Albania, February 2019

Terms of Reference

Independent Administrator for the EITI Report covering the fiscal years 2017 and 2018, Albania

Approved by the MSG EITI Albania on date ____

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1 Background

The Extractive Industries Transparency Initiative (EITI) is a global standard for improving transparency and accountability in the oil, gas and mining sectors.

EITI implementation has two core components:

- Transparency: oil, gas and mining companies disclose information about their operations, including payments to the government, and the government discloses its receipts and other relevant information on the industry. The figures are reconciled by an Independent Administrator, and published annually alongside other information about the extractive industries in accordance with the EITI Standard.

- Accountability: a multi-stakeholder group (MSG) with representatives from government, companies and 2.2 is established to oversee the process and communicate the findings of the EITI reporting, and promote the integration of EITI into broader transparency efforts in that country.
The EITI Standard encourages MSGs to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations and in business. The requirements for implementing countries are set out in the EITI Standard. Additional information is available via www.eiti.org.

It is a requirement that the MSG approves the terms of reference for the Independent Administrator (requirement 4.9.iii).

It is a requirement that the Independent Administrator be perceived by the MSG to be credible, trustworthy and technically competent (Requirement 4.9.b.ii). The National EITI Secretariat, MSG and Independent Administrator should address any concerns regarding conflicts of interest. The EITI Report prepared by the Independent Administrator will be submitted to the EITI National Secretariat and MSG for approval and made publicly available in accordance with Requirement 7.1.

These terms of reference include “agreed-upon procedures” for EITI reporting (see section 4) in accordance with EITI Requirement 4.9.b.iii. The international EITI Board has developed these procedures to promote greater consistency and reliability in EITI reporting. The EITI process should be used to complement, assess, and improve existing reporting and auditing systems. The Board recommends that the process rely as much as possible on existing procedures and institutions, so that the EITI process draws on, complements and critically evaluates existing data collection and auditing systems. In this way, the EITI process has the potential to generate important recommendations to strengthen other oversight systems.

EITI Implementation in Albania

The Albanian Government supported this initiative and engaged for EITI implementation on March 2009. It became an EITI Candidate Country on May, 2009.

The International EITI Board, declared Albania as an EITI Compliant Country according to EITI standard on May 2013. Compliance with EITI Standard means that the country has an effective process for annual declaration and the reconciliation of all revenues from the extractive industries. This process gives possibility to the citizens to see the revenues from the companies of oil & gas, mining and those hydro power sectors.


1 http://eiti.org/document/standard
Albania is a traditional mining country with considerable reserves in chromium, copper and iron-nickel, industrial stones, as well as substantial production of crude oil. Mining, oil and hydro-energy production contribute a significant and growing proportion of Government revenues for development. In the light of this, the Government is fully aware of the importance of good sector governance, transparency and accountability. The support of the Government is complete in this regard and considers the recommendations of the EITI reports an effective way to help sustainable economic development.

Another natural resource based in industry from the hydro-energy and revenues from this sector has an important contribution to the state Budget and the Albanian economy. To ensure the expansion of EITI in Albania with other sectors of the extractive industry, the EITI secretariat and the MSG viewed the effect of inclusion of the hydro-energy sector in the next Albania EITI reports (see the EITI report 2013 - 2014 where is include the Hydro-energy sector at [www.albeiti.org](http://www.albeiti.org)).

In December 2015, Albania published the EITI report for the fiscal years 2013 and 2014 including for the first time an EITI report the Hydro energy sector.

In February 2017, Albania published its sixth EITI Report, for the fiscal year 2015 and in February 2018 Albania published the EITI report for the fiscal year 2016. In these two Reports are made the first steps of including the voluntary declaration of Beneficial Ownership (BO) and Commodity Trading.

During 2017, the second Validation process regarding the EITI implementation in Albania was conducted and the Validation Report was published in February 2018.

To ensure that the objective is achieved, as agreed by the MSG, and as elaborated in the EITI workplan, http://www.albeiti.org/wp-content/uploads/2016/02/Albanian-EITI-Work-Plan-2016-2019.pdf, the Government of Albania requires the services of an independent administrator firm to prepare the EITI report for the fiscal years 2017 and 2018.

The required report will be performed in accordance with these Terms of Reference. These TOR’s will include the Recommendations of the second Validation that will be undertaken during March 2019 and the Recommendations of the Commodity Trading Report.

## 2 Objectives of the assignment

On behalf of the government of Albania and the Albanian MSG, the EITI Albania seeks a competent and credible firm, free from conflicts of interest, to provide Independent Administrator services in accordance with the EITI Standard. The objective of the assignment is to:

- Produce a scoping study to inform the MSG’s decision on the scope of the EITI Report for the fiscal years 2017 and 2018.
- Produce EITI Report for the fiscal years 2017 and 2018 in accordance with the EITI Standard and section 3,
below.
- Produce a Summary Data Template based on the template given in Annex 2.
- Provide training for all reporters on the EITI Standard requirements and Reporting Template.

3 Scope of services, tasks and expected deliverables

The work of the Independent Administrator has five conceptual phases (see figure 1).

The Independent Administrator’s responsibilities in each phase are elaborated below.

Figure 1 – Overview of the EITI Reporting process and deliverables

Phase 0 - Scoping and scoping study

Objective: Scoping work aims to identify what the EITI Report should cover in order to meet the requirements of the EITI Standard. Scoping sets the basis for producing a timely, comprehensive, reliable and comprehensible EITI Report. It commonly involves looking at issues such as the fiscal period to be reported, the contextual information that should be part of the EITI Report, reviewing the types of assurances that are needed for ensuring that the data submitted by reporting entities is credible, determining which revenue streams from oil, gas and mining are significant, and consequently which companies and government entities should be required to report. It is also an opportunity for the multi-stakeholder group to consider the feasibility of extending the scope of EITI reporting beyond the minimum requirements in order to address the objectives outlined in the EITI workplan. Scoping may also investigate likely gaps or issues that may be particularly challenging to include in the EITI Report with a view to identify options, solutions, and recommendations for an appropriate reporting methodology for consideration by the multi-stakeholder group.

The Independent Administrator is expected to undertake the following tasks during the scoping phase:
• For the purpose of project-level reporting, propose:
  1) A definition of the term “project” that is consistent with relevant national laws and systems as well as international norms;
  2) Produce an overview of the revenue streams that should be reported by project, classifying the revenue streams that are levied on a license/contract basis and should be reported as such as well as the revenue streams that are levied on a company basis and should be reported as such; and
  3) Draft corresponding reporting templates, drawing on the model reporting templates for project level reporting developed by the EITI.

In undertaking the above the Independent Administrator is expected to consult the EITI’s guidance note on project level reporting, and to make use of the template definitions in the guidance note2.

The MSG’s has agreed that the Report will cover the Fiscal Years 2017 and 2018.

The MSG’s has agreed that EITI report will cover the Contextual Information as described in Table 1 to be compiled by the IA.

The MSG’s has agreed that EITI report of the fiscal years 2017 and 2018 will include the payment streams as described in Annex 1.

The Independent Administrator is expected to:

Assess information on financial flows and benefit streams required in Annex 1 and submit it with the Inception report, specifically:

• Taxes and revenues to be covered in the EITI Report (Requirement 4.1)3

Table 2 – Material revenues to be unilaterally disclosed by the government

Table 3 – Immaterial revenue streams from the extractive sector to be excluded from the EITI Report

• Additional benefit streams:

Table 4 – Additional benefit streams

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1 https://eiti.org/sites/default/files/documents/reporting_template_for_project-level_reporting_option_1.xlsx
2 https://eiti.org/sites/default/files/documents/reporting_template_for_project-level_reporting_option_2.xlsx
• **Government - government transactions (Requirement 4)**

In accordance with requirement 4.1(a) of the EITI Standard, the MSG & National Secretariat together with the Independent Administrator will decide which ones must be disclosed, including appropriate materiality definitions and thresholds.

• **Reporting companies (Requirement 4.1)**

Based on previous EITI Reports and other investigations, the MSG’s & National Secretariat expects that the EITI Report 2017 and 2018 will cover:

- All active Oil Companies (production and exploration) (10 Companies). The Benefit streams to be taken into account are set out in Annex 1.

- With regard to the hydro-energy production sector, The MSG’s has agreed that 15 biggest companies operating in the sector (about 91% of energy production) shall be covered by the Independent Administrator report. The Benefit streams to be taken into account are set out in annex 1, item 1.

- With regard to the mining sector, the reconciliation process has to take into account the complex reality as it relates to Albania. More than 647 mining licenses are recorded to produce in the country. However, around 509 of these have an average output of far less than 9% of the total output. There are 138 companies that will be subject of reporting, that have an average output of 91% of the total output.

In order to ensure a reasonable reconciliation process, the MSG has therefore suggested that companies in the mining sector participating to the EITI Report 2017 and 2018 will be all the companies with annual revenue > USD 150,000 (their financial turnover and payments level will be measured in relation with the 2017 and 2018 respective average) should be included in the Independent Administrator EITI Report for 2017 and 2018.

All companies with annual revenue > USD 150,000, for the Chromite sub-sector, the Iron–Nickel and Nickel-Silicate Sub-Sector, the bitumen or bitumen sands sub-sector, the limestone, limestone slabs, decorative limestone sub-sector, the clay sub-sector, the Gypsum alabaster sub-sector, have to report.

In addition, all international companies pursuing exploration and/or exploitation will also have to report. For these companies, the benefit streams to be taken into account are described in Annex 1, Item 1: The taxes and revenues to be covered in the EITI Report

In total, it is expected that the EITI report 2017 and 2018 will cover:

- **Data received by 8 government agencies.**

- **15 types of payments made by about 163 companies and other government agencies or local government (see annex 1)**
Phase 1 – Preliminary analysis and inception report

Objective: The purpose of the Inception phase is to confirm that the scope of the EITI reporting process has been clearly defined, including the reporting templates, data collection procedures, and the schedule for publishing the EITI Report. In cases where the Independent Administrator is involved in scoping work, the inception phase will not be extensive. Where the Independent Administrator is not involved in scoping work, some work is required by the Independent Administrator to review prior scoping decisions and considerations taken by the MSG (1.1-1.2 below). The inception report thus ensures that there is a mutual understanding between the MSG and the Independent Administrator of the scope of the EITI Report and the work to be carried out.

The MSG’s & National Secretariat proposal for the scope of the EITI Report, to be revised and confirmed with the Independent Administrator during the inception period, is set out in annex 1.

The Independent Administrator is expected to undertake the following tasks during the inception phase:

1. Review the relevant background information, including the governance arrangements and tax policies in the extractive industries, the findings from any preliminary scoping work, and the conclusions and recommendations from previous EITI Reports and Validations. (A list of relevant documentation is provided as Annex 2).

1.2 The Independent Administrator should review the scope proposed by the MSG in annex 1 with a particular focus on the following:

1.2.1 Reviewing the comprehensiveness of the payments and revenues to be covered in the EITI Report as proposed by the MSG in Annex 1 and in accordance with EITI Requirement 4.

1.2.2 Reviewing the comprehensiveness of the companies and government entities that are required to report as defined by the MSG in Annex 1 and in accordance with EITI Requirement 4.1

1.2.3 Supporting the MSG & National Secretariat with examining the audit and assurance procedures in companies and government entities participating in the EITI reporting process. This includes examining the relevant laws and regulations, any reforms that are planned or underway, and whether these procedures are in line with international standards. It is recommended that the EITI Report includes a summary of the findings, otherwise the MSG should make the results of the review of audit and assurance practices publicly available elsewhere.

1.2.4 Providing advice to the MSG & National Secretariat on the reporting templates based on
the agreed benefit streams to be reported and the reporting entities (1.1.1–1.1.2 above). Sample templates are available from the International Secretariat. It is recommended that the templates include a provision requiring companies to report “any other material payments to government entities” above an agreed threshold.

1.3 On the basis of 1.1 and 1.2 as applicable, produce an Inception report that:

1.3.1 Includes a statement of materiality (annex 1) confirming the MSG’s decisions on the payments and revenues to be covered in the EITI Report, including:

- The definition of materiality and thresholds, and the resulting revenue streams to be included in accordance with Requirement 4.1(b).
- The sale of the state’s share of production or other revenues collected in-kind in accordance with Requirement 4.2.
- The coverage of infrastructure provisions and barter arrangements in accordance with Requirement 4.3.
- The coverage of social expenditure in accordance with Requirement 6.1.
- The coverage of transportation revenues in accordance with Requirement 4.4.
- Disclosure and reconciliation of payments to and from state owned enterprises in accordance with Requirement 4.6.
- The materiality and inclusion of direct sub-national payments in accordance with Requirement 4.5.
- The materiality and inclusion of sub-national transfers in accordance with Requirement 5.2.
- The level and type of disaggregation of the EITI Report in accordance with Requirement 4.7.

1.3.2 Includes a statement of materiality (annex 1) confirming the MSG’s decisions on the companies and government entities that are required to report, including:

- The companies, including SOEs, that make material payments to the state and will be required to report in accordance with Requirement 4.1(c).
- The government entities, including any SOEs and sub-national government entities, that receive material payments and will be required to report in accordance with Requirement 4.1(c-d), 4.5 and 4.6.
- Any barriers to full government disclosure of total revenues received from each of the benefit streams agreed in the scope of the EITI report, including revenues that fall below agreed materiality thresholds (Requirement 4.1(d)).
1.3.3 Includes a definition of the term ‘project’ and an overview of the revenue streams to be reported by project, confirming the MSG’s decision that the financial data should be disaggregated by project where levied by project.

1.3.4 **Confirms the reporting templates based on the agreed benefit streams to be reported, the reporting entities, and the definition of project** (1.1.1 – 1.1.2, and 1.3.3 above). The IA in collaboration with the National Secretariat will draft the templates for MSG’s approval. It is recommended that the templates include a provision requiring companies to report “any other material payments to government entities” and non-government entities (including landowner entities – other than for the provision of goods and services, including employment) listed above an agreed threshold. **The IA should confirm any procedures or provisions relating to safeguarding confidential information.** [The IA should also develop guidance to the reporting entities on how to complete the reporting templates, and provide training to reporting entities.]

1.3.5 Based on the examination of the audit and assurance procedures in companies and government entities participating in the EITI reporting process (1.2.3 above), **confirms what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9.**

The Independent Administrator should exercise judgement and apply appropriate international professional standards\(^4\) in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his /her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. Where deemed necessary by the Independent Administrator and the multi-stakeholder group, assurances may include:

- Requesting sign-off from a senior company or government official from each reporting entity attesting that the completed reporting form is a complete and accurate record.

- Requesting a confirmation letter from the companies’ external auditor that confirms that the information they have submitted is comprehensive and consistent with their audited financial statements. The MSG may decide to phase in any such procedure so that the confirmation letter may be integrated into the usual work programme of the company’s auditor. Where some companies are not required by law to have an external auditor and therefore cannot provide such assurance, this should be clearly

\(^4\) For example, ISA 505 relative to external confirmations; ISA 530 relative to audit sampling; ISA 500 relative to audit evidence; ISRS 4400 relative to the engagement to perform agreed-upon procedures regarding financial information and ISRS 4410 relative to compilation engagements.
identified, and any reforms that are planned or underway should be noted.

- Where relevant and practicable, requesting that government reporting entities obtain a certification of the accuracy of the government’s disclosures from their external auditor or equivalent.

The inception report should document the options considered and the rationale for the assurances to be provided.

1.3.6 **Confirms the procedures for integrating and analysing non-revenue information in the EITI Report.** The inception report should incorporate Table 1 below, confirming the division of labour between the Independent Administrator, the MSG & National Secretariat or other actors in compiling this data, and how the information should be sourced and attributed.

*Table 1 – Non-revenue information to be provided in the EITI Report*

<table>
<thead>
<tr>
<th>Non-revenue information to be provided in the EITI Report</th>
<th>Work to be undertaken by the Independent Administrator</th>
<th>Work to be undertaken by the MSG &amp; National Secretariat /others</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal framework and fiscal regime in accordance with EITI Requirement 2.1.</td>
<td>yes</td>
<td>MSG &amp; National Secretariat will assist the IA during the process of data and info collection</td>
</tr>
<tr>
<td>An overview of the extractive industries, including any significant exploration activities in accordance with EITI Requirement 3.1.</td>
<td>yes</td>
<td></td>
</tr>
<tr>
<td>Information about the contribution of the extractive industries to the economy in accordance with EITI Requirement 6.3.</td>
<td>yes</td>
<td></td>
</tr>
<tr>
<td>Production and export data in accordance with EITI Requirement 3.2 and 3.3</td>
<td>yes</td>
<td></td>
</tr>
<tr>
<td>Information regarding state participation in the extractive</td>
<td>yes</td>
<td></td>
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<tr>
<td>industries in accordance with EITI Requirement 2.6 and 6.2.⁵</td>
<td>In accordance with requirement 5.1.a, in the EITI Report should be ensured that the allocation of extractives revenues not recorded in the national budget are explained, with links provided to relevant financial reports as applicable. Also should 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 MEF systems.</td>
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<tr>
<td>Information about the distribution of revenues from the extractive industries in accordance with EITI Requirement 5.1; 5.1.a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any further information requested by the MSG &amp; National Secretariat on revenue management and expenditures in accordance with EITI Requirement 5.3.</td>
<td>yes</td>
<td></td>
</tr>
<tr>
<td>Information about awarding and transfer of licences</td>
<td>yes</td>
<td></td>
</tr>
<tr>
<td>Public registry of licences and concessions: oil, mining, hydro energy</td>
<td></td>
<td></td>
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<tr>
<td>Publicly available registry of beneficial ownership</td>
<td></td>
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<tr>
<td>Publicly available registry of contracts</td>
<td></td>
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<tr>
<td>Administrative fees for government services</td>
<td></td>
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<tr>
<td>Information about license holders in accordance with EITI Requirement 2.3 ⁶; 2.3.b, 2.3.c and the allocation of licenses in accordance with EITI Requirement 2.2; 2.2.a</td>
<td>In accordance with requirement 2.3.b, the dates of application, award and expiry, commodity(ies) covered and coordinates for all oil, gas and mining licenses held by material companies should be publicly available. This information should be available for licenses held by all companies,</td>
<td></td>
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<table>
<thead>
<tr>
<th><strong>Any information requested by the MSG &amp; National Secretariat on contracts in accordance with EITI Requirement 2.2.a</strong></th>
<th><strong>Any information requested by the MSG &amp; National Secretariat on Beneficial Ownership (BO) in accordance with EITI Requirement 2.5</strong></th>
</tr>
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</table>
| In accordance with requirement 2.2.a, the EITI Report should ensure annual disclosure of which mining, oil and gas licenses were awarded and transferred in the year(s) under review, highlighting the technical and financial requirements and any non-trivial deviations from the applicable legal and regulatory framework governing license awards and transfers. | For the purpose of this report, the Independent Administrator should:  
1. Propose the details to be disclosed about the identity of the Beneficial owners.<sup>9</sup> This should include whether the beneficial owners are politically exposed persons (PEPs), drawing on existing definitions of PEPs and asset declarations if available.  
2. Propose an approach for assuring the BO data assurance for adoption. |

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<sup>9</sup> https://drive.google.com/file/d/0B7UlJQs1EKz4dEpjQ0VVdznFct/f/view?usp=sharing
<table>
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<tr>
<th>by the MSG &amp; National Secretariat</th>
<th>discussion on disclosure of Beneficial Ownership.</th>
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</thead>
<tbody>
<tr>
<td>Reflected the MSG’s and National Secretariat decisions on the details to be disclosed about the identity of the beneficial owners, and the data assurance process in the EITI’s model BO template.</td>
<td></td>
</tr>
<tr>
<td>Develop guidelines to reporting companies on how to identify their beneficial owners and complete the reporting template.</td>
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</tr>
<tr>
<td>Distribute the BO template to the companies included in the scope of the EITI Report, collect data and follow up on any missing or incomplete submissions.</td>
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<tr>
<td>Compile the data in an open data format (xlsx or cvs).</td>
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</tr>
<tr>
<td>Present the findings in the EITI Report, noting for each of the companies in the scope of the report: the name of the BOs of each company, details about their identity, and information about how ownership is exerted. Where legal owners have been disclosed, this should be clearly distinguished from beneficial ownership.</td>
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</tr>
<tr>
<td>Provide comments on the comprehensiveness and reliability of the BO information, and present recommendations for improving beneficial ownership reporting in the future.</td>
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**Explanation of the prevailing rules and practices related to SOEs -party funding,** in accordance with requirement

**EITI Report should provide definition of SOEs taking into account national laws and government structures, an explanation of the prevailing rules and practices related to SOEs -party**

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10 [https://drive.google.com/open?id=0B7UljQS1EKz4ZVhjX0pKeWF3NVk](https://drive.google.com/open?id=0B7UljQS1EKz4ZVhjX0pKeWF3NVk)


12 An open data standard for beneficial ownership reporting is being developed. Please be in touch with the EITI International Secretariat for further information.
| **2.6.a and 2.6.b** | **funding, also 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.** |
| **Commodity Trading from SOEs** | **For this purpose the IA should:** |
| | • Explain the mandate of Alpetrol in selling oil on behalf of the state, any relevant laws, policies and reforms, as well as the role of other actors; |
| | • Key transactions pertaining to Commodity Trading in Albania, including the types of oil (equity oil, profit oil, royalties etc.) that Alpetrol collects in-kind; |
| | • Collate, analyse and present the data pertaining to the different parts and transactions associated with the commodity trading transparency value chain; |
| | • Present recommendations for any policy, regulatory or administrative reforms to improve governance and transparency of commodity trading transparency in Albania. |
| | • Present recommendations for future disclosure of Commodity Trading data by relevant entities in Albania, including opportunities for making such disclosures part of Government and company **www.albeiti.org** |
**EITI Report should provide volumes collected, volumes sold and sales proceeds for both the share of oil production under PSAs as well as Albpetrol’s equity oil disaggregated between the two and the information on crude oil sales should be reconciled with buyers.**

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<tr>
<th>Information on Environment and social impact in the sector</th>
<th>The EITI Report should include:</th>
</tr>
</thead>
<tbody>
<tr>
<td>EITI Requirements related to social and economic spending 6.1, 6.1.a, 6.2, 6.3</td>
<td>- Disclosure of environmental rehabilitation projects and costs, investment in environment by EI sector.</td>
</tr>
<tr>
<td></td>
<td>- Disclosures of information related to social expenditures and the impact of the extractive sector on the economy, helping stakeholders to assess whether the extractive sector is leading to the desirable social and economic impacts and outcomes.</td>
</tr>
<tr>
<td></td>
<td>- In accordance with requirement 6.1.a, the material mandatory social expenditures should be disclosed in EITI Reports. Where beneficiaries of mandatory social expenditures are a third party, i.e. not a government agency, the name and function of the beneficiary should be disclosed. Consider the extent to which disclosure of actual mining, oil and gas</td>
</tr>
</tbody>
</table>
contracts (or review of key terms) would be necessary to provide a comprehensive assessment of the existence of mandatory social expenditures. The feasibility of reconciling mandatory social expenditures.

- In accordance with requirement 6.2, should be considered the existence and materiality of any quasi-fiscal expenditures undertaken by extractive SOEs and their subsidiaries, ensuring that all material quasi-fiscal expenditures are disclosed in EITI Report.

**Information regarding the Security conditions in extractive sectors**

For the purpose of this report, the Independent Administrator should provide information regarding the workplace security conditions and life insurance for the employees in mining and hydrocarbons sectors

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**1.3.7** Confirms the reporting templates, as well as any procedures or provisions relating to safeguarding confidential information. The Independent Administrator should also develop guidance to the reporting entities on how to complete the reporting templates and provide training to reporting entities.

**1.3.8** Prepare a Workshop for the presentation of the Inception Report and collect suggestions and remarks from the National EITI Secretariat and MSG on the Inception Report.

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**Phase 2 – Data collection**

**Objective:** The purpose of the second phase of work is to collect the data for the EITI Report in accordance with the scope confirmed in the Inception Report. The MSG and National Secretariat will provide assistance on the regard of contact details for the reporting entities and assist the Independent Administrator in ensuring that all reporting entities participate fully.
The Independent Administrator is expected to undertake the following tasks during the data collection phase:

2.1 Distribute the reporting templates and collect the completed forms and associated supporting documentation directly from the participating reporting entities, as well as any contextual or other information that the MSG and National Secretariat has tasked the Independent Administrator to collect in accordance with 1.3.4 above.

2.2 Contact the reporting entities directly to clarify any information gaps or discrepancies.

2.3 Prepare a mainstreaming matrix referring to the link https://eiti.org/document/systematic-disclosure-toolkit, to flag where the information is already online or exists in the government systems and where information can be uploaded.

**Phase 3 – Initial Reconciliation**

**Objective:** The purpose of this phase is to complete an Initial compilation and reconciliation of the contextual information and revenue data with a view to identify any gaps or discrepancies to be further investigated.

3.1 The Independent Administrator should compile a database with the payment and revenue data provided by the reporting entities, disaggregated by project in accordance with the MSG’s definition.

3.2 The Independent Administrator should comprehensively reconcile the information disclosed by the reporting entities, identifying any discrepancies (including offsetting discrepancies) in accordance with the agreed scope and any other gaps in the information provided (e.g. assurances).

3.3 The Independent Administrator should identify any discrepancies above the agreed margin of error established in agreement with the MSG.

**Phase 4 – Investigation of discrepancies and preparation of draft EITI Report**

**Objective:** The purpose of this phase is to investigate any discrepancies identified in the initial reconciliation, and to produce a draft EITI Report that compiles the contextual information, reconciles financial data and explains any discrepancies above the margin of error determined by the MSG and National Secretariat, where applicable.

4.1 The Independent Administrator should contact the reporting entities to clarify the causes of any significant discrepancies or other gaps in the reported data, and to collect additional data from the reporting entities concerned.

4.2 The Independent Administrator should submit a draft EITI Report to the MSG and National Secretariat for comment that comprehensively reconciles the information disclosed by the reporting entities, identifying any discrepancies, and reports on contextual and other information requested by the MSG and National Secretariat. The financial data should be disaggregated by project in accordance with the MSG’s definition. The draft EITI Report should:
Standard Terms of Reference for Independent Administrators

a) describe the methodology adopted for the reconciliation of company payments and government revenues, and demonstrate the application of international professional standards.

b) include a description of all revenue streams, related materiality definitions and thresholds (Requirement 4.1).

c) include an assessment from the Independent Administrator on the 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.

d) indicate the coverage of the reconciliation exercise, based on the government's disclosure of total revenues as per Requirement 4.1(d).

e) include an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report.

f) document whether the participating companies and government entities had their financial statements audited in the financial year(s) covered by the EITI Report. Any gaps or weaknesses must be disclosed. Where audited financial statements are publicly available, it is recommended that the EITI Report advises readers on how to access this information.

g) include non-revenue information as per Requirement 2, 3, 5 and 6 and other information requested by the MSG. The contextual information should be clearly sourced in accordance with the procedures agreed by the Independent Administrator and the MSG.

4.3 Where previous EITI Reports have recommended corrective actions and reforms, the Independent Administrator should comment on the progress in implementing those measures. The Independent Administrator should make recommendations for strengthening the reporting process in the future, including any recommendations regarding audit practices and reforms needed to bring them in line with international standards, and where appropriate, recommendations for other extractive sector reforms related to strengthening the impact of implementation of the EITI on natural resource governance. The Independent Administrator is encouraged to collaborate with the MSG and National Secretariat in formulating such recommendations.

4.4 The Independent Administrator is encouraged to make recommendations on strengthening the template Terms of Reference for Independent Administrator services in accordance with the EITI Standard for the attention of the EITI Board.

4.5 The Independent Administrator shall perform consultancy services to assist government agencies with the implementation of the previous EITI reports recommendations.

4.6 The Independent Administrator shall organize a workshop for the presentation of the Draft EITI Report to the National EITI Secretariat and to the MSG, and collect their suggestions/remarks for inclusion in the final EITI Report.

Phase 5 – Prepare the final EITI Report

Objective: The purpose of this phase is to ensure that any comments by the MSG and National Secretariat on the draft report have been considered and incorporated in the final EITI Report.
5.1 The Independent Administrator will submit the EITI Report upon approval to the MSG and National Secretariat. The MSG and National Secretariat will endorse the report prior to its publication and will oversee its publication. Where stakeholders other than the Independent Administrator decide to include additional comments in, or opinions on, the EITI Report, the authorship should be clearly indicated.

5.2 The final EITI Report must be in bilingual versions: English and Albanian.

5.3 The Independent Administrator should produce electronic data files\textsuperscript{13} that can be published together with the final Report.

5.4 Following approval by the MSG and National Secretariat, the Independent Administrator is mandated to submit summary data from the EITI Report electronically to the International Secretariat according to the standardised reporting format available from the International Secretariat\textsuperscript{14}.

5.5 The Independent Administrator shall take appropriate measures to ensure that the Report is comprehensible. This includes ensuring that the report has high levels of readability, legibility and usability. The MSG and National Secretariat may wish to request that the report be edited by a professional copy-editor and/or be designed by a professional graphical designer.

5.6 The MSG and National Secretariat may request that the Independent Administrator submit to the National Secretariat all data gathered during reconciliation available, including the contact information of all institutions contacted during the reporting process.

4 Qualification requirements for Independent Administrators

The reconciliation of company payments and government revenues must be undertaken by an Independent Administrator applying international professional standards (requirement 4.9). It is a requirement that the Independent Administrator is perceived by the National Secretariat to be credible, trustworthy and technically competent (ibid). Bidders must follow (and show how they will apply) the appropriate professional standards for the reconciliation / agreed-upon-procedures work in preparing their report.

The Independent Administrator will need to demonstrate:

- Expertise and experience in the oil, gas, electricity and mining sectors in Albania;
- Expertise in accounting, auditing and financial analysis;
- A track record in similar work. Previous experience in EITI reporting is not required but would be

\[
\text{\textsuperscript{13}} \text{The files can be in CSV or Excel format and should contain the tables and figures from the print report. In accordance with requirement 7.1.c, the multi-stakeholder group is required to make the EITI Report available in an open data format (xlsx or csv) online.}
\]

\[
\text{\textsuperscript{14}} \text{The latest version of the summary data template can be found at: } \text{https://eiti.org/document/eiti-summary-data-template}
\]

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Adresa: Bulevardi Zhan D’Ark, Ish godina ME, Kati IV., Tirana, Albania Tel : +355 4 2264645, sekretariati@albeiti.gov.al
www.albeiti.org
advantageous;

- Experience in legal & regulatory framework, as well as fiscal framework applicable to oil & gas, mining and hydro energy sectors;

- Country knowledge and knowledge of the institutional environment in Albania is desirable;

- CV of the principal / staff for the process of reconciliation and / or validation of the EITI;

- Technical experts on extractives, oil and mining sectors, as well as on hydro-energy sector should be part of the Consultant working team;

- IA should guarantee full availability of the staff responsible throughout the process until the report is completed.

In order to ensure the quality and independence of the exercise, Independent Administrators are required, in their proposal, to disclose any actual or potential conflicts of interest, together with commentary on how any such conflict can be avoided.

5 Reporting requirements and time schedule for deliverables

The assignment is expected to commence on July 01, 2019, culminating in the finalisation of the EITI Report by 31 March 2020. The proposed schedule is set out below (There might be changes depending on the time WB funding will be available):

<table>
<thead>
<tr>
<th>Signing of contract</th>
<th>01 July 2019 *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1: Preliminary analysis</td>
<td>01 July 2019 – 29 July 2019 (4 weeks)</td>
</tr>
<tr>
<td>=&gt; Inception report</td>
<td>29 July 2019</td>
</tr>
<tr>
<td>Phase 2: Data collection</td>
<td>29 July 2019 – 07 October 2019 (10 weeks)</td>
</tr>
<tr>
<td>Phase 3: Initial reconciliation</td>
<td>07 October 2019 – 04 November 2019 (4 weeks)</td>
</tr>
<tr>
<td>Phase 4: Investigation of discrepancies</td>
<td>04 November 2019 – 02 December 2019 (4 weeks)</td>
</tr>
<tr>
<td>=&gt; Draft report</td>
<td>02 December 2019</td>
</tr>
<tr>
<td>Phase 5: Final report</td>
<td>02 December 2019 – 10 February 2020 (10 weeks)</td>
</tr>
<tr>
<td>=&gt; Final report</td>
<td>10 February 2020</td>
</tr>
</tbody>
</table>
* The Signing of the contract date will be set according to the deadlines of WB procurement procedures, at the end of the selection process. This contract will be effective and financial relations will start only after the WB funding will be officially available.

The schedule of payments

The schedule of payments will finally be agreed during contract negotiations and shall have the following structure:

- [x%] following contract signing
- [x%] following delivery of the Inception report
- [x%] following delivery of the draft EITI report
- [x%] following MSG and National Secretariat approval and publication of the EITI Report]

6 Client’s input and counterpart personnel

1. **Documentation and logistics:**

The Consultant shall have access to relevant documentation at the:

1. Ministry of Infrastructure and Energy and Industry (MIE),
2. Ministry of Finance and Economy (MFE),
3. Energy Regulatory Entity (ERE),
4. General Tax Directorate,
5. General Customs Directorate,
6. National Agency of Natural Resources (AKBN),
7. Albanian Geological Survey (SHGJSH)

Additionally the Consultant shall be assisted by Albanian EITI Secretariat to contact these and other relevant authorities.

Unless otherwise agreed, all written reports are to be submitted Albanian and English, in 4 printed copies, and also transmitted in electronic form in PDF format identical to the printed original version, and in the base formats (MS Word, Excel, etc. as the case may be).

2. **Other comments:**

The MSG and National Secretariat may include additional commentary on the assignment not addressed above.
3. **Selection Method:**

The consultant will be selected in accordance with Consultant Qualification method with the procedures set out in World Bank’s “Procurement Regulations for IPF Borrowers” July 2016, revised November 2017 (“Procurement Regulations”).
Albania, February 2019

Annex 1 – Statement of materiality

The purpose of this statement of materiality is for the Independent Administrator to understand the scoping work and associated decisions that have already been carried out by the multi-stakeholder group or by other consultants. The Independent Administrator confirms the joint understanding of the scope of the services in the inception report. Annex 2 lists relevant attachments, including any scoping studies undertaken in the past.

1. Taxes and revenues to be covered in the EITI Report (Requirement 4.1)\textsuperscript{15}

With regards to the revenue streams set out in Requirements 4.1-4.2, the multi-stakeholder group has agreed that the following revenue streams from the extractive sector are material and should be reconciled in the EITI Report:

\textit{Table 1 – Material revenues to be reconciled}

<table>
<thead>
<tr>
<th>Revenue stream</th>
<th>Estimated value and share of total extractive industry revenue</th>
<th>Government recipient Levied by project or corporate entity</th>
<th>Additional commentary on work to be undertaken by the Independent Administrator as necessary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;list of revenue streams, taking into account common revenue streams set out in Requirement&gt;</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{15} Guidance Note 13: on defining materiality, reporting thresholds and reporting entities, \url{https://eiti.org/files/Guidance%20note%20on%20defining%20materiality_0.pdf}
### Signature Bonuses

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

- **<value>** (value)
- **<percentage>** (percentage)
- Albpetrol (for the signature of production licenses)
- AKBN (for the signature of exploration permits)
- ERE and KESH for the hydro energy

### Royalties

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

- General Directorate of Customs for Royalties General Tax
- Directorate for export Royalties for domestic sales

### Share of Production allocated to the National Oil Company

This Share is defined contractually, based on deemed production (pre-

- Albpetrol the National Oil Company
existing production) and incremental production (production issued from contractor’s investment). The Share of Production allocated to Alb-petrol may be paid in cash or in kind.

<table>
<thead>
<tr>
<th>Tax on Dividends</th>
<th>Albpetrol the National Oil Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dividends correspond to the profitability of the National Oil Company etc. that is redistributed to the State as the sole shareholder. The level of Dividend is determined by the board of the company. (Requirement 4.5)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Profit Tax</th>
<th>General Tax Directorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Profit Tax is calculated on the basis of taxable profit of the company.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tax Penalties</th>
<th>Reporting companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>for all obligations under</td>
<td></td>
</tr>
</tbody>
</table>
evaluation for non-realization of legal obligations, deadlines, miscalculation etc. by reporting companies

<table>
<thead>
<tr>
<th>Dividend paid to MIE</th>
<th>MIE</th>
</tr>
</thead>
<tbody>
<tr>
<td>VAT</td>
<td>Reporting companies</td>
</tr>
<tr>
<td>Value Added Tax</td>
<td>General Tax Directorate</td>
</tr>
</tbody>
</table>

**Other significant payments to the State**

For the purposes and identification of potential significant missing benefit stream, companies are offered to declare, under the legislation in force (companies in the oil & gas, mining) and Memorandum of Understanding - MoU for hydropower companies, any payment made to the State or to its entities that they would consider as

<table>
<thead>
<tr>
<th>Reporting companies</th>
<th></th>
</tr>
</thead>
</table>
significant.

Dividends will be reported in all cases with tax declarations as an important source of income.

The materiality and inclusion of the state’s share of production collected in-kind (Requirement 4.2\textsuperscript{16}, where applicable

Albpetrol the National Oil Company

The multi-stakeholder group has agreed that the revenue streams from the extractive sector listed in Table 2 should be unilaterally disclosed by the government in the EITI Report rather than reconciled with company figures. The reasons for unilateral disclosure rather than reconciliation should be documented by the MSG.

Table 2 – Material revenues to be unilaterally disclosed by the government

<table>
<thead>
<tr>
<th>Revenue stream</th>
<th>Estimated value and share of total extractive industry revenue</th>
<th>Government recipient</th>
<th>Levied by project or corporate entity</th>
<th>Additional commentary on data sources and work to be undertaken by the Independent Administrator as necessary.</th>
</tr>
</thead>
</table>

\textsuperscript{16} Guidance Note 18: SOE participation in EITI Reporting, \url{https://eiti.org/files/GN/Guidance_note_18_SOEs_EN.pdf}
Sales of goods and services by government units

Voluntary transfers to government (donations)

The multi-stakeholder group has agreed that the following revenue streams from the extractive sector are immaterial and should not be reconciled or unilaterally disclosed by the government in the EITI report:

Table 3 – Immaterial revenue streams from the extractive sector to be excluded from the EITI Report

<table>
<thead>
<tr>
<th>Revenue stream</th>
<th>Estimated value and share (%) of total extractive industry revenue</th>
<th>Government recipient</th>
<th>Additional commentary on data sources and rationale for concluding that the revenue stream is immaterial</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td>&lt;value&gt; (&lt;percentage&gt;)</td>
<td>...</td>
<td>...</td>
</tr>
</tbody>
</table>

2.  **Approach to project level reporting**

The MSG should set out its agreed definition of the term “project” and the revenue streams to be reported by project\(^{17}\):

\(^{17}\) In doing so, the MSG is advised to consult Guidance note 29 on project-level reporting: [https://eiti.org/document/guidance-note-29-on-projectlevel-reporting](https://eiti.org/document/guidance-note-29-on-projectlevel-reporting)
In Albania, a project is defined as the operational activities that are governed by a single contract, agreement, concession, license, permit and form the basis for payment liabilities with a government.

Where payments are attributed to a specific project – Signature bonuses, Royalties, Share of Production allocated to the National Oil Company, Share of Production collected in-kind to the National Oil Company, other significant payments to the state - then the total amounts per type of payments shall be disaggregated by project. Where payments are levied at an entity level rather than at a project level – Tax on Dividends, Profit Tax, Tax Penalties, Dividend paid to MIE, VAT, other significant payments to the state, – the payments will be disclosed at an entity level rather than at a project level.

3. **Additional benefit streams:**

With regards to the benefit streams set out in Requirements 4, the MSG has agreed the following:

<table>
<thead>
<tr>
<th>Benefit stream</th>
<th>Applicable/material?</th>
<th>Estimated value and share (%) of total extractive industry revenue</th>
<th>Government recipient</th>
<th>Additional commentary on data sources and work to be undertaken by the Independent Administrator as necessary</th>
</tr>
</thead>
<tbody>
<tr>
<td>The materiality and inclusion of infrastructure and barter arrangements (Requirement 4.3)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>The materiality and inclusion of mandatory social payments (Requirement 6.1(a))&lt;sup&gt;19&lt;/sup&gt;</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The materiality and inclusion of voluntary social payments (Requirement 6.1(b))&lt;sup&gt;20&lt;/sup&gt;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The materiality and inclusion of transportation revenues (Requirement 4.4)&lt;sup&gt;21&lt;/sup&gt;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxes on payroll and workforce</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Voluntary transfers to government (donations)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social security contributions employer</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


4. **Reporting companies (Requirement 4.1)**

The MSG and National Secretariat has agreed that any company making payments equal to or above 150,000 USD against the material revenue streams identified in table 1 are required to be included in the EITI Report:

<table>
<thead>
<tr>
<th>Companies</th>
<th>Sector</th>
<th>Additional commentary on work to be undertaken by the Independent Administrator as necessary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>All active Companies (production and exploration).</td>
<td>Oil &amp; Gas</td>
<td>The Benefit streams to be taken into account are set out in annex 1, item 1</td>
</tr>
<tr>
<td>All companies with annual revenue &gt; USD 150,000, for the:</td>
<td>Mining</td>
<td>With regard to the mining sector, the reconciliation process has to take into account the complex reality as it relates to Albania. More than 647 mining licenses are recorded to produce in the country. However, around 509 of these have an average output of far less than 9% of the total output. There are 138 companies that will be subject of reporting, that have an average output of 91% of the total output.</td>
</tr>
</tbody>
</table>
Silicate Sub-Sector,
- Bitumen or bitumen sands sub-sector,
- Limestone, limestone slabs, decorative limestone sub-sector,
- Clay sub-sector,
- Gypsum alabaster sub-sector,
have to report.

15 biggest companies operating in the sector
Hydro-energy
Composing about 91% of energy production
The Benefit streams to be taken into account are set out in annex 1, item 1.

5. **Government - government transactions (Requirement 4)**

*Table 6 – Government to government transactions included in the scope of the EITI Report*

<table>
<thead>
<tr>
<th>Transactions</th>
<th>Applicable/ material?</th>
<th>Financial flow</th>
<th>State-owned company</th>
<th>Government agency</th>
<th>Additional commentary on work to be undertaken by the Independent Administrator as necessary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The disclosure and reconciliation of payments</td>
<td>To be agreed after the</td>
<td></td>
<td>Albpetrol</td>
<td></td>
<td>The IA will assess whether there are material flows from state-owned enterprises and</td>
</tr>
</tbody>
</table>

EITI Albania
Adresa: Bulevardi Zhan D’Ark, Ish godina ME, Kati IV., Tirana, Albania Tel: +355 4 2264645, sekretariati@albei.org.al
www.albei.org
<table>
<thead>
<tr>
<th>Transactions</th>
<th>Applicable/ material?</th>
<th>Financial flow and revenue sharing formula</th>
<th>Government agency executing the transfer</th>
<th>Government agency receiving the transfer</th>
<th>Additional commentary on work to be undertaken by the Independent Administrator as necessary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>to and from state-owned enterprises (Requirement 4.6)</td>
<td>inception report</td>
<td>KESH</td>
<td></td>
<td></td>
<td>government agencies</td>
</tr>
<tr>
<td>The materiality and inclusion of mandatory sub-national transfers in accordance with Requirement 5.2</td>
<td>To be agreed after the inception report</td>
<td>Central Government</td>
<td>Local government</td>
<td>Law on national budget 2015 and Law on national taxes N.9920, date 19.5.2008 (changed)</td>
<td></td>
</tr>
</tbody>
</table>

---


Albania, February 2019

Annex 2 – Supporting documentation

Documentation on governance arrangements and tax policies in the extractive industries, including relevant legislation & regulations

- **EITI disclosure mandatory in Mining Law 10 304, date 15.7.2010.** "For Mining sector in the Republic of Albania” (October 2014).

- **EITI disclosure mandatory in Hydro-carbons law nr. 7746, date 28.7.1993** (Exploitation and Exploration), (March 2015).

- **Law No. 111/2015 “On Albanian Geological Service”**


- **Order no.121, dated 08.05.2015 of the MI “For some amendments and addendums to the Regulation for approval procedures of hydrocarbon agreements and agreements license and respective deadlines”**

Websites by

- **MIE** – [www.infrastruktura.gov.al](http://www.infrastruktura.gov.al)
- **MFE** – [www.financa.gov.al](http://www.financa.gov.al)
- **GDT** – [www.tatime.gov.al](http://www.tatime.gov.al)
- **ACD** – [www.dogana.gov.al](http://www.dogana.gov.al)
- **AKBN** – [www.akbn.gov.al](http://www.akbn.gov.al)
- **SHGJSH** – [www.gsa.gov.al](http://www.gsa.gov.al)
- **ERE** – [www.ere.gov.al](http://www.ere.gov.al)
- **INSTAT** – [www.instat.gov.al](http://www.instat.gov.al)
- **KESH** – [www.kesh.al](http://www.kesh.al)
- **Albpetrol** – [www.albpetrol.al](http://www.albpetrol.al)
- **OSHEE** – [www.oshee.al](http://www.oshee.al)
• **OST** – [www.ost.al](http://www.ost.al)

• **Major companies in the operating private sector of oil, mining and hydro energy**

**Previous EITI Reports**

- 2009 EITI report [www.albeiti.org](http://www.albeiti.org)
- 2010 EITI report [www.albeiti.org](http://www.albeiti.org)
- 2011 EITI report [www.albeiti.org](http://www.albeiti.org)
- 2012 EITI report [www.albeiti.org](http://www.albeiti.org)
- 2015 EITI report [www.albeiti.org](http://www.albeiti.org)
- 2016 EITI report [www.albeiti.org](http://www.albeiti.org)

**Validation Reports**

- 2011 year [www.albeiti.org](http://www.albeiti.org)
- 2017 year [www.albeiti.org](http://www.albeiti.org)
- 2019 year [www.albeiti.org](http://www.albeiti.org)

**Other relevant documentation (e.g. annual activity reports)**

- EITI code of Ethics
- EITI standard 2016
- Commodity Trading Report
- EITI Albania Work-plan 2018-2019
- Annual Activity Report 2017
- Annual Activity Report 2016
- Annual Activity Report 2015