

# Secretariat Review: Albania

*For decision*

Recommendation:

The Validation Committee recommends to the Board that Albania is designated EITI Compliant as of 2 May 2013.

# SECRETARIAT REVIEW: ALBANIA

---

## Recommendation

The Validation Committee makes the following recommendation to the Board:

*The EITI Board designates Albania as EITI Compliant as of 2 May 2013. In accordance with the EITI Rules:*

- Albania must be revalidated within 5 years (i.e. by 2 May 2018.) The MSG is advised that the Board is currently reviewing the validation procedures, including proposals relating to timing for revalidation of compliant countries. Accordingly this deadline may be modified;
- Stakeholders in the process may call for a new validation at any time within that period if they think the process needs reviewing;
- Where valid concerns exist that a country has become EITI Compliant, but its implementation of the EITI has subsequently fallen below the standard required for Compliance, then the Board reserves the right to require the country to undergo a new validation or face delisting from the EITI;
- In accordance with the 2011 edition of the EITI Rules, Albania is required to produce EITI reports annually. EITI Reports should cover data no older than the second to last complete accounting period (e.g. an EITI Report published in calendar/financial year 2013 should be based on data no later than calendar/financial year 2011); and
- In accordance with requirement 21(c), Albania is required to publish a public report annually **on the previous year's activities, detailing progress in implementing the EITI and any recommendations** from the validator.

*The Board congratulates the government of Albania for its sustained commitment and leadership of the EITI process. The Board also congratulates the Albania Working Group for its efforts and effective leadership in EITI implementation. The Board calls on the government and multi-stakeholder working group to ensure **that the Board's recommendations are implemented in full**, and tasks the EITI International Secretariat with providing regular progress reports to the EITI Board.*

# SECRETARIAT REVIEW: ALBANIA

---

## Contents

Recommendation .....	2
Contents.....	3
1 Executive Summary .....	5
2 Introduction .....	5
2 <b>Albania's response to the Board decision</b> .....	5
3 Secretariat review of remedial actions and assessment of indicators .....	7
3.1 Remedial action 1 .....	7
3.2 Remedial Action 2 .....	8
3.3 Remedial Action 3 .....	10
3.4 Remedial Action 4 .....	11
3.5 Remedial Action 5 .....	12
3.6 Other recommendations .....	13
4 Conclusion .....	14
Annex A - Board decision on Albania, 25 October 2011 .....	15
Annex B – Letter from Deputy Minister of the Economy Neritan Alibali, Chair of the EITI Working Group, 8 January 2013 ..	16
Annex C – Answer the questions asked by the EITI Secretariat on clarification of the EITI Report 2010, ALBEITI, 23 January 2013 .....	16
Annex D – PRODUCTION DATA TABLE OF MINING COMPANIES-FOR STUDY ALBANIA 2010, ALBEITI, 23 January 2013.....	16
Annex E – Other tables listing companies in scoping, ALBEITI, 23 January 2013 .....	16
Annex F – Replies by the reconciler to questions asked by the EITI Secretariat, Fairlinks, 21 January 2013.....	16
Annex G – Confirmation letter on data from government to reconciler, 21 December 2012 .....	16
Annex H – State declaration on Sky Petroleum, no date .....	17
Annex I – Evaluation and analysis companies EITI 2010 Report (in Albanian), ALBEITI, 20 November 2011 .....	17
Annex J – Scoping study EITI 2010 Report (in Albanian), ALBEITI, December 2011 .....	17
Annex K – MSG decision on scoping for EITI 2010 Report (in Albanian), ALBEITI, 4 April 2012.....	17
Annex L – <b>Board decision on Albania's Validation waiver request, Board Circular 144, 11 March 2013, including Terms of reference for the Secretariat Review</b> .....	17
Annex M - <b>Board decision on Albania's Validation waiver request, Board Circular 144, 6 March 2013, including Terms of reference for the Secretariat Review</b> .....	17

Annex N – Adoption of the Regulation on the Organisation and Functioning of the EITI inter-institutional Working Group, 21 January 2012 .....	17
Annex O – EITI Albania – Engagement letter .....	17
Annex P – Emails from Fairlinks to the EITI International Secretariat, 3/4 April 2013 .....	17
Annex Q – Email from ALBEITI to the EITI International Secretariat, 27 March 2013 .....	17

# SECRETARIAT REVIEW: ALBANIA

---

## 1 Executive Summary

In October 2011, the EITI Board established five corrective actions required for Albania to achieve EITI Compliant status. The Board subsequently granted Albania a waiver from undertaking a second validation, and tasked the International Secretariat with assessing whether the remaining EITI requirements have been met<sup>1</sup>. The Secretariat's assessment is attached. In the Validation Committee's view, all remedial actions have been completed and the outstanding requirements have been met. The draft Secretariat Review was circulated to the MSG on 11 April 2013. The Secretariat received comments on 22 April 2013.

## 2 Introduction

Albania was admitted as an EITI Candidate Country on 16 February 2009. In March 2011, Albania published its first EITI report disclosing payments from the oil and mining sectors to government 2009. On 26 December 2012, Albania published its 2010 EITI Report. The [validation report](#) for Albania was received on 31 August 2011. **The EITI Board subsequently declared that Albania had made "meaningful progress" in its implementation of the EITI, and, in accordance with the transition procedures, was given until 25 April 2013 to demonstrate compliance with the 2011 edition of the EITI Rules<sup>2</sup>.**

The Board agreed that indicators 9, 11, 12, 13, 14 and 15 were unmet, and agreed the following corrective actions were needed in order for Albania to achieve compliance:

1. *The Working Group should demonstrate that it has a clear and comprehensive definition of "material payments and revenues" (indicator 9). This should specifically include a detailed assessment of the materiality of payments by small companies and payments by companies to local government authorities;*
2. *The Working Group should demonstrate that all entities that make or receive material payments are participating in the reporting process (indicator 11);*
3. *The Working Group should clarify its approach for ensuring that company and government disclosures to the reconciler are based on audited accounts to international standards (indicators 12 & 13);*
4. *In accordance with the agreed definition of materiality (see point 1, above), the Working Group should ensure and demonstrate that all material oil, gas and mining payments by companies to government have been disclosed to the reconciler and incorporated into the EITI Report (indicator 14);*
5. *In accordance with the agreed definition of materiality (see point 1, above), the Working Group should ensure and demonstrate that all material oil, gas and mining revenues received by the government have been disclosed to the reconciler and incorporated into the EITI Report (indicator 15).*

The Board agreed to specifically monitor the implementation of Requirements 5 and 6 without making this a Remedial Action for Albania.

## 2 Albania's response to the Board decision

The Working Group undertook a number of activities to address the five corrective measures agreed by the Board and comply with the unmet requirements (9, 11, 12, 13, 14 and 15).

---

<sup>1</sup> Ref. Board Circular no144, 11 March 2013.

<sup>2</sup> Minutes from the 18th EITI Board meeting

The Working Group has submitted evidence<sup>3</sup> that these corrective actions had been undertaken as part of the 2010 EITI Report process, including:

- The Working Group conducted a detailed scoping study in the second half of 2011 and agreed a clear **and comprehensive definition of “material payments and revenues”** for its 2010 EITI Report. The study included an assessment of the materiality of payments by small companies and payments by companies to local government authorities;
- The majority of companies and government entities that made or received material payments in 2010 participated in the 2010 EITI Report. It is clear that nine companies identified as material in the scoping did not submit reporting templates for the 2010 EITI Report. However, the MSG has demonstrated that the non-participation of one oil company and the eight mining companies did not materially affect the 2010 EITI Report;
- The Working Group clarified its approach for ensuring that company and government disclosures to the reconciler for the 2010 EITI Report were in line with requirements 12 and 13. This involved taking steps to ensure that all oil companies and the large-scale mining companies submitted reporting templates certified by an external auditor. Medium and small-scale mining companies had the accuracy of data attested by a company representative. Government declarations were attested by senior government officials;
- The Working Group ensured that all material oil, gas and mining payments by companies to government were disclosed to the reconciler and incorporated into the 2010 EITI Report; and
- The Working Group demonstrated that all material oil, gas and mining revenues received by the government were disclosed to the reconciler and incorporated into the 2010 EITI Report.

Based on the above, on 28 December 2012, Shkelqim Hysaj, Director of Albania EITI, and on 8 January 2013, the Chair of the Working Group, Vice Minister for Economy, Trade and Energy Neritan Alibali wrote to the EITI Board to request a waiver from undertaking a second validation on behalf of the Working Group. On 11 March

---

<sup>3</sup> Supporting evidence provided by the Steering Committee are available on <http://eiti.org/internal> and include:  
 Annex B – Letter from Deputy Minister of the Economy Neritan Alibali, Chair of the EITI Working Group, 8 January 2013  
 Annex C – Answer the questions asked by the EITI Secretariat on clarification of the EITI Report 2010, ALBEITI, 23 January 2013  
 Annex D – PRODUCTION DATA TABLE OF MINING COMPANIES-FOR STUDY ALBANIA 2010, ALBEITI, 23 January 2013  
 Annex E – Other tables listing companies in scoping, ALBEITI, 23 January 2013  
 Annex F – Replies by the reconciler to questions asked by the EITI Secretariat, Fairlinks, 21 January 2013  
 Annex G – Confirmation letter on data from government to reconciler, 21 December 2012  
 Annex H – State declaration on Sky Petroleum, no date  
 Annex I – Evaluation and analysis companies EITI 2010 Report (in Albanian), ALBEITI, 20 November 2011  
 Annex J – Scoping study EITI 2010 Report (in Albanian), ALBEITI, December 2011  
 Annex K – MSG decision on scoping for EITI 2010 Report (in Albanian), ALBEITI, 4 April 2012  
 Annex L – **Board decision on Albania’s Validation waiver request, Board Circular 144, 11 March 2013, including Terms of reference for the Secretariat Review**  
 Annex N – Adoption of the Regulation on the Organisation and Functioning of the EITI inter-institutional Working Group, 21 January 2012  
 Annex O – EITI Albania – Engagement letter  
 Annex P – Emails from Fairlinks to the EITI International Secretariat, 3/4 April 2013  
 Annex Q – Email from ALBEITI to the EITI International Secretariat, 27 March 2013

2013, the EITI Board granted Albania a waiver from undertaking a second Validation<sup>4</sup>. The Terms of reference for the review are presented in Annex M. The International Secretariat conducted a desk review from 12 March to 22 April 2013. During the review, stakeholders in Albania were consulted and given an opportunity to share their views.

### 3 Secretariat review of remedial actions and assessment of indicators

The EITI Board agreed five remedial actions and tasked the Secretariat with reassessing compliance with Requirements 9, 11, 12, 13, 14 and 15.

#### 3.1 Remedial action 1

*The Working Group should demonstrate that it has a clear and comprehensive definition of “material payments and revenues” (indicator 9). This should specifically include a detailed assessment of the materiality of payments by small companies and payments by companies to local government authorities.*

#### Validator’s findings

The validator stated that **“the scope limitation on grounds of practicality [lack of time] does not appear to have led to the omission in 2009 reconciliation of any material payments by extractive companies to government not of any material revenues received by government to extractive companies”**. The validator concluded that indicator 9 was met. The Board did not find enough evidence in the validation report to substantiate this finding. It found that a clearer explanation of the definition of materiality was required in order to establish which entities (government and companies) fall within the agreed scope of the EITI process, and subsequently to demonstrate that subsequent EITI Reports cover all material payments and revenues, including considering the materiality of payments by small companies and payments to subnational levels.

#### Progress since Validation

The Working Group conducted a comprehensive scoping study for its 2010 EITI Report in the second half of 2011. The scoping study established which revenue streams were material, and consequently which companies and government entities should be covered in the 2010 EITI report, including small companies and subnational government entities (see scoping studies and MSG decision on scoping in Annexes I, J and K).

#### Definition of revenue streams

The Working Group agreed that the 2010 EITI Report would cover four oil-and-gas-specific revenue streams, three mining-specific revenue streams, as well as corporate profit tax. It was also agreed that any **“other significant payments”** to the central government exceeding US\$ 50,000 **as well as any “other significant payments”** to local authorities exceeding US\$ 5,000 should be covered (Annex I – Evaluation and analysis companies EITI 2010 Report, pp. 4-10; EITI Report 2010, pp. 10-11).

#### Materiality thresholds

The MSG established materiality thresholds on the basis of data received from the National Agency of Natural Resources (AKBN), **which manages all information on Albania’s extractive industries**. AKBN provided a list of all licences of oil, gas and mining entities that operated in Albania in 2010.

Concerning oil and gas companies, the MSG decided that all companies, regardless of the size of their payments, should be required to report. This included six exploration companies and three producing companies (including Albpetrol, the state-owned company). The MSG and the reconciler note that the oil

<sup>4</sup> Annex M - Board decision on Albania’s Validation waiver request, Board Circular 139, 21 December 2012, including Terms of reference for the Secretariat Review, available from <http://eiti.org/internal>.

sector represents approximately 1% of Albania's total fiscal revenue.

For mining companies, the MSG used the list of 518 mining licenses provided by from AKNB (Annex C) to calculate annual turnover for each company, of which EITI Albania counted 109 (Annex I – Evaluation and analysis companies EITI 2010 Report (in Albanian), ALBEITI, 20 November 2011, p. 3). It was agreed that all large scale (industrial) mining companies would be required to report regardless of the size of their payments. This included five exploration companies and two exploitation companies. The reconciler clarified that large-scale exploration companies were included in order to cover the payments of potential signature bonuses and other significant taxes. **He comments that “as initially expected, large-scale exploration companies have declared no significant payments (< 2% of the total revenues declared by the mining sector)” (email from Fairlinks to the EITI International Secretariat, 3 April 2013).**

With regards to medium, small-scale and quarry companies, it was agreed that any company with an annual turnover equal to or exceeding US\$ 500,000 was considered to be making material tax payments and would be required to report. 53 companies had annual turnovers above this threshold and were required to report. It is unclear in the 2010 EITI Report what the combined payments from the small-scale mining companies not covered in the scope of the EITI Report amount to. The MSG and the reconciler consider that they were not significant, given that the payments from mining companies that were included in the EITI Report only generated **0.2% of all of Albania's fiscal revenues in 2010. The reconciler argues that “based on the absence of significant payments from large-scale exploration companies in Albania, it is thus widely accepted by the various stakeholders that the likeliness of significant payments to be made by small-scale exploration companies is nil. ... The representative of the General Tax Directorate within the MSG had confirmed this point at the time the scope was discussed. Based on this confirmation, as well as on industry practice and our professional judgment (economic understanding of the share of the rent), we did not consider appropriate to require for unilateral declarations from the General Tax Directorate on this matter” (email from Fairlinks to the EITI International Secretariat, 3 April 2013).**

### Secretariat's Assessment

The Secretariat has reviewed the scoping study and the 2010 EITI Report published in July 2012, as well as other supporting evidence provided by the Working Group. The Working Group has provided sufficient evidence that it has analysed, discussed and adopted a definition of materiality that also deals with the issue of small companies and payments by companies to local authorities

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

### 3.2 Remedial Action 2

*The Working Group should demonstrate that all entities that make or receive material payments are participating in the reporting process (indicator 11).*

#### Validator's findings

The validator made an attempt to assess whether all companies with material payments have participated in the 2009 EITI Report. He concluded that this indicator was met. The Board did not find sufficient information to establish that the indicator was met. It argued that a clearer explanation of the definition of materiality was required, together with agreed procedures for companies that fail to report. The Working Group should clearly demonstrate that all entities that make or receive material payments are participating in the reporting processes.

#### Progress since Validation



### 2010 EITI Report: Oil and gas sector

Of the nine companies included in the scope of the EITI Report, one company (Sky Petroleum) did not provide declarations for the 2010 EITI Report. The government has provided evidence that the government did not receive revenues from Sky Petroleum in 2010 (see Annex G – State declaration on Sky Petroleum, no date). The **reconciler also notes that ‘The usual limited fiscal contribution of companies in exploration and the limited prospect for Sky Petroleum having paid signature bonuses in 2010 allow us to believe that the effective fiscal contribution of this company in 2010 was most probably not significant. This assertion is confirmed by the EITI declarations submitted by the State of Albania for Sky Petroleum, which disclose nil figures. We can therefore reasonably conclude that this absence of declaration from Sky Petroleum does not significantly affect the presentation of the fiscal contribution of the oil and gas sector to the State revenues in 2010’ (EITI Report, p. 14).**

### 2010 EITI Report: mining sector

Of the seven large-scale mining companies included in the EITI Report, one company (Cougar Mining) did not provide declarations for the 2010 EITI Report. The **reconciler confirms that “Cougar Mining was in exploration in 2010; we understand that it has left Albania in 2011. The usual limited fiscal contribution of companies in exploration and the limited prospect for Cougar mining having paid significant bonuses in 2010 allow us to believe that the effective fiscal contribution of his company in 2010 was most probably not significant” (EITI Report, p.15).** The table of mining licenses from AKNB shows that Cougar Mining had no operations or income in 2010.

Of the 53 medium, small-scale and quarry companies, five companies did not submit EITI declarations. The companies concerned are Bytyci, Marei, Shkembli, Tadri, and Dks Group (EITI Report, p.15).

Both the reconciler and the MSG argue that the lack of participation of these six mining companies did not materially affect the EITI Report. According to the reconciler, total revenues declared by the State for the six companies concerned US\$ 171 K, i.e. less than 3% of government revenues from the mining sector, and less than 0,5% of total government revenues from the extractive industries (EITI Report, p.15; Annex F). The reconciler therefore concludes that "this absence of declaration does not significantly affect the presentation of the fiscal contribution of the mining sector to the State revenues in 2010" (p. 15). The MSG has also submitted a breakdown, quantifying the impact of the six medium and small companies not participating. According to the MSG, the six companies represented 3.6% of total revenues for mining. (see Annex E – Other tables listing companies in scoping, ALBEITI, 23 January 2013).

The 2010 EITI Report does not give 1) the reasons for the non-participation of the seven companies, and 2) steps taken by the MSG to ensure that these companies report. However, ALBEITI clarifies that these companies had either closed and ceased operations in Albania, or were so small that they could not be contacted by the reconciler because they had no phone or email, and were located in remote areas of Albania. The MSG has given the reconciler support in contacting companies by organising trips and providing the names and addresses of lead contacts and companies. The government has invoked administrative measures and penalties for companies that did not respond. For the future, the MSG has proposed to the lead Minister to take legal actions for the companies that did not make their declaration for the 2010 EITI Report (email with clarifications from ALBEITI of 27 March 2013)

### 2010 EITI Report: government institutions

The scoping study identifies the State recipients of each fiscal stream included in the scoping, on the central and local levels (Annex J – Scoping study EITI 2010 Report (in Albanian), ALBEITI, December 2011, pp. 6-10). The 2010 EITI Report lists these entities in its Annex 5. In all, five entities at the central government level were scoped and all participated, according to the reconciler (see Annex 5). On the local level, 15 districts

(municipalities and communes) out of 36 were scoped and asked to report, of which four did not declare. The reconciler writes in Annex 5 that this had no material impact (Annex 5) , arguing that overall, payments reported to districts only amounted to 1% of total declarations made under the EITI in the mining sector (2010 EITI Report, p 19).

### Secretariat's Assessment

The Secretariat has reviewed the 2010 EITI Report and the supporting documentation provided by the Working Group. The Secretariat notes that seven companies that were considered to be material within the scope of the EITI Report did not submit reporting templates. Also, 4 out of 15 local government districts did not report their revenues. Taking note of precedents and based on the evidence and assessment provided by the MSG and the reconciler as well as the unilateral government disclosure of revenues received from these companies, the **Secretariat's assessment is that the non-participation of these companies and local government entities did not materially affect the EITI Report.**

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

### 3.3 Remedial Action 3

*The Working Group should clarify its approach for ensuring that company and government disclosures to the reconciler are based on audited accounts to international standards (indicators 12 & 13).*

### Validator's findings

To the Board, it was clear from the validation report that government and company disclosures to the reconciler were not consistently based on audited accounts to international standards. IATs 12 and 13 allowed the validator to find the indicator met where "the [MSG] is content with the agreed way of addressing this". The validator had provided some information on these issues. However to the Board it was not clear that the Working Group had a sufficiently clear approach to these issues.

### Progress since Validation

#### Assurances provided by reporting companies

The MSG decided to require the large companies in the production phase to have their EITI data controlled by an auditor. They argued that on the proposal of the MSG, the revised Mining Law requires all mining companies to have their figures audited. In the absence of the same obligation in a petroleum law, the MSG has signed MoUs with all oil companies to that effect. With regards to the remaining companies, the reconciler **confirms that "large-scale exploration companies as well as medium and small-scale mining companies were not requested to provide audited declarations. Instead, they were requested to support their declarations by an engagement letter (see an example in Annex O - EITI Albania – Example of Engagement Letter) signed by their highest legal representative, ensuring the comprehensiveness and reliability of the disclosed data with the following statement: "on behalf of the company ... I declare that all taxes listed in this reporting form are complete, accurate and correct, reflecting the entire amount paid to the state" (emails from Fairlinks to the EITI International Secretariat, 3/4 April 2013).**

According to the EITI Report, the declarations of the eight participating companies have been certified by their external auditor. **This leads the reconciler to consider that the level of reliability of these companies' declarations is high and that exhaustiveness of revenues is well covered (Annex F – Replies by the reconciler to questions asked by the EITI Secretariat, Fairlinks, 21 January 2013).** The declarations from the two large-scale

mining companies in production have also been certified by their external auditor, “...**guaranteeing the reliability and comprehensiveness of the data they have submitted**” (EITI Report, p.4).

In accordance with the approach agreed by the MSG, the four participating large-scale mining companies in the exploration phase as well as the 48 participating medium, small-scale mining and quarry all provided an engagement letter with their declarations (emails from Fairlinks to the EITI International Secretariat, 3/4 April 2013). See discussion of Remedial Action 1 on the limited significance of payments from these companies.

#### Assurances provided by reporting government entities

The scoping study and the 2010 EITI Report do not describe a specific approach or the types of assurances to be provided by government entities. However, ALBEITI has clarified that the MSG agreed to require all government entities to have their reporting templates attested by a senior government official (email with clarifications from ALBEITI of 27 March 2013). The reporting government entities all have legal liability for the accuracy of data collected and reported, and their finances are checked by the Ministry of Finance through a special audit and are subject to a special control by the High State Control (which depends on the Albanian Parliament). According to the MSG and the reconciler, EITI declarations from the government have all been signed off by the General Director of each government entity (AKBN, METE, GD Tax, GD Customs). This includes **a specific personal endorsement stating that “On behalf of [Name of the State agency], I declare that all the revenues listed in this reporting template are complete, accurate and correctly reflect the full amount received by the State from the extractive companies”**.

The MSG decided not to ask for a specific control of payments to local entities as they are not material (Annex I – Evaluation and analysis companies EITI 2010 Report (in Albanian), ALBEITI, 20 November 2011, p. 4).

#### **Secretariat’s Assessment**

The Secretariat is satisfied that all oil companies that reported material payments had their declarations certified in line with the approach agreed by the MSG. With regards to the mining sector, the Secretariat notes that all 54 participating mining companies complied with the agreed approach.

The Secretariat is satisfied that the MSG agreed a reasonable approach for assurance of figures submitted by government.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

### 3.4 Remedial Action 4

*In accordance with the agreed definition of materiality (see point 1, above), the Working Group should ensure and demonstrate that all material oil, gas and mining payments by companies to government have been disclosed to the reconciler and incorporated into the EITI Report (indicator 14).*

#### **Validator’s findings**

The validator made an attempt to assess whether all material payments have been disclosed for the 2009 EITI Report. He stated **that ‘the templates from these five mining companies, now delivered to the reconciler, contain payments which the reconciler has said account for less than 5% of total revenues declared by the state’ (p.56)**. The validator concluded that this indicator has not been met. The Board noted that in the absence of a clear explanation of the definition of materiality (indicator 9), it was not possible to establish whether all material oil, gas and mining payments by companies to government had been disclosed to the reconciler.

#### Progress since Validation

The reconciler and the MSG argue that the companies that participated comprehensively disclosed all material payments. According to the EITI report, the unresolved discrepancies resulting from instances where companies have declared less than the government amount to 4 % of total reported revenues. The reconciler **notes that ‘the disaggregated reconciliation of the declarations submitted by the State of Albania and the oil, gas and mining companies did not reveal any significant inconsistency’ (p. 17).**

In accordance with the assessment of remedial action 2 above, the omitted payments made by the seven companies that failed to participate in the 2010 EITI Report do not appear to have materially affected the EITI Report.

### Secretariat’s Assessment

The Secretariat’s **assessment is that all material** oil, gas and mining payments by companies to government have been comprehensively disclosed to the reconciler.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

### 3.5 Remedial Action 5

*In accordance with the agreed definition of materiality (see point 1, above), the Working Group should ensure and demonstrate that all material oil, gas and mining revenues received by the government have been disclosed to the reconciler and incorporated into the EITI Report (indicator 15).*

### Validator’s findings

The validator stated that the discrepancies in royalty payments were largely due to the manual nature of the records maintained by the Directorate General of Customs. It was assumed that the digitalisation of General Tax Department data would help resolve this issue ahead of the next report. The government reported receipts from the five mining companies that did not submit their report by the deadline. The reconciler and the Working Group agreed to exclude these receipts from the report for the sake of presenting consistent figures. According to the reconciler, these receipts accounted for less than 5% of total revenues declared by the state. He does not substantiate his claim. The validator concluded that this indicator had not been met. The Board noted that in the absence of a clear explanation of the definition of materiality (indicator 9) was not possible to establish whether all material oil, gas and mining revenues received by the government had been disclosed to the reconciler.

### Progress since Validation

All central government entities, and 11 out of 15 local government entities, submitted reporting templates. The EITI Report notes that the government also declared the revenues from the seven companies that failed to submit their reporting templates. According to the EITI report, the unresolved discrepancies resulting from instances where the government have declared less than the companies amount to 0,0009 % of total reported revenues. **The reconciler notes that ‘the disaggregated reconciliation of the declarations submitted by the State of Albania and the oil, gas and mining companies did not reveal any significant inconsistency’ (p. 17).**

### Secretariat’s Assessment

The Secretariat’s **assessment is that all material** oil, gas and mining revenues have been disclosed to the reconciler.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

### 3.6 Other recommendations

*The Board agreed to specifically monitor the implementation of Requirements 5 and 6. The Board recommended that the Working Group ensures that the new workplan is in line with Requirement 5 of the 2011 edition of the EITI Rules and that it contains specific actions towards increasing company and civil society engagement in the EITI process, including capacity building activities. The Board also recommends that the Working Group ensures that the recently adopted ToRs of the Working Group are in accordance with requirement 4 of the 2011 edition of the EITI Rules.*

#### Validator's findings

This point is not explicitly part of the corrective actions but has been monitored by the EITI Secretariat as per the Board decision from the 18th Board meeting.

The Validator concluded that indicator 5 had not been met. The Board recognised that it took time to formally establish a Working Group with balanced stakeholder representation and clear rules and procedures. However, based on the revised Working Group composition, the ToRs agreed before the validation and stakeholder views cited in the validation report that the process had been inclusive throughout, the Board disagreed with the **Validator's assessment and** was satisfied that this indicator was met.

The Validator concluded that indicator 6 was not met. Taking into account the efforts before the validation to increase civil society participation, the Board disagreed **with the validator's assessment and** was satisfied that this indicator is met. The Board recommended that outreach and capacity building activities for civil society were included in a new workplan.

#### Progress since Validation

Since the last validation, the composition of the ALBEITI Working Group has been revised to allow better stakeholder representation, including for civil society. The Working Group now includes seven representatives from government (including the chair), five from civil society and another five from the private sector. Members were freely appointed by their stakeholder groups. In regular contacts with civil society, no concerns were raised about obstacles to operating freely. All stakeholders have played a more active role in EITI implementation. A series of training activities have taken place in which CSO representatives also participated. Training seminars to build stakeholder capacity took place regularly, including events delivered by the World Bank and the EITI International Secretariat.

The ministerial decision on the organisation and functioning of the EITI Working Group was updated on 21 January 2012 in line with EITI requirement 4 (Annex N – Adoption of the Regulation on the Organisation and Functioning of the EITI inter-institutional Working Group, 21 January 2012). The decision mandates the MSG to decide on its workplan, chose the reconciler and take all other decisions related to EITI implementation. It contains voting procedures. The MSG approved these ToRs on 9 December 2011.

These developments have been tracked by the EITI International Secretariat through visits to Albania (see BTORs), regular written updates from the national coordinator and civil society ahead of Secretariat reports to the Board (see IPRs) and other exchanges with stakeholders.

#### Secretariat's Assessment

**The Secretariat's assessment is that the MSG has taken sufficient steps to address the Board's recommendations.**

## 4 Conclusion

The Board decision stipulated that five remedial actions should be completed in order for Albania to achieve Compliance. The International Secretariat is satisfied that the remedial actions have been satisfactorily completed and that the outstanding requirements are met.

## Annex A - Board decision on Albania, 25 October 2011

The Board concluded that Albania had made meaningful progress in implementing the EITI. The Board agreed that Albania would retain its status as a Candidate country. Retaining this status would be subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation. In accordance with the transition procedures for the 2011 edition of the EITI Rules, the Board agreed that Albania would have its candidacy renewed for 18 months (i.e. until 25 April 2013), by the end of which it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI Rules, including requirement 5(e) regarding regular and timely reporting. If Albania did not achieve Compliant status by this deadline it would be de-listed. The Board agreed to specifically monitor the implementation of Requirements 5 and 6.

*The Board congratulates the government, companies and civil society organisations in Albania for the progress made in implementing the EITI. The Board also wishes to congratulate the validator and all stakeholders involved in the validation process. The Board noted that Albania is already taking steps to address the issues identified by the validator.*

*The validator found that Albania has not met a number of the validation indicators. The validator expressed concerns related to the functioning of the Working Group, the participation of civil society and the failure of companies and government entities to disclose all material payments and revenues.*

*In all decisions on Validation the Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI brand. The Board reviewed the validator's report in detail. On several issues, the Board shares the validator's concerns. The Board also disagreed with the validator's assessments on a number of indicators. For indicators 9, 11, 12, 13, 14 and 15, the Board did not find sufficient information to establish that the indicators were met. Accordingly, the Board established the following corrective actions that need to be addressed in order for Albania to achieve compliance:*

6. *The Working Group should demonstrate that it has a clear and comprehensive definition of "material payments and revenues" (indicator 9). This should specifically include a detailed assessment of the materiality of payments by small companies and payments by companies to local government authorities;*
7. *The Working Group should demonstrate that all entities that make or receive material payments are participating in the reporting process (indicator 11);*
8. *The Working Group should clarify its approach for ensuring that company and government disclosures to the reconciler are based on audited accounts to international standards (indicators 12 & 13);*
9. *In accordance with the agreed definition of materiality (see point 1, above), the Working Group should ensure and demonstrate that all material oil, gas and mining payments by companies to government have been disclosed to the reconciler and incorporated into the EITI Report (indicator 14);*
10. *In accordance with the agreed definition of materiality (see point 1, above), the Working Group should ensure and demonstrate that all material oil, gas and mining revenues received by the government have been disclosed to the reconciler and incorporated into the EITI Report (indicator 15).*

*Compliance with these indicators and corrective actions may be demonstrated with reference to the first EITI Report (2009), or following the publication of the second report (2010).*



*In accordance with the transition procedures for the 2011 Edition of the EITI Rules<sup>5</sup>, The Board agreed that Albania will have its candidacy renewed for 18 months (i.e. until 25 April 2013), by the end of which it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI rules, including requirement 5(e) regarding regular and timely reporting. If Albania does not achieve Compliant status by this deadline it will be de-listed.*

*The Working Group should agree and publish a new workplan within three months (by 25 January 2012) that addresses the corrective actions agreed by the Board, sets out the actions needed to achieve compliance with the 2011 edition of the EITI rules, and includes a schedule for a new validation to be completed by 25 April 2013. The Board recommended that the Working Group ensures that the new workplan is in line with Requirement 5 of the 2011 edition of the EITI Rules and that it contains specific actions towards increasing company and civil society engagement in the EITI process, including capacity building activities. The Board also recommends that the Working Group ensures that the recently adopted ToRs of the Working Group are in accordance with requirement 4 of the 2011 edition of the EITI Rules.*

*The Working Group may request a waiver from the requirement to undergo a second Validation on the grounds that the remedial actions necessary for achieving compliance are not complex and can be undertaken quickly. It will be within the discretion of the Board to determine whether to grant the waiver request. If the waiver request is made in 2011 and subsequently granted, the secretariat review will be conducted in accordance with the previous edition of the EITI Rules regardless of the date of the Board decision. At a later date, it will follow the 2011 edition of the EITI Rules.*

## Annex B – Letter from Deputy Minister of the Economy Neritan Alibali, Chair of the EITI Working Group, 8 January 2013

Available from <http://eiti.org/internal>

## Annex C – Answer the questions asked by the EITI Secretariat on clarification of the EITI Report 2010, ALBEITI, 23 January 2013

Available from <http://eiti.org/internal>

## Annex D – PRODUCTION DATA TABLE OF MINING COMPANIES-FOR STUDY ALBANIA 2010, ALBEITI, 23 January 2013

Available from <http://eiti.org/internal>

## Annex E – Other tables listing companies in scoping, ALBEITI, 23 January 2013

Available from <http://eiti.org/internal>

## Annex F – Replies by the reconciler to questions asked by the EITI Secretariat, Fairlinks, 21 January 2013

Available from <http://eiti.org/internal>

## Annex G – Confirmation letter on data from government to reconciler, 21 December 2012

Available from <http://eiti.org/internal>

---

<sup>5</sup> [http://eiti.org/files/Minutes\\_17th\\_Meeting\\_EITI\\_Board\\_Amsterdam.pdf](http://eiti.org/files/Minutes_17th_Meeting_EITI_Board_Amsterdam.pdf)



Annex H – State declaration on Sky Petroleum, no date

Available from <http://eiti.org/internal>

Annex I – Evaluation and analysis companies EITI 2010 Report (in Albanian), ALBEITI, 20 November 2011

Available from <http://eiti.org/internal>

Annex J – Scoping study EITI 2010 Report (in Albanian), ALBEITI, December 2011

Available from <http://eiti.org/internal>

Annex K – MSG decision on scoping for EITI 2010 Report (in Albanian), ALBEITI, 4 April 2012

Available from <http://eiti.org/internal>

Annex L – Board decision on Albania's **Validation waiver request, Board Circular 144**, 11 March 2013, including Terms of reference for the Secretariat Review

Available from <http://eiti.org/internal>.

Annex M - **Board decision on Albania's Validation waiver request, Board Circular 144**, 6 March 2013, including Terms of reference for the Secretariat Review

Available from <http://eiti.org/internal>

Annex N – Adoption of the Regulation on the Organisation and Functioning of the EITI inter-institutional Working Group, 21 January 2012

Available from <http://eiti.org/internal>

Annex O – EITI Albania – Engagement letter

Available from <http://eiti.org/internal>

Annex P – Emails from Fairlinks to the EITI International Secretariat, 3/4 April 2013

Available from <http://eiti.org/internal>

Annex Q – Email from ALBEITI to the EITI International Secretariat, 27 March 2013

Available from <http://eiti.org/internal>