWM)
  - Sherwood International (a subsidiary of Bankers Petroleum)
  - Sky Petroleum

Given the importance of the exploration projects and the ever increasing investments made by foreign companies in the oil sector, seemingly Albania has the potential to significantly increase its production of oil in the future.

Payments to the State by private companies consist of Signature bonuses (for exploration permits), Royalties and Corporate profit tax. Besides, Albertrol receives Signature bonuses (for production licenses) and the Share of production allocated to the National Oil Company which includes particularly the recovery of Albertrol's past investments (deemed production); and Albertrol redistributes some revenues to the State through the payment of Corporate profit tax and Dividends.

The declared payments made by oil companies and the revenues declared by the State are shown on page 15 of this Report.



#### Mining sector

Albanian Mining Law n°7796 (of 17 February 1994) was in place to govern the mining sector. It helped regulate the privatisation of all Albanian mining activities through the granting of exploration permits and production concessions to national and foreign companies. In 2010, the legal framework was updated. However, this does not affect the financial year under consideration in this Report.

For the year 2009, the mining production was mainly related to the extraction of three mineral ores:

#### → Chromite

Companies with chromite producing mines included:

- Albanian Chrome (ACR subsidiary of *Decometal*, former *Darfo*) the main player, representing around 1/3 of the total national chromite products
- Numerous other medium and small-scale players

#### → Copper

Companies with copper producing mines included:

- Ber Alb main player
- A few other medium and small-scale players

#### → Nickel

Companies with nickel producing mines included:

- A few medium and small-scale players

The majority of payments by producing companies to the State are Royalties, Corporate profit tax and Surface fees.

In 2009, the main companies involved in exploration in Albania included the following international players:

# → Chromite

- Empire Mining
- Jab Resources

# → Copper

- Tirex Exploration
- Balkan Resources (Central and North Albania)

#### → Nickel

- Balkan Resources (South-eastern Albania)

Exploration companies pay Surface fees, and potentially Signature bonuses.

The declared payments made by mining companies and the revenues declared by the State are shown on page 16 of this Report.



#### B. Timetable of the work done

In the course of the first phase of our work in Tirana (the 'Preliminary Phase'), between 9 and 18 March 2011, we met with various players active in the extractive sector and various EITI stakeholders, with a view to making them aware of the reconciliation process, as well as ensuring the highest possible level of participation.

During this Preliminary Phase we also discussed the Scope of benefit streams and companies to be considered in EITI Report 2009, and the related Reporting Templates. Discussions were held with the Albanian EITI Secretariat and Working Group on the basis of our recommendations, the new EITI Rules, *EITI Source Book*, various documents presented to us (Tax Law, Oil and Mining Laws, regulations, etc.), and a materiality analysis that was made by the Albanian EITI Secretariat. In providing our recommendations, we had to take account of the very tight deadline against which the Albanian EITI was working for EITI Report 2009.

The final decision on the Scope of companies and benefit streams was taken by the Working Group in Tirana on 11 March 2011. We were also able get the related Reporting Templates approved by the Working Group. We then delivered them both to the State Collecting Agencies and the companies.

The next phase of our work, consisted in comparing the data we received both from the companies and the State Collecting Agencies (Directorate General of Taxes, Directorate General of Customs, AKBN, and Ministry of Economy, Trade and Energy). Such work, which was done in Paris between 1 and 6 April 2011, enabled us to create a preliminary database, and systematically identify the variances to be reconciled and the missing declarations.

The last phase of our work, consisting in the analysis and dealing with the said variances (the 'Reconciliation Phase'), included a second visit to Tirana between 6 and 18 April 2011. On that occasion, we met representatives from every State Collecting Agency and some targeted companies, so as to obtain the potentially missing declarations in the correct format, and finalise the reconciliation work.



# Section II. Choice of the Working Group in relation to the Scope adopted for the Albania EITI Report for 2009

This Report is published in the context of the progressive implementation of the Initiative in Albania. The responsibility for the definition of the Scope of the benefit streams and companies to be taken into account in EITI Report 2009 lies with the Working Group alone. However, we have been able to discuss this Scope, to review the materiality drivers proposed by the Albanian EITI Secretariat, and to give the Working Group some recommendations before the final Scope was approved on 11 April 2011.

#### A. Oil Sector

Companies to be taken into account

We understand that all companies active in Albania in 2009 have been included in EITI Scope 2009:

- → Private oil companies involved in production
  - Bankers Petroleum
  - Stream Oil & Gas
- → Private oil companies involved in exploration
  - Capricorn Albania
  - IEC Visoka
  - Island International Exploration
  - Manas Adriatic
  - Sherwood International
  - Sky Petroleum
- → National Oil Company
  - Albpetrol
  - Benefit streams to be taken into account
- → Payments made by private companies

We understand that all the significant revenues considered for the Albanian Production Sharing Contracts have been selected. These revenues are consistent with the industry practices and EITI Rules<sup>1</sup>. Companies invited to declare any other significant payment they may have made to the State, did not declare any significant benefit stream out of the defined Scope.

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<sup>&</sup>lt;sup>1</sup> We have raised the attention of the Working Group about the absence of Surface fees in the definition of the Scope of oil revenues; both the companies and the State confirmed that, in Albania, this usual type of payment is not applicable to the oil sector.



Please find below the list and definition of the benefit streams included in EITI Scope 2009 for the private oil sector:

#### <u>Definition of payments made by private oil companies – EITI Scope 2009</u>

## Signature bonuses

Signature bonuses are occasionally determined (based on contract negotiations) upon the granting of exploration permits, or production licenses, within the context of specific contractual terms and conditions.

Signature bonuses are recovered both by Albpetrol (for the signature of production licenses), and AKBN (for the signature of exploration permits).

#### Royalties

Royalties are applied to the taxable value (or fiscal value) of sales.

Export Royalties are recovered by the Directorate General of Customs, and Royalties from domestic sales are recovered by the Directorate General of Taxes.

## • Share of production allocated to the National Oil Company

Albertrol, the National Oil Company, is entitled to a Share of production. This Share is defined contractually, based on deemed production (pre-existing production) and incremental production (production issued from contractor's investment). The Share of production allocated to Albertrol may be paid in cash or in kind (barrels of oil).

#### Corporate profit tax

Corporate profit tax is calculated on the basis of taxable profit of the company.

Corporate profit tax is recovered by the Directorate General of Taxes.

#### Other significant payments made to the State

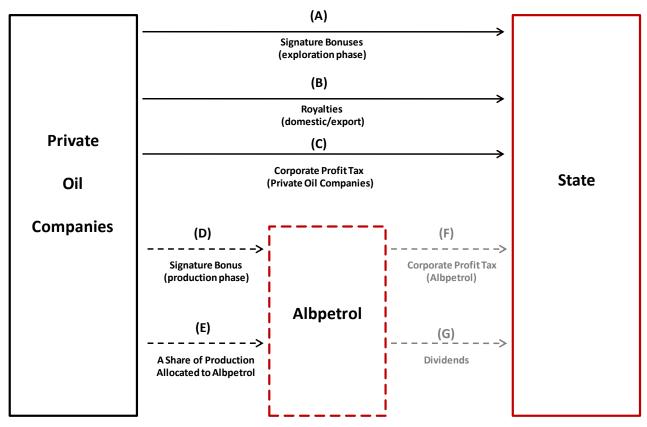
For the purpose of ensuring exhaustiveness and identification of potential significant missing benefit streams, companies were invited to declare, on a voluntary basis, any payment made to the State, or its entities that they would consider as being significant.

#### → Revenues received and payments made by *Albpetrol*

As a National Oil Company, *Albpetrol* receives a **Share of production** for the investments made prior to the signature of the production sharing contracts with private companies (deemed production or pre-existing production), as well as a **Share of production** on behalf of the State. *Albpetrol* also receives **Signature bonuses** for the signature of production licenses. *Albpetrol* may then redistribute some revenues to the State through the payment of **Corporate profit tax** and **Dividends**.



The following graph shows the flows of benefit streams selected by the Working Group for *Albpetrol* and the State.



In that context, the Working Group has defined the payments made by Albpetrol to the State as follows:

#### <u>Definition of payments made by Albpetrol – EITI Scope 2009</u>

# Corporate profit tax

Corporate profit tax is calculated on the basis of taxable profit of the company.

Corporate profit tax is recovered by the Directorate General of Taxes.

## Dividends

Dividends correspond to the profits of the National Oil Company, which are redistributed to the State as the sole shareholder. The level of Dividends is determined by the board of the company.

# • Other significant payments made to the State

For the purpose of ensuring exhaustiveness and identification of potential significant missing benefit streams, companies were invited to declare, on a voluntary basis, any payment made to the State, or to its entities that they would consider as being significant.



# **B.** Mining Sector

In 2009, all the companies active in Albania were privately run.

#### Companies to be taken into account

We understand that companies involved in production, to be included in the Scope, were selected by the Working Group based on their level of activity, namely:

#### → Chromite

Companies with chromite producing mines were selected by the Working Group based on their level of activity. The level of activity was determined in consideration of their official production level, above a production threshold of 2 000 tons/year.

- ACR (Albanian Chrome) - Klervibris - Alb-Canai - Klosi - Alba-Co - Koka - Ateani - Krypi - Bledi - L.B.M. - Neli - Egi-K - Ral - Fabrika e Pasurimit të Kromit - Gentari - Shkalla - Geri's 2002 - Shkëmbi - Geri Trevi - Mineral Tadri - Herbi - Xhireton - Ylberi - 11 Heronjtë e Batrës - Isaku - Zguri

#### → Copper

Companies with copper producing mines were selected by the Working Group based on their level of activity. The level of activity was determined in consideration of their official production level, above a production threshold of 114 000 tons of extracted copper ore (before concentration process).

- Ber Alb

#### → Nickel

Companies with nickel producing mines were selected by the Working Group based on their level of activity. The level of activity was determined in consideration of their official production level, above a production threshold of 5 000 tons/year.

Alfa Nikel
Dollar Oil
Prodhime Karbonike
Rej

- K-12 - YZO

We understand that all the international companies involved in exploration were selected. The following companies run projects focussed on:

#### → Chromite

- Empire Mining Albania
- Jab Resources



# → Copper

- Tirex Exploration
- Balkan resources (Central and North Albania)

#### → Nickel

- Balkan Resources (South-eastern Albania)

#### Benefit streams to be taken into account

We understand that all the significant specific revenues considered for Albanian mining concession agreements have been selected. These revenues are consistent with industry practices and EITI Rules. Companies, which were invited to declare any other significant payments they may have made to the State, did not declare any significant benefit streams out of the defined Scope.

Please find below the list and definition of the benefit streams included in EITI Scope 2009 for the mining sector.

# <u>Definition of payments made by mining companies –EITI Scope 2009</u>

# Signature bonuses

Signature bonuses are occasionally determined (based on contract negotiations) upon the granting of exploration permits, or exploitation licenses, within the context of the specific contractual terms and conditions.

Signature bonuses are recovered by AKBN.

# • Surface fees

Surface fees are taxes payable by holders of mining exploration or production licenses on the basis of the geographical area.

Surface fees are recovered by the Ministry of Economy, Trade and Energy.

#### Royalties

Royalties (also known as 'ad-valorem' tax) are applied to the taxable value (or fiscal value) of sales.

Export Royalties are recovered by the Directorate General of Customs and Royalties from domestic sales are recovered by the Directorate General of Taxes.

#### Corporate profit tax

Corporate profit tax is calculated on the basis of taxable profit of the company.

Corporate profit tax is recovered by the Directorate General of Taxes.

#### • Other significant payments made to the State.

For the purpose of ensuring exhaustiveness and identification of potential significant missing benefit streams, companies were invited to declare, on a voluntary basis, any payment made to the State, or to its entities that they would consider as being significant.



# C. Declaration forms (Reporting Templates) chosen for EITI 2009

The declaration forms for use by the Government and the companies were drawn up by our team, in conformity with the best international practices, on the basis of EITI Scope as defined by the Working Group for 2009.

These declaration forms were discussed with and approved by the Working Group. Then, we directly delivered them to every company included in the Scope, as well as to the State Collecting Agencies.

In line with the recommendations contained in the new EITI Rules and *EITI Source Book*, the Working Group made it clear that:

- The declarations must be recorded in the currency in which the financial benefit streams occurred (LEK, USD, Euro, etc.);
- The declarations must correspond to the actual payments made by companies (cash basis and not accrual basis);
- In the context of carrying out the Suggested Action 18 contained in *EITI Source Book* and the new EITI Requirement 12, the main contributor to the oil sector (*Bankers Petroleum*) was invited to submit declarations verified by its external auditor;
- State's and companies' declarations, not required to be verified by external auditors, were to be signed by the General Manager of each institution, demonstrating his/her personal commitment to the accuracy of the data provided.

It is worth mentioning that the companies considered for EITI Report 2009 are under no contractual obligation to make declarations. The said companies submitted the declaration forms solely upon their own free will. Until 2009, the Albanian EITI was in fact based on the principle of voluntary participation.



#### Section III. Nature and extent of our work

We had the task of collecting, reconciling and compiling the data in relation to benefit streams declared as received by the State and also the benefit streams declared to have been paid by the companies, on the basis of the Scope of the EITI Report 2009 mentioned above.

The declarations for the said data were prepared under the responsibility, respectively, of the representatives from the Government (State revenues), and of the representatives from every company (payments made to the State), who returned their declaration forms directly to us.

We are now to present to you, in a consolidated manner, for each of the benefit streams considered within the Scope of EITI Report 2009, the benefit streams declared as being paid by the companies, as well as those declared as being received by the State. It is not our responsibility, though, to give an explanation for the residual differences following reconciliation of the consolidated data obtained from the State and the companies (reconciliation of the declared data).

Our mandate does not constitute an audit nor a limited examination of the benefit streams in the oil and mining sectors. Moreover, auditing or verification of the data provided to us is not part of our mandate. Hence, we are not expected to reveal errors, unlawful acts, or other irregularities.

The definitions of benefit streams for the purpose of EITI Report 2009 were formulated by the Working Group on the basis of their discussions, and following a review of the tax law and the oil and mining laws. It is not part of our mandate to verify the completeness of the benefit streams considered within the Scope of EITI Report.

The Working Group also pointed out which companies were to be considered in EITI Report 2009. Likewise, we do not have a remit to verify the completeness of the companies considered within the Scope.

It is our task, though, to make sure that the definitions of benefit streams, considered for EITI Report 2009, are consistent with those described in the new EITI Rules and *EITI Source Book*, and with those widely recognised in the international oil and mining industries.

For the purpose of filling out their declarations, we also had to verify that the definitions were correctly perceived both by the representatives from the companies, and the representatives from the Government (global understanding of the Scope of EITI Report).

We have carried out the following work:

- Consistency analysis of the Scope of EITI Report, as defined by the Working Group;
- Verification that the definitions of benefit streams to be declared (payments made by companies and State revenues) were communicated to and understood by representatives from the Government (State revenues) and by representatives from the companies (payments made to the State);
- Collection (submitting requests and follow-up letters) from companies of the declaration forms detailing the payments made to the State in 2009. These declarations were presented on the basis of the adopted Scope of EITI Report 2009 and the approved Reporting Templates;
- Collection, from the Government, of the declaration forms detailing the revenues received by the State in 2009. These declarations were presented on the basis of the adopted Scope and the approved Reporting Templates;



- Reconciliation of the data provided by the companies and those provided by the State. For consistency purposes, this data reconciliation was carried out considering only the companies, which had submitted their declarations by the publication date of this Report;
- Presentation, in a consolidated manner, of the reconciliation of the State data and the data provided by the companies for every benefit stream considered for EITI 2009, whilst drawing a distinction between the oil sector and the mining sector.



#### Section IV. Reconciliation of data on the oil sector

# A. Participating oil companies considered within the Scope of EITI Report 2009

All the oil companies have submitted their declarations to us; they are listed below:

- Albpetrol

- Bankers Petroleum

- Capricorn Albania

- IEC Visoka

- Island International Exploration

- Manas Adriatic

- Sherwood International

- Sky Petroleum

- Stream Oil & Gas

At our request and consistently with the Scope of EITI Report 2009, *Bankers Petroleum*, the main contributor to the State budget from extractive industry, provided us with declarations verified by its international external auditor. The verification of *Bankers Petroleum*'s declarations is a first step taken in furtherance of the Initiative in Albania, and in the context of the step-by-step implementation of EITI, such practice should be extended to other companies within the Scope of further EITI Reports.

Reconciliation table of the EITI declarations on the oil sector (in thousands USD)

Ref. <sup>2</sup>	(in K USD)	Private Oil Companies	Alb-petrol	State	Δ
Α	Signature bonuses (exploration phase)	160	•	160	0
В	Royalties	8 828	-	8 175	653
С	Corporate profit tax (Private Oil Companies)	0	-	0	0
D	Signature bonuses (production phase)	0	50	-	(50)
Е	Share of production allocated to Alb-petrol	<sup>3</sup> 22 915	<sup>3</sup> 22 915	-	0
F	Corporate profit tax (Alb-petrol)	-	0	0	0
G	Dividends (Alb-petrol)	-	0	0	0
TOTAL		31 903	22 965	8 335	

<sup>&</sup>lt;sup>2</sup> Every benefit stream presented in this table may be referred to the presentation of the flow of payments and revenues of the oil sector on page 9.

<sup>&</sup>lt;sup>3</sup> Among the USD 22,9 million Share of production, USD 14,6 million were paid in cash, and USD 8,3 million were paid in kind.



# Section V. Reconciliation of data on the mining sector

# A. Participating mining companies considered within the Scope of EITI Report 2009

The following are the mining companies which forwarded their declarations to us:

- ACR / Albanian Chrome - K-12 - Alb-Canaj - Klosi - Alba-Co - Koka - Alfa Nikel - Krypi - Ateani - L.B.M - Balkan Resources - Neli - Ber Alb - Prodhime Karbonike - Bledi - Ral - Egi-K - Rej

Egi-K
Empire Mining Albania
Fabrika e Pasurimit të Kromit
Mineral Tadri

Geri Trevi
Herbi
11 Heronjtë e Batrës
Isaku
Jab Resources
Tirex Exploration
Xhireton
Ylberi
YZO
Zquri

Reconciliation table of the EITI declarations on the mining sector (in million LEK)

(in M LEK)	Companies	State	Δ
Signature bonuses	0,2	0,1	0,1
Surface fees	12,2	12,1	0,1
Royalties	93,1	92,5	0,6
Corporate profit tax	86,2	81,4	4,8
TOTAL	191,7	186,1	5,6



# B. Mining companies considered within the Scope of EITI Report 2009, which did not participate

A few mining companies which fell within the Scope of EITI Report 2009, have not forwarded their declarations to us. They include the following companies:

- Dollar Oil - Klervibris

- Gentari - Shkëmbi

- Geri's 2002

However, the activity of these companies is very limited, and it is quite unlikely that their contribution to State revenues is very significant.



#### Section VI. Conclusions: comments and recommendations

#### A. Conclusions

The following observations are based on the information made available to us at this date by the Working Group, the Government, and the companies operating in the oil and mining sectors:

- 1. The definitions of benefit streams (companies' payments and State revenues), as proposed by the Working Group, are consistent with the definitions of the new EITI Rules, *EITI Source Book*, and with the widely recognised definitions employed in the oil and mining industries.
- 2. The definitions of benefit streams were communicated to the representatives from the Government and to the representatives from the companies operating in the oil and mining sectors.
- 3. The Government and the companies made their declarations on the basis of these definitions.
- 4. The declarations made by *Bankers Petroleum*, the principal contributor to the oil sector, were verified by its international external auditor, according to international audit standards.
- 5. Reconciliation of the declarations made by the companies and the Government did not reveal any significant anomaly.

## B. Comments and recommendations for the declarations made by the companies

The information provided by the companies was collected within the time frame set to that effect, and in accordance with the standards laid down in the guidelines for the Reporting Templates.

The verification of *Bankers Petroleum*'s declarations by its international external auditor, against EITI Requirement 12 of new EITI Rules and Suggested Action 18 of the *EITI Source Book*, is an important step towards established credibility of the Initiative in Albania. For the purposes of the future EITI Reports, we recommend that the verification of EITI-based declarations becomes the rule for the main oil and mining companies.



#### C. Comments and recommendations for the Government's declarations

Issuance of declarations by the State Collecting Agencies was delayed. However, these institutions cooperated effectively with us for the purpose of our data reconciliation work.

The residual variances contained in the Report (particularly those concerning the oil sector Royalties) can largely be accounted for by the limits revealed by the information system of the Directorate General of Customs, and its difficulty to furnish detailed information for the first quarter 2009. Limiting the use of manual slip, giving preference to computerised access and filing as established in this Directorate as early as April 2009, will certainly help enhance the quality of declarations to be made by the Government in the context of the future EITI Reports.

# D. Other comments and recommendations for the future EITI Reports

VAT (Value Added Tax) payments made by Albpterol

During the reconciliation phase, and after the Scope of EITI Report 2009 was defined, we were able to understand that some VAT payments were made by *Albpetrol*, based on the value of its Share of production received from private oil companies. Whereas VAT exemption (or zero-rated VAT) appears to be the rule for all the other companies, such VAT payments made by *Albpetrol* constitute a form of retrocession of its allocated Share of production to the State. We were able to check that, in 2009, VAT payments made by *Albpetrol* were limited to LEK 4 000 000<sup>4</sup>, thus, not representing any significant revenue to the State in 2009. Yet, we recommend that this benefit stream should be incorporated into the Scope of the future EITI Reports.

# Timing of EITI Reporting

Finally, the reporting and reconciliation process within the context of EITI would be more relevant if carried out starting as of the month of September following the year on which every EITI Report is to be based. This would ensure particularly a better participation of companies, as well as a more just-in-time EITI-based understanding of State revenues by the various stakeholders.

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<sup>&</sup>lt;sup>4</sup> Based on information provided by *Albpetrol*.