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Albania 2017 Validation – Comments from the National Secretariat, Independent Administrator and one civil society MSG member (three sets of comments) on the draft Validation report and initial assessment for Albania's Validation

COMMENTS FROM NATIONAL SECRETARIAT

From: Dorina Cinari <Dorina.Cinari@albeiti.gov.al>
Subject: Re: For comments: draft Albania's Initial Assessment Report and draft Validation Report
Date: 11 October 2017 at 11:36:25 AM GMT+7
To: Oliana Valigura <OValigura@eiti.org>
Cc: Sam Bartlett <SBartlett@eiti.org>, Alex Gordy <AGordy@eiti.org>, Ilir Bejtja <Ilir.Bejtja@infrastruktura.gov.al>, Ardit kamberi <Ardit.kamberi@infrastruktura.gov.al>

Dear Oliana and Alex,
thank you for these documents. and for all the colossal work you have been putting through.
As instructed, the documents has been distributed to our MSG for comments and other interested stakeholders. We in the EITI secretariat read carefully the findings and the recommendations and have long discussed them with the IA.
While we believe the document is very long, detailed and descriptive, we again do not think it is able to capture the diversity, enormity of the EITI process in Albania, the level of transformation it has been able to introduce to our environment and which should be measured and evaluated. That is the real benefit.
While we do see a list of recommendations which we do welcome fully, we do find they are very interpretative in their wording. Knowing the context of the country, We do prefer CLEAR instructions that can be digested equally by all parties involved in the EITI process. It is much easier to translate them into quick plan for execution.
We find some conflicting opinions in the document:
1. in 'Executive summary" you say: Four requirements are assessed as unmet with inadequate or no progress. The recommendations and suggested corrective actions identified through this process relate in particular to civil society engagement and MSG oversight, data quality assurance and comprehensiveness of reporting by both government and industry as well as state-owned enterprises, including quasi-fiscal expenditures, financial relations with government and level of state ownership.
If we go through the document and to the colored table you do not maintain the same wording. You start defining and using the concept of meaningful and satisfactory progress in aspects mentioned which do conflict with the previous language.
2. In the sections related to MSG and Civil Society, we do find a lot of" Heard, Say", unilaterally. Although you try to make clear all the time that comments were not proved, we do see it offensive seeing personal comments of 2 or 3 people in pages and pages while we discuss the progress of the Albanian country and genuine efforts.
"However, several CSO MSG members considered that the lack of CSO funding for EITI-related activities was due to a defamation campaign waged by the AlbEITI Secretariat to complicate CSOs' EITI-related fundraising efforts and discredit CSO MSG members with development partners. One CSO MSG member noted that while he had successfully fundraised for EITI-

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related activities in the 2011-2012 period, he had felt demotivated that other CSOs had used these funds without raising additional funds of their own".
There is no description in the document what is the Project that the CSO has secured funding, from which donor, in what amount? To which other CSO has it been reallocated? Has the responded provided with proof of a defamation campaign from the EITI secretariat?
We do believe the way the information is provided is not healthy and promotes defamation.

clarification:
Civil society members seating in our MSG pretend to receive direct funding from the grants that the WB allocates to the Government of Albania for its EITI implementation.
The WB grant has clear limitations on the list of activities and the conflict of interest.
There are no direct allocations for CSO in our WB grants.
MSG members are not allowed to bid for activities financed by the grant for an unequivocal conflict of interest.

I have also enclosed for you the comments of the IA with regard to the EITI reporting and for your consideration. We do see the potential for a better assessment.

thank you again
Dorina

COMMENTS FROM CSO MSG MEMBER

Sami Neza
Director
Centre for Transparency and Free Information

I have the following remarks regarding the evaluation report:
The evaluator considered “Workplan” at Figure 1 to be satisfactory. If this evaluation relates only to the compilation of the workplan, I believe the evaluation is correct. However, if it also includes the workplan implementation, it should have been at least one level lower, at “significant”.
I have a remark to make regarding the extended report – specifically the part that comments on “Civil society engagement with the EITI process #1.3, Operation”. The funding of civil society through the World Bank (WB) is a practice followed in all EITI-implementing countries. Albania is the only exception here, with the Tirana WB Office refusing to do so, giving the excuse that the leaders of civil society engaged by EITI are MSG members. WB can avoid this issue by allocating part of its funds for EITI in Albania directly to civil society on a per project basis, and not only to organisations already involved in the EITI process.

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As for the statement received from the Soros Foundation in Tirana that they initially funded a civil-society project as part of EITI, but then didn't receive any interest from civil society during the process, I must indicate that Soros funded only part of this project, and that this funding was later stopped without explanation. I have personally met the head of this foundation in Tirana several times, and, among other things, I have asked for the continuation and funding of EITI projects, but he explained the limitations of their fund. In fact, the Soros Foundation is the second largest donor for the EITI process in other countries, whereas in Albania they have provided no assistance.

The government has not committed any funds to civil society through the Agency for the Support of Civil Society as part of EITI. I have spoken to their person in charge, requesting that extractive industries transparency also be included in subsequent calls. A fund will be launched this December, and we hope attention will be given to EITI.

There is a fund of over 100,000 dollars for the strategy communication of EITI Albania. Many of the activities can only be carried out with experts in the area, such as CSOs and MSG. In not one case were we asked to provide our expertise. We were only invited to one activity, which had a very low level of interest and very poor arrangements.

The efforts of EITI Albania to introduce CSOs and MSG to different donors were small, and not concluded in any of the cases.

I believe that the lack of funding due to CSOs being involved with EITI is part of a government, Soros and even a Tirana WB Office agenda to promote, at the next elections, other CSOs within MSG who will agree with the government and donors such as Soros.

The rest of the report on civil society generally represents my own position. I believe that some of my remarks should be included in the Civil Society Chapter.

Yours faithfully,
Sami Neza
Director
Centre for Transparency and Free Information
Tirana on October 16, 2017

COMMENTS FROM THE INDEPENDENT ADMINISTRATOR (DELOITTE)

Mrs. Dorina Cinari
EITI Albania

10 October 2017

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Independent Administrator's comments on the EITI Validation report for 2015

Dear Mrs. Cinari,

We read and analysed the annotations made and basis for the assessments included in the Validation Assessment report and provided our views and clarifications enclosed.

As a general observation many of the comments relate, in our judgment to differences in interpretation of the extent of the requirements, rather than explicit non-compliance. In one case noted as non-compliance, we have differing views, where as in our judgment non-compliance did actually enhanced transparency, which the founding principle of EITI.

Many of the validation's comments addressed enclosed provide additional facts and clarifications on the observations where the Secretariat and Validator based the assessment.

We look forward to consideration of these facts and clarifications in the final assessment.

Sincerely,

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Our feedback below is structured to show for each area assessed the:

- Validation report citation
- IA's comments

Licensing allocation (2.2)

Validation report citation

Awards/transfers: In oil and gas, it appears from the list of PSAs (in Appendices 5 and 6) and from the list of exploration licenses (in Appendix 7) that no oil and gas PSAs were awarded or amended in 2015, although the 2015 EITI Report does not clearly state whether any oil and gas licenses were awarded or transferred in 2015 (2015 EITI Report, pp.139-140,141). There is evidence in the media of an oil and gas exploration license (Block D) being allocated to Shell and Petromanas in July 2015 (World Oil, 2015).

Comprehensiveness: The report provides some information on oil and gas licenses awarded in 2016, although some negotiations for license awards and transfers were ongoing, but not concluded, in 2015[1] (2015 EITI Report, p.28-29). However, the report does not refer to any oil and gas licenses awarded or transferred prior to or after 2015.

IA's comments

On page 28, the EITI report informs on license allocations in 2015 and their status of negotiations in 2016 as follows:

"….During 2015, MEI commenced procedures for allocation of the free on-shore exploration blocks: 4, 5, C, Panaja and Dumre and free off-shore exploration blocks: Joni-5 and Rodoni.

At the end of 2015, MEI was in process of negotiating the PSA with consortium Petromanas Albania GmbH. & Shell Upstream Albania B.V. (Shell) for the exploration block 4 and Navitas Petroleum Limited (Navitas) for Dumre exploration blocks.

At the date of this report negotiations with Shell dhe Navitas are yet not finalised…."

[1] MEI started allocation procedures for on-shore exploration blocks 4, 5, C, Panaja, Dumre, Joni-5 and Rodoni in 2015. By end 2015, MEI was negotiating with Petromanas Albania and Shell Upstream Albania for a PSA for exploration block 4, although this was not finalised at the time of the 2015 EITI Report's drafting. By end-2015 MEI was also negotiating with Navitas Petroleum Limited for Dumre block. On 15 March 2016, MEI and AKBN signed a PSA with Albanides Energy for exploration block number 8, a PSA approved by a 26 April 2016 Council of the Ministers Decision, with the PSA published in official gazette 63/2016. In 2016, Petromanas Albania GmbH sold its petroleum operations to Shell Upstream Albania B.V. and filed for liquidation. In September 2014, Transatlantic Petroleum Ltd acquired Stream Oil & Gas in Albania, a transaction approved by MEI. In February 2016, Transatlantic Petroleum sold its shares to GBC Oil. In February 2016, Petromanas Albania sold its operations and PSA for exploration blocks 2 and 3 to Shell Upstream Albania.

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The Valuation team is misinformed on block D. Media news refer to Block 4 (link to international press: http://www.worldoil.com/news/2015/8/07/shell-petromanas-awarded-onshore-block-in-albania), which is correctly disclosed in the EITI report.

As notified in the EITI report 2013-2014 pg 31, Petromanas Albania GmbH has been awarded earlier with an exploration license on blocks A, B, C and D and terminated the license agreement due to loss of interest. As a results of unilateral termination, AKBN executed the license guarantee in the amount of EUR 6 million. This flow is reported and reconciled in the report for the year 2014.

In our view, the report correctly informs on the following:

- New bid procedures for on-shore exploration blocks: 4, 5, C, Panaja and Dumre and free off-shore exploration blocks: Joni-5 and Rodoni.
- Bids allocated during 2015 with regard to consortium Petromanas Albania GmbH. & Shell Upstream Albania B.V. (Shell) for the exploration block 4 and Navitas Petroleum Limited (Navitas) for Dumre exploration blocks and their negotiation status in 2016.
- Sales and transfers of interest in oil and gas operations in Albania as presented on page 29:

"….(i) In September 2014 Transatlantic Petroleum Ltd acquired operations of Stream Oil & Gas in Albania for an amount of USD 41.2 million (www.transatlanticpetroleum.com). MEI approved the transaction and allowed Transatlantic Petroleum to continue operation of the PSA awarded to earlier to Stream Oil and Gas. In February 2016, Transatlantic Petroleum entered in an agreement to sell its shares to GBC Oil[2].

(ii) In February 2016[3], Petromanas Albania GmbH. sold all its operations and PSA rights on the exploration on-shore blocks 2 and 3 to Shell Upstream Albania B.V. for USD 45 million.…"

The Appendix 5 and 6 present the details of the licensee register as of 31 December 2015, including all active licenses awarded prior to year.

In our view, the fact the no further sales or transfer occurred is understood even though this was not explicitly written in the report. As informed the IA performed all consulted and cross-checked the information presented in the report across many sources.

If you suggest including an explicit statements that could be arranged through a general notice in the report, without presenting an a repetitive basis that information is complete and no known facts are omitted from this report.

[2] Source: http://www.oilandgas360.com/transatlantic-petroleum-sells-albanian-assets-to-gbc-oil-company/#
[3] Source: http://www.reuters.com/article/albania-petromanas-shell-idUSL8N15H3NN

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Licensing allocation (2.2)

Validation report citation

In terms of oil and gas license transfer procedures, Table 4 states that the MEI's approval was required for Transatlantic Petroleum's acquisition of Stream Oil and Gas's Albania operations in September 2014 (2015 EITI Report, p.29), but the report does not provide more details on the statutory process for transferring oil and gas licenses or equity stakes in PSA consortia.

IA's comments

Sales or equity and interest in operations are freely negotiated between shareholders. In order to keep control on these type of "transfers" MEI has set up rules to ensure that the new shareholder will comply with the technical and financial criteria as applied to this bid.

In our judgement this is the only relevant fact applicable to extractive licensees and is properly emphasized in the report.

License register (#2.3)

Validation report citation

The 2015 EITI Report does not review the register of mining, oil and gas licenses on the AlbEITI website.

IA's comments

This is an oversight. The listing of mining and oil register on the AlbEITI website is made upon our suggestion at the same time the report was published.

The same listing have been part of the report for the year 2013 and 2014 (disclosed in Appendix 7 of this report) and comprised a substantial part of the report. In attempt to re-organise the information on the report (reduce its size), and in consideration to the limited information provided by the MEI in its website we asked AlbEITI to publish this list which did include to certain extend details of the date of applications and coordinates.

Contract disclosure (#2.4)

Validation report citation

The bid evaluation report and detailed financial terms of the mining license are not disclosed for public access.

IA's comments

There is no explicit policy in deed (not even in the mining law), nor any representation from the Government the government officials on mining the disclosure of the full term of the mining licenses.

The mining law (article 9) provides certain confidentiality clause, however this extend mainly to the mining studies.

On page 5 the EITI report informs that:

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"…….The bid evaluation report and detailed financial terms of the mining license are not disclosed for public access…."

State participation (#2.6)

Validation report citation

Government ownership: The report does not provide a comprehensive overview of the state equity in companies operating in the extractive industries (particularly oil and gas). While the report does not explicitly state that the government owns 100% of Albpetrol, it repeatedly refers to Albpetrol as state-owned (e.g. 2015 EITI Report, p.135).

The IA confirmed that Albpetrol was the only company operating in the extractive sector in which the government held over 51% stake in 2015, given that both Servcom and state-owned mining company Albkrom had previously gone bankrupt.

Following successive sales it is stated that Heaney Asset Corporation now has effective control through indirect ownership of 68% of ARMO shares. It is unclear who owns the remaining 32% of shares, nor whether the government retains its 15% stake since August 2008.

While it is clear from the results of reconciliation that state participation in the oil and gas sector gives rise to material revenues (through Albpetrol dividends), the report does not clarify whether the state retains a stake in ARMO or in Servcom (and whether such a stake gave rise to material revenues in 2015).

The establishment of the Albanian Gas Transmission Operator (Albgaz Sh.a.) in 2016 is briefly mentioned (2015 EITI Report, p.13), although the government's exact stake in the company is not provided.

IA's comments

On page 18 the EITI report informs on the SoE operating in the upstream and midstream extractive sector:

MEI representatives chair the Board of Directors of the State owned entities in the energy and resources sector. The Ministry of Economic Development, Trade, Tourism and Entrepreneurship ("MEDTTE") responsible for economic policies holds shares in the sector through ownership of:

- Albpetrol Sh.a (100% of shares) – upstream oil and gas operations (*)
- Korporata Elektroenergjitike Shqiptare Sh.a ("KESH") (100% of shares) – hydropower generation
- Operatori i Sistemit te Transmetimit Sh.a. ("OST") (100% of shares) – power transmission
- Operatori i Shperndarjes se Energjise Elektrike Sh.a. ("OSHEE") (100% of shares) – power distribution

(*) In 2016, ownership of Albeptrol were transferred to MEI in attempt to achieve better coordination of its activities in the energy sector.

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In addition, the State retained 15% of the shares in ARMO Sh.a engaged in oil refining activities.

Role of Albpetrol and ARMO is explained in chapter 3 Oil and gas sector. Role of KESH, OST and OSHEE is explained in chapter 5 Hydro-energy sector.

The above sections lists all SOEs for the extractive sector and power sector and provides level of shareholding by Government at the date of this report. Albgaz Sh.a. is established by the Government in 2016 as part of a gas masterplan for Albania. When the Government establishes a company that will act as regulator it is commonly understood that is the sole owner of the Company. Any concession or private stake comes with substantial media and public attention. So far Albagaz is owned 100% by the Government and that is verifiable in the commercial register (link: http://www.qkr.gov.al/kerko/kerko-ne-regjistrin-tregtar/kerko-per-subjekt/).

Servcom is not included in the above listing because is liquidated in few months after its creation. This company does not exist in any commercial register *(which is publically accessible for those interested* http://www.qkr.gov.al/kerko/kerko-ne-regjistrin-tregtar/kerko-per-subjekt/).

The report informs that apart Albpetrol's and AKBN's stake, there is no additional Government's stake in the oil and gas operations in Albania. Section 3.7. Revenue from the upstream oil and gas explains revenue and oil allocation based on current regulatory and fiscal framework in force.

In our view, the above provides comprehensive information based on EITI requirement 2.6.

State participation (#2.6)

Validation report citation

The report only alludes to changes in government ownership in years preceding 2015, not during the period under review.

IA's comments

The report provides all changes in ownership to the current ownership (up to the date of the report).

If the report does not specifically mention any change in 2015, while it gives details of historical changes up to the current ownership, that is commonly understood that there are no further changes in 2015 (year under review).

So in our view this interpretation does not stand. If the Secretariat is suggesting specific way of presenting information in the report, that will be considered in the upcoming report.

Validation report citation

Financial relationship with government: The 2015 EITI Report does not explicitly explain the rules and practices related to SOEs' retained

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earnings, reinvestment or third-party financing, although it appears that Albpetrol operates like a commercial Joint Stock Company (Sh.a) (2015 EITI Report, p.135).

IA's comments

The report informs on all the governing arrangements between the Government and Albpetrol in Appendix 4 and the role of Albpetrol as the largest direct employer in the sector in section 3.3 Employment in the upstream oil and gas sector.

There are no specific rules on Albpetrol's retention of profits or dividend policy. The report adequately informs on the Government's full control (100%) of the company.

Additionally, the report informs on:

- Albpetrol's transfer of operations to the private sector (page xx),
- Reductions in Albpetrols administered exploration licenses (page xx)
- Government's intention to privatise the company (page xx)

In our view, the report provides comprehensive information on the SoE's participation and financial relationships.

Validation report citation

<u>Loans and guarantees</u>: While the report describes the debt accumulated by ARMO (2015 EITI Report, pp.21-22), it does not specify the state's ownership of ARMO in 2015 nor any loans or loan guarantees extended by the State, or any SOE, to ARMO.

The existence of loans or loans guarantees from the state or any SOE to companies operating in the mining, oil and gas sectors is unclear in the 2015 EITI Report, although there is extensive information on state loans and guarantees to hydro-power companies.

IA's comments

In our judgment this is a matter of interpretation and expectations which are not explicit in the EITI requirement 2.6:

"….Where the government and SOE(s) have provided loans or loan guarantees to mining, oil and gas companies operating within the country, details on these transactions should be disclosed."

We understood that the report should provide information when these lending relations are present and not to provide comments confirming non-existence of this relations.

Production (#3.2)

Validation report citation

Table 5 provides the volumes and values of production for five minerals produced in 2015, although the value of production of chromium and ferrochrome is provided aggregated for the two minerals (2015 EITI Report, p.41). The name of the location of production for each type of

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mineral is provided (2015 EITI Report, p.41), alongside maps of deposits of all key minerals (2015 EITI Report, pp.43-48).

A government representative noted that the Customs Department had disaggregated information on exports of chrome and ferrochrome given that they had two different customs (HNSH) codes, which implied that the government also tracked production volumes and values of the two minerals in a disaggregated manner. The official explained that the inclusion of an aggregate value for the two in the 2015 EITI Report must have been an oversight.

IA's comments

The aggregation was made provide the total value for the sector based on export values. As mentioned in page 41, the Administrator could not refer to any reliable source on output prices.

Anyway we confirm that export values are available on a disaggregated value for chromium and ferrochrome. However, if presented the values on a disaggregated basis that would create misinformation as illustrated below:

Commodity	Output quantity	Output value based on export
Chromium output	653k ton	73.4M$
Ferrochrome output	32k ton	53.9M$

The readers would perceive that chromium output is priced at 82$/ton (derived as 73.4M$/653k ton). This would not be correct, because substantial part of chromium output presented above is used as input for the production of ferrochrome. For this reason we presented on an aggregated basis. The purpose of the table is to inform on the key parameters as requested by EITI requirement 3.2.

Validation report citation

The IA explained that it was not possible to find any reliable data on domestic prices and that export prices were chosen as a proxy given that most oil and minerals produced in Albania were exported and processed abroad. The IA did not consider that there were any significant barriers to disclosing information on domestic prices and highlighted that while AKBN had provided domestic price data for the 2013-14 EITI Report, it had not provided this information for the 2015 EITI Report.

IA's comments

We noted in the report that AKBN has no process / infrastructure analyse and report this information. Up to 2014, an employee of AKBN did prepare and report price analysis for the EITI report. In 2015, that person has been rotated and we could not obtain the same analysis from AKBN.

AKBN's lack of processes are well noted and IA's has continuously recommended AKBN to perform statistical analysis.

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Export data (#3.3)

Validation report citation

In mining, the 2015 EITI Report provides the value of mining exports in absolute terms and relative to total 2015 exports, as well as disaggregated for each of the three-largest mineral exports (2015 EITI Report, p.42). However, the report does not provide the volumes of exported minerals.

The 2013-14 EITI Report provided the export values for all minerals exports (2013-14 EITI Report, p.13), but not volumes.

IA's comments

Information on volumes is provided through charts, where not clearly stated through figures. This was made to enhance comprehensiveness and had not intended to omit information. Please refer to chart 23, 24 and 28.

Additionally numbers are filled and disclosed through the EITI Summary template for 2015 in excel published filled by the IA and on the EITI website.

Given the level of disclosure, the above would be a valid comment for assessment.

Validation report citation

The International Secretariat's initial assessment is that Albania has made meaningful progress in meeting this requirement. The 2015 EITI Report provides export values for crude oil, but not specific oil export volumes, and the value of the main three mineral exports, but not volumes and values of all exported minerals.

IA's comments

Please find below references in the report for the missing disclosures mentioned above:

Oil

Chart 9 - Exports of crude oil 2011-2015 (pg 22) – provides details on the volume of the oil exports. The exact number is reported in the EITI Summary template for 2015.

Chromium

Chart 23 - Exports of chromium ore 2011-2015 (pg 42) - provides details on the volume of the chromium exports. The exact number is reported in the EITI Summary template for 2015.

Ferrochrome

Chart 23 - Exports of chromium ore 2011-2015 (pg 43) - provides details on the volume of the ferrochrome exports. Numbers are reported on the same page and in the EITI Summary template for 2015.

Cooper

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Chart 28 - Exports of copper ore 2011-2015 (pg 45) - provides details on the volume of the ferrochrome exports. The exact number is reported in the EITI Summary template for 2015.

Nickel

Output (pg 46)

Custom authorities reported exports of iron-nickel and nickel-silicate at 414 thousand ton worth Lek 1.3 billion (equivalent to USD 10.3 million) in 2015.

Exports (pg 46)

Custom authorities reported exports of iron-nickel and nickel-silicate at 414 thousand ton worth Lek 1.3 billion (equivalent to USD 10.3 million) in 2015.

Limestone and other

Output (pg 47)

During 2015, 154 out of 285 licenses reported production of limestone (4 million m3), clay (1 million ton), gypsum (85 thousand ton), sandstones (17 thousand m3) etc.

This is a conglomerate group and is not feasible to report the full list, as output for many of those minerals is insignificant.

The IA focused on the larger minerals in the group, where limestone predominates and reported outputs as above.

Export (pg 47)

The report presents the export value for cement (by-product of limestone), which represent 83% of exports form the sub-sector.

Materiality (#4.1)

Validation report citation

While the report states that licensee and entry fees were excluded from the scope of reconciliation based on the fact that they "do not give rise to substantial payments from the sector" (2015 EITI Report, p.80), it does not provide a specific quantitative materiality threshold for excluding these revenues.

IA's comments

On page 15 the report presents:

"....MEI is primarily financed by the State Budget in accordance with Budget law. Revenues generated by the energy sector include service tariffs and license fees. In 2015, MEI reported collection of revenue at Lek 286 million…."

In our judgment the total revenue generated from MEI in itself are not material as compared to other payment steam.

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In addition if we divide the total revenue generated by MEI for 600 licenses (an approximate number of mining and oil licenses collectively) the average value per licensee would be around Lek 480,000, which is much lower than the materiality threshold for Payments to the State (LEK 5 million).

Validation report citation

Material government entities: The government entities collecting extractives revenues and material to the 2015 EITI Report are listed, in diagram form, in the 2015 EITI Report (2015 EITI Report, p.80). However, the 2015 EITI Report does not specify the number and names of LGUs selected for reporting.

Government reporting: The 2015 EITI Report does not explicitly state whether all material government entities reported all revenues, although it does highlight incomplete reporting by local governments, without specifying the number or names of non-reporting LGUs (2015 EITI Report, p.98). It is stated that not all LGUs collecting revenues from the mining, oil and gas industries were included in the scope of reporting and that reporting from participating LGUs was "incomplete and came with significant delays" (2015 EITI Report, p.98).

IA's comments

In the chapters 3, 4 and 5 the IA analysis the material cash flows respectively from the oil, mining and hydropower sectors and the beneficiary government units.

In the chapter 8 - Overview of flows reported and reporting entities sections 8.1, 8.2 and 8.3, the IA further provides a comprehensive view of the beneficiary government entities for each payment stream.

In page 84 the IA reported with no exception that:

"…..Public entities and licensees submitted their electronic reporting via email from 14 August to 29 December 2016, beyond the deadline set as at 31 October 2016…."

In our judgement this statements should be interpreted as all reported with no exceptions.

In terms of LGU reporting, the IA selected to reconcile major payments to the LGUs as reported by the reporting entities and asked the beneficiary LGUs to report what they did receive.

As noted in the report there were many obstacles to the analysis and selection of LGUs:

- Lack of disaggregated revenue data concerning the extractive sector at central government / local government level
- Reform underway for consolidating 300+ LGUs in 62.

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For efficiency purposes MSG agreed that selection would be made upon material payments reported by the reporting entities. The selection was based in:

- the tax nature and
- materiality threshold of USD 50,000.

As stated in the report on page 79:

In Albania, the MSG (through terms of references) have excluded payments that are not directly related to upstream oil, gas and mining activity such as import duties and local taxes are general in nature and apply to all industries. Such fees and taxes are similar for all industries and no special rates apply for oil, gas and mining companies. In addition, licensee and entry fees do not give rise to substantial payments from the sector and hence are not included in the reconciliation. However, when local taxes reported were above 50,000 USD, these were selected for reconciliation as material payments.

Revenue in-kind (#4.2)

Validation report citation

Volumes collected: The report provides two different figures for the volume of oil collected as Albpetrol's share of oil production, with companies reporting having transferred 50,791 tons to Albpetrol (2015 EITI Report, pp.14,95) and Albpetrol reporting having received 50,540 tons (2015 EITI Report, p.34). The second figure is confirmed as the result of pre-existing production of 91,039 tons and production issued contractor's investment of 11,985 tons (2015 EITI Report, p.34), while the first figure is quoted twice in the report (including reference to the higher figure as the actual payments without sourcing) without a clear explanation that the discrepancy was the result of reconciliation of the in-kind flows, nor investigation of the reasons for the discrepancy.

IA's comments

The two different figures with regard to Albpetrol's collected share of oil arises due to conversion rounding. Albpetrol measures and reports share of oil in ton, whereas some oil companies report in barrel.

On page 34 EITI report stated that:

"….In 2015 Albpetrol collected 50,540 ton crude oil in form of share of production out of its entitled share of PEP at 91,039 crude oil and ASP at 11.985 ton crude oil…."

The numbers (91,039 and 11,985) are those Albpetrol expected to recover based on budget for 2015 (entitled).

Subnational direct payments (#4.6)

Validation report citation

The IA noted that it would be possible to request companies and LGUs to report local taxes disaggregated by payment stream, but that this had not

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been done in the past. The IA confirmed that cases for reconciliation, i.e. where the LGU was requested to report local tax revenues, were selected based on payments initially reported by companies, i.e. during the data collection stage rather than inception phase.

IA's comments

This is misinterpreted. Reporting entities are requested to report taxes disaggregated by nature. Many companies account and report those on an aggregated level. This is a matter of enforcements rather than oversight of request.

Data quality (#4.9)

Validation report citation

The report does not state whether the Supreme State Auditor's report for 2015 was provided to the IA in preparation of the 2015 EITI Report, although it appears that all government provided copies of their audited financial statements to the IA aside from AKBN (2015 EITI Report, p.86).

IA's comments

The IA reads reports published by the Supreme State Auditor's report during the report compilation and considers findings presented there. These reports however are either performance audits or compliance audits, however not audits of the financial statements.

Validation report citation

Cash vs accrual: The 2015 EITI Report does not clearly state whether EITI reporting was undertaken on a cash or accrual accounting basis. One of the main causes for discrepancies in the reconciliation of oil and gas revenues is highlighted as "parties reported accruals versus cash flows", implying that EITI reporting was on a cash basis (p.90). Yet the basis for reporting remains unclear in the 2015 EITI Report. For instance, the reporting of subnational transfers of 2015 royalties in Table 15 includes transfers relating to 2015 royalties that were executed in 2016, i.e. on an accrual basis (2015 EITI Report, p.76).

IA's comments

The report alerts on the accrual input of the figure. However such presentation was made to enable a comprehensive comparison of:

- what should have the Government transferred out of Royalty collected in 2015 (Lek 257.5 Million); and
- what is actually transferred to the LGUs (Lek 180.1 Million)

Subnational transfers have historically been a matter of concern in the past years due to lack of transparency. At the end of 2014, the Government introduced new allocation rules, whereas subnational transfers are calculated as 5% of royalty collected out of the production generated by the respective LGU.

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In order to assess the level of subnational transfers made in 2015 as opposed to the portion that should have been allocated based on the new rules we had to consider that specific accrual element.

In simple words the amount of Lek 180.1 million includes the total royalty distributed out of 2015 collections. A very small portion of this royalty was transferred in 2016.

All concerns shared during the validation period were immediately remedied, by a supplementary report on subnational transfers.

Judging by its substance over the form, we think that inclusion of the accrual element enhanced transparency despite the noted non-compliance.

Validation report citation

In addition, the IA's recommendation for the MSG to ask reporting entities to agree with regional tax offices the amount of taxes paid for the year under review prior to submitting their EITI reporting templates is a concern (2015 EITI Report, p.97), as this would seem to undermine the independence of the reconciliation process.

IA's comments

In our judgment the above represents a cursory comment. As explained earlier the fiscal payments are highly regulated and the reporting entities reconcile their liabilities and payments on a regular basis (monthly or quarterly). The reporting entities have access on real time to their tax status online.

Furthermore as noted disclosed to the team during the valuation week, the reporting licensee in Albania do not perceive any value from the reconciliation of the payments streams, due to the following reasons:

- reconciliations are made on a regular basis between the licensees and the government entities for both fiscal and non-fiscal payments;
- both parties are knowledgeable on the types and necessity for the payments made;
- parties have different objectives in terms of paying less of receiving more cash.

In our judgment, the reconciliation serves to detect errors rather than fraud, because any fraudulent payment would be omitted from both the Government's financial statements and licensees' financial statements. Furthermore, any fraudulent payment would not pass through the Treasury system for sure. In consideration to this, any reconciliation between the involved parties would help to mitigate risk of errors.

The reconciliation made by IA, serves to enhance accuracy of the figures included in the report, which are matter of interest to different stakeholders of course.

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Nevertheless, we shall emphasise that this procedure was held as a last resort to cope with numerous errors in the reporting from the tax authorities as verified in past years.

Due to enhanced reliability in the Tax authority's reporting for 2015, there was no need to rely on such procedure.

Validation report citation

Data reliability assessment: The 2015 EITI Report provides a cursory overview of the work performed by the IA including data collection, reconciliation, compilation of contextual information, drafting of recommendations (2015 EITI Report, pp.9,83-87). The report also includes the IA's clear renunciation of assurance on the comprehensiveness or accuracy of the report:

"This process [EITI reporting] does not confirm that there were no other payments made to the government other than those that were reported, as such amounts may have been omitted in the reporting from licensees and governmental agencies at the same time. The current regulations do not require us to perform detailed testing in order to uncover such omissions; and to uncover these omissions would be difficult even through detailed testing of all licensees." (2015 EITI Report, p.87)

IA's comments

As disclose to you earlier is impossible from the professional point of view to provide assurance on the any fraudulent payment being traced through this type of engagement. Accordingly, we have the duty not to mislead the readers on that.

In order to enhance credibility in the future we can refer whether licensees' auditors report did disclose any matter and assess issues based on those fact.

That comment was included also on other IA's reports (i.e. Norway 2014).

Validation report citation

Upon investigation, the International Secretariat confirmed that companies' audited financial statements were available on the NRC website (for companies that are required to undertake such statutory audits), although the process for accessing them consisted of several steps that were not clearly explained on the website. Neither Secretariat staff nor the IA had considered providing guidance to the public on the process for accessing audited financial statements but considered this could be a value-added provided by AlbEITI in future.

IA's comments

Users may download the commercial extract, which includes as integral part all links to the financial statements published for many consecutive years.

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Additional guidance in the report was not judged necessary because the NRC website, is widely used and consulted on a continues basis by the general public.

Your view noted and will be considered for future disclosure.

Distribution of revenues (#5.1)

Validation report citation

The 2015 EITI Report does not refer to any national revenue classification system.

IA's comments

It is worth noted that this disclosure is a not mandatory requirement under EITI requirement 5.1.

Validation report citation (initial assessment)

The International Secretariat's initial assessment is that Albania has made meaningful progress in meeting this requirement. While the 2015 EITI Report highlights extractives revenues collected by AKBN and Albpetrol as being off-budget (i.e. not recorded in the national budget), it only provides an explanation of the allocation of funds collected by Albpetrol, not AKBN. While the report does not refer to national or international revenue classification systems, the International Secretariat understands that national revenue classification systems are based on GFS-2001 classifications.

In accordance with requirement 5.1.a, the MSG should ensure that the allocation of extractives revenues not recorded in the national are explained, with links provided to relevant financial reports as applicable. The MSG may wish to explore the extent to which it could use extractives-specific GFS classifications from its EITI summary data tables as a means of disaggregating the extractives components of common taxes in existing MoF systems.

IA's comments

Kindly note that the report explicitly states that AKBN makes no payment to the State Budget on page 16:

"….AKBN is organized as non-budgetary institution and administers its own bank accounts where deposits its surplus funds. **AKBN makes no payments to and receives no financing from the State budget, except when AKBN implements specific projects foreseen in the State Budget.** Any surplus of annual income over expenditures, is carried forward in the next fiscal year. AKBN's activity is primarily financed by the revenue collected from the supervised petroleum agreements, tariffs applied for technical expert review and other services and projects. Its annual accounts are audited by the Supreme State Auditor as part of its activities…"

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Sub-national transfers (#5.2)

Validation report citation (initial assessment)

The report provides the 2015 royalties collected and allocated for transfer (5% of royalties collected), aggregated for all LGUs but disaggregated between mining royalties and oil and gas royalties (2015 EITI Report, p.76). The formula for calculating subnational transfers to individual LGUs in 2015 is not provided, aside from a general reference to allocations to host LGUs based on production levels.

IA's comments

The report describes the general rule as it applies the same to all LGUs. The reconciliation presented in chapter 8 of the report was intended to highlight the discrepancy for the portion of royalty not allocated to the LGUs.

On the same chapter, the report presents the reasons for the discrepancy.

Validation report citation

While the report provides the value of mining and oil royalties that should have been transferred according to the formula, as well as the actually-transferred amounts, this information is only provided in aggregate for all LGUs, not disaggregated per individual LGU. In addition, the report does not clearly state how many LGUs were meant to receive subnational transfers in 2015, nor the number of LGUs that actually received transfers.

IA's comments

The information was not available, as noted the discrepancy was under investigation by the Ministry of Finance. Furthermore, as frequently cited, the Government's MIS cannot produce disaggregated data or royalty, and the process includes extensive manual reconciliation work.

As suggested, additional detailed information on beneficiary LGUs was disclosed through a supplement to the report.

Validation report citation (initial assessment)

The International Secretariat's initial assessment is that Albania has made meaningful progress towards meeting this requirement. The 2015 EITI Report describes statutory subnational transfers of royalties, provides the general formula, budgeted and actual transfers for 2015 in aggregate terms, albeit reported on an accrual rather than cash basis. However, the report does not provide the specific formula for calculating subnational transfers to individual LGUs, nor the level of budgeted and executed subnational transfers disaggregated by LGU, even if it highlights discrepancies between budgeted amounts and actual transfers. While AlbEITI published executed 2015 subnational transfers disaggregated by

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LGU on a cash-accounting basis after the start of Validation, the level of budgeted 2015 subnational transfers disaggregated by LGU is not publicly available.

IA's comments

In our view this should be assessed to satisfactory progress for the following reasons:

- the report explained the formula and prevailing rules
- provided all reasonable information on the supplement and
- addressed the public concerns through in terms of reconciling the royalty transferable to the royalty transferred to the extent possible (despite the accrual vs. cash presentation discrepancy – which in our view is not relevant and because cash presentation would not provide a clear presentation of the discrepancy), and
- the report includes relevant recommendation to tackle the discrepancy in the upcoming years

SOE quasi fiscal expenditures (#6.2)

Validation report citation

While the IA noted that there could be different reasons for this, including potentially a subsidy from Albpetrol to buyers of its crude oil (TPD in 2015), it expressed uncertainty over whether this was a quasi-fiscal expenditure given the lack of explanation. However, a government representative stated categorically that Albpetrol did not provide subsidies in its crude oil sales to private companies and the IA referred to Albpetrol management representations that it did not undertake any quasi-fiscal expenditures.

IA's comments

IA's annotation on possible subsidy from Albpetrol to the buyers of crude oil is not correct. During the validation meetings, we disclosed that:

- Albpertol reacted badly to the disclosure of the comparison the prices in the report
- We asked Albeptrol and Bankers to clarify the discrepancy
- As Albpetrol refused to cooperate, Bankers noted that the price difference was reasonably normal, judging on Albpetrol's limited access to larger market due to relatively small quantities offered.

Validation report citation (initial assessment)

The International Secretariat's initial assessment is that Albania has made no progress towards meeting this requirement. There is no evidence that the MSG has ever considered the issue of quasi-fiscal expenditures in relation to Albpetrol or any other extractives SOE.

In accordance with requirement 6.2, the MSG should consider the existence and materiality of any quasi-fiscal expenditures undertaken by

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extractives SOEs and their subsidiaries, ensuring that all material quasi-fiscal expenditures are disclosed in future EITI Reports.

IA's comments

In our judgment, this is not applicable to Albania, despite the lack of discussions at the MSG level. The report provides a comprehensive overview of regulatory and fiscal regime, and notes no instances that could be classified as quasi fiscal expenditues.