

1. Regarding recommendation 5: **“In accordance with requirement 2.2.a, the government should ensure annual disclosure of the technical and financial requirements for licenses awarded and any non-trivial deviations from the applicable legal and regulatory framework governing license awards and transfers”**, the following should be noted.

As the Independent Administrator noted in the EITI Report for 2016, in particular, in section 6.6.2 “The procedure of issue of special permits for the use of subsoil”, subclause “Criteria used for issue and reissue of special permits”, one of the principles for the issue of special permits is that the applicant should have the respective qualifications, logistics and financial capabilities to use the subsoil.

At the same time, for the majority of cases, the legislation of Ukraine does not stipulate clear requirements as to the technical criteria to be used when a decision on issuance of a permit is approved.

Effective from April 2016, one of the documents, which the applicant has to submit in order to participate in an auction for the sale of a special permit, is a letter (certificate) confirming that the applicant has sufficient number of qualified staff and technical resources to ensure the organization of the work program implementation. However, the applicable law does not provide a definition of the “sufficient number” in terms of human and technical resources. The financial criteria are actually limited to the obligation to pay the fee for the issue of a special permit.

At the same time, in 2016, the list of grounds, on which the applicant may not be issued a special permit, was defined, and the list of grounds, on which the issued special permit may not be prolonged, was extended. Currently, such grounds include, but are not limited, to:

- Failure to perform the program of work on the subsoil areas, for the use of which the applicant has already been issued a permit; detection of the violations of subsoil use rules on such areas, as documented in the inspection reports, prescriptions or orders of the respective authorities in the area of subsoil use, until such violations are eliminated, except for the cases when such prescriptions or orders are found invalid or terminated by a court decision;
  - Outstanding national taxes and duties as of the last reporting period;
  - Information from the law enforcement bodies and financial monitoring entities, according to which the applicant finances terrorism in Ukraine.
2. Regarding recommendation 10. **In accordance with requirement 2.6.a, the MSG should provide a comprehensive overview of state-owned enterprises, including an explanation of the prevailing rules and practices related to SOEs’ retained earnings, reinvestment and third-party funding. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies in line with requirement 2.6.b.**, please take into account the following.

In section 6.4. of EITI Report for 2016, the Independent Administrator has provided the following information:

- 6.4.1 Definition of “state-owned enterprises”;
- 6.4.2 Government policy in the area of managing economic entities of the economy’s public sector;
- 6.4.3 Payments of government-sponsored enterprises in favor of the state;
- 6.4.4 Payments of the state in favor of government-sponsored enterprises;
- 6.4.5 Functions of government-sponsored enterprises and payments in favor of government-sponsored enterprises.

In the clauses mentioned above, recommendation 10 has been addressed to a certain degree, therefore, please consider EITI Report for 2016 attached hereto and inform MSG on whether requirement 2.6 of EITI Standard has been covered to a sufficient degree.

3. Regarding comment 11. **In line with Requirement 3.2, the MSG should ensure that future reports disclose the production values for every extractives commodity produced, including crude oil, natural gas and every mineral covered by reports. To continue improving on the requirement, the MSG may wish to comment on parallel reporting systems for production volumes including regular publication and reconciliation procedures, to ensure consistent, regular and reliable data.**

Please take into account the response of the Independent Administrator provided in Annex 1 to this letter.

4. Regarding comment 14: **The MSG should ensure that the next report disaggregates the transportation revenues by pipeline/route and by paying company.**

In section 5.2.6.1 of EITI Report for 2016, the Independent Administrator provided the information on the revenues of Ukraine's gas transmission system operator from the transmission of the natural gas produced in Ukraine, as well as natural gas transit across the territory of Ukraine. In addition to that, the above-mentioned section includes the data on the volumes (in physical terms) and payments (in money terms) for the transmission of gas, broken down by payers (extractive companies). The source of information: the companies' answers in the survey forms for EITI Report. In addition to that, the information was provided on any other payments of extractive companies, which are related to the transportation of the natural gas, to the gas transmission system operator.

In section 5.2.6.2 of UA-EITI Report for 2016, the Independent Administrator provided the information on the oil transportation revenues of oil pipe operator of Ukraine, as well as the volumes, routes and payments for oil transportation, by payer (company).

5. Regarding comment 27: **In line with Requirement 6.2, the MSG should clarify a definition of materiality with regards to quasi-fiscal expenditures by SOEs, including SOE subsidiaries and joint ventures. The MSG should ensure disclosure of quasi-fiscal expenditures according to requirement 6.2. This includes the nature of the subsidy scheme for household utility-payments, and the role of state-owned enterprises. It also includes the financial relationship between the SOE and its subsidiaries, including joint ventures, especially pertaining to coverage of losses.**

Please take into account section 5.10 of UA-EITI Report for 2016, in which the issue of quasi-fiscal expenditures was addressed.

6. Regarding comment 12. **The MSG should ensure that full government disclosure is clearly presented by separate entity and revenue stream.**

The State Fiscal Service of Ukraine is the body, which discloses the information on all tax revenues from economic entities of extractive industries. The said body has provided complete information on each such entity, for each type of requested payments.

7. Regarding comment 13. **The MSG should ensure that the IA includes a clear assessment of the comprehensiveness of the next EITI Report, that discrepancies are explained and investigated where necessary.**

Upon MSG's request, the Independent Administrator held preliminary feasibility study of the scope of the Report and provided clear recommendations on the incorporation of extractive industries and accountable institutions into the scope of EITI Report, proposed materiality threshold etc, with the aim to ensure completeness and comprehensiveness of EITI Report. Please take into account the respective document, which is attached hereto. In addition to that, in section 7.2 of EITI Report for 2016, the list of extractive industries, which made material payments to the benefit of the state in 2016, is provided; the list was drawn up on the basis of the information received from the State Fiscal Service, on the revenues of the Consolidated budget of Ukraine and the Pension Fund (Table 7.1).

According to the SFS data, four extractive industries (coal, oil, natural gas and iron ore extraction), as well as oil and gas transportation, cover 93.48% of revenues of the Consolidated Budget and the Pension Fund from all extractive industries in 2016.

Considering the economic importance of the extraction of titanium and manganese ores, as well the government's plans to privatize the key titanium enterprises of Ukraine, MSG members made a decision (Minutes of the MSG meeting of September 6, 2016) to incorporate them into the scope of the reconciliation of EITI Report for 2016, despite relatively low revenues from these industries.

Thus, based on the results of the feasibility study and assessment of the materiality of revenues according to the requirements of EITI standard, the scope of reconciliation in EITI Report for 2016 covered the revenues of the state from 60 material companies of accountable industries under 8 types of material payments in the amount of UAH 100 088 748.23 thousand. This amount covers 95.36% of total revenues from all companies of the accountable extractive industries.

More detailed information is provided in EITI Report for 2016, section 7.2.

8. Regarding comment 15. **As per Requirement 4.5, the MSG should engage relevant government entities and SOEs with the view to ensure that the reporting process comprehensively addresses the role of state-owned enterprises (SOEs), including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.**

The government entities and enterprises are involved in the reporting process, the respective information requests are sent to them; apart from that, the key government entities and enterprises are MSG members. Material payments to the benefit of SOEs are not made in Ukraine, as indicated in EITI Report for 2016 (see sections 6.4, 7.2.1. and 7.2.3 of the Report).

9. Regarding comment 16. **The MSG is recommended to engage relevant government agencies to ensure an overview of state ownership is accessible and regularly updated. Related to such an overview should also contain the general governing principles of managing SOEs', in addition to specific information for SOEs in the extractive sector.**

Please take into account the information provided in section 6.4 of EITI Report for 2016 attached hereto.

10. Regarding comment 18. **The MSG should insure that the next EITI includes an overview of progress on addressing the recommendations from the previous EITI reports.**

Section 8 of EITI Report contains the recommendations on the improvement of EITI implementation process. The said recommendations and the course of their implementation are discussed separately at EITI meeting, as evidenced by the respective minutes. The overview of the implementation of the recommendations provided in the previous UA-EITI Reports is included into the Inception Report as part of preparation of UA-EITI Report for 2016.

In addition to that, the Annual Progress Report contains the data on the implementation of the above-mentioned recommendations, with a separate annex focused on this topic. Therefore, in order to avoid overburdening of the report with too much detail, the above-mentioned data will be published in the minutes and the Annual Progress Reports.

11. Regarding comment 19. **The MSG should ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.**

Regarding the assessment of comprehensiveness of data, see response to comment 13. It should be noted that the information on the approach to the provision of data on artisanal and small-scale mining was added to the EITI Report, see section 4.1 of EITI Report for 2016.

In section 4.3 of UA-EITI Report for 2016, the information was provided on the procedures of audit and assurance at extractive companies and government agencies of Ukraine.

In addition to that, the Independent Auditor provided the following explanation regarding reliability of data in section 4.4 of EITI Report for 2016:

“The Independent Administrator considered the information provided by accountable organizations comprehensive and reliable because:

- The completeness and reliability of the data provided by extractive companies (private and state-owned) was certified with the signatures of these companies’ chief executive officers who guarantee the correctness of the data provided and/or the opinions of the external auditor on the data provided (if the said opinion is available) for each company;
- The completeness and reliability of the data received from the government agencies was certified with the signatures of the chief executive officers of the respective agency, as well as the principles of interaction between different government authorities and the provision of the respective reliable data”.

12. Regarding comment 20. **The Independent Administrator’s inception report should document the options considered and the rationale for the assurances to be provided.**

Please take into account the Feasibility Study Report, which is attached hereto, in particular, section 7 of the document.

13. Regarding comment 21. **The MSG should ensure that the next EITI Report includes an assessment of omissions and if any omissions had material impact on the comprehensiveness and reliability of the report.**

In section 7.2, the Independent Administrator provided detailed information on the mechanism and approaches used to determine the scope of UA-EITI Report for 2016, in particular, major (material)

industries, types of payments and companies. It is indicated in this section that the scope of the Report includes over 95% of state revenues from extractive industries, and the share of minor (immaterial) payments and companies is calculated separately.

In addition to that, in section 7.3.1. the information on completeness of reconciliation is provided; in particular, as assessment of the omissions, it is indicated that “Completeness of reconciliation has increased compared to the previous years, however, the share of companies, which did not provide the information for EITI Report, is still considerable (>5%).”

**14. Regarding comment 22. The next EITI Report should include the IA’s opinion regarding that reconciliation, including discrepancies.**

Please take into account Annex 15 to EITI Report for 2016 “Study of discrepancies and adjustment of the information on payments”, in which the Independent Administrator provides the explanations of the discrepancies found. Please also take into account section 7.3.2 of EITI Report for 2016, in which key reasons for the detected discrepancies are listed.

**15. Regarding comment 23. The MSG should ensure that the confidentiality provisions are clearly agreed and explained.**

The confidentiality issue is settled with the help of three instruments:

- 1) The provision on ensuring information confidentiality is contained in the agreement between the Ministry of Energy and Coal Industry of Ukraine and the Independent Administrator (the effective period of the provision is 5 years);
- 2) The provisions of the legislation of Ukraine, which are binding on all entities on the territory of the country, as well as the specific features of document flow and internal procedures of the Ministry of Energy and Coal Industry of Ukraine.

The protection of the confidential information received from extractive industries, as well as government agencies, institutions and organizations, is ensured on the basis of the effective laws of Ukraine, in particular, the Law of Ukraine On Personal Data Protection.

All the information from extractive companies and government agencies, organizations and institutions is received by the Ministry of Energy and Coal Industry exclusively. All hard copies of the documents are kept in the Ministry.

The confidential information received by the participants involved in the drafting of EITI Report is not disclosed without prior consent of the parties in writing, except for the situations stipulated by the laws of Ukraine.

- 3) The algorithm of information exchange between the Ministry of Energy and Coal Industry of Ukraine, National EITI Secretariat and the Independent Administrator.

In order to enhance the security of the information exchange procedure, the transfer of survey forms and questionnaires filled by the accountable organizations takes place via email [eti@mev.gov.ua](mailto:eti@mev.gov.ua) exclusively.

The project team on the part of the Ministry of Energy and Coal Industry and National EITI Secretariat places the documents and files received in the eRoom (file storage) specially created by the Independent Administrator. The representatives of National EITI Secretariat, as well as the

project team members on the part of the Independent Administrator, may have access to the storage. No other third party may be granted access to the storage. The information in the file storage is kept in encoded form, according to the international best practices in the area of data security.

The issue of ensuring confidentiality is set out in the Independent Administrator's Inception report as part of the preparation of UA-EITI Report for 2016.