Final Report

Background research, analysis of Albanian national legislative and regulatory framework in implementing EITI standards

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Name Beneficiary:	Eurosupport-Fineurop Support S.r.l.
Contact person:	Mr. Marco Sebastiani
Postal address:	Via Santa Margherita 6, 20121 Milano
Telephone:	+39 02 7749311
E-mail:	m.sebastiani@fineurop.it
Skype:	marcosebastiani

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Executive summary

Extractive resources are the assets of one country and constitute vital resources for the government to finance often pressing national expenditures and improvements, including social and community spending. Therefore, their mismanagement can lead to severe consequences and increased public discontent and criticism. In order to avoid this, good governance within the extractive industry sector must be carefully assessed and continuously promoted to ensure that this is done effectively. This is very much the corner stone of the EITI Standards to which all EITI-member countries aim to adhere to.

This report is a compliance review of the Albanian related legislation against the EITI Standards. Reference is made to EITI Standards 2016 which replaced the EITI Rules of 2011, since Albania is to be assessed *vis-à-vis* the new standards. This report underlines the gaps and identifies the changes and/or additions that needs to be reflected in the respective pieces of related legislation with a view to ensure not only the compliance with EITI Standards but above all the transparency and accountability in the way income generated from extractive industry in Albania is collected and used. To this end, it is not only the laws covering extractive industry sectors to fall within the scope of our Report, but also any relevant tax laws and secondary legislation which is ancillary to it. In this respect, this report intends to constitute a full and comprehensive review of the entire legal and institutional framework governing the proper use of Albania's natural resources assets.

The main intention of this review is the improvement of the national legal framework to bring it in line with the EITI Standards. EITI-member countries are required to produce periodical EITI Reports to assess their government's compliance with EITI Standards, as well as to identify areas which might still require improvements. EITI Reports are defined by the EITI as being "*at the heart of the initiative*". Therefore, it is essential that the EITI reporting process, which leads to the production of the EITI Report, is conducted in such a manner as to include timely, comprehensive, reliable and comprehensible information. It is also fundamental that there is a clear process in place for collecting the relevant data, including through effective disclosure mechanisms been put in place where required.

In this respect, the involvement of all stakeholders such as government institutions, business activities dealing in the extractive industry sector and civil society organizations is essential. As essential is, of course, the ongoing review of the status quo on EITI Standards implementation so as to develop a roadmap to further assist in its successful delivery and the overall objective of transparent and accountable management of a country's oil, gas and mineral resources.

With the above in mind, this assignment will consist of carrying out a comprehensive legal review of the existing laws, DCMs and Minister's sub-legal acts concerning the petroleum, mining and hydropower sector, including the review of any related provisions found in the tax and customs legislation. The overall objective is to ultimately set out the necessary steps to be taken to improve the EITI reporting process in Albania, by identifying any gaps or obstacles in such national legislation in respect of successful implementation of the EITI Standards. In addition, this Report will provide specific proposals and recommendations for any relevant legal and sub-legal acts to be amended or newly introduced, on the basis of the findings resulting from this legal gap assessment. The improved legal and regulatory framework will aim to provide for a standardized, timely, and comprehensive data collection and reporting process.

In undertaking this exercise, particular attention is paid to define the responsibilities of public and private stakeholders who, by default and by definition, are in charge of disclosing the data, make it available and ensure that the ultimate published data is reliable. It is important that the information is compiled using the same method/methodology in order to measure the progress from previous reporting.

Since 2009 when it became a candidate country of EITI, Albania has taken several steps to improve the transparency of extractive industry resource management. In 2013 Albania joined EITI as a member country, but still there is room for improvement. The legal review is undertaken by way of ensuring that the existing legislation is aligned as much as possible with the EITI Standards. International best practices and EU legislation/guidelines also form an integral part of the overall reviewing process, since they provide a valuable tool in assessing the level of compliance and in identifying possible challenges in implementing strategies.

The findings and recommendation of this final report are introduced in the form of tables of concordances, as Annexes attached and part of the report. In addition, the implementing team has proposed and drafted counteractive legal measures to ensure the most feasible compliance with EITI Standards and other international standards to enhance public financial management and accountability as well as to encourage high standards of transparency.

Selected key findings and recommendations:

Below is a selection of the key findings and the recommendations that arise from this legal review. The more detailed information on findings and recommendations are contained in the annexes of this report.

1. The Government of Albania has shown its commitment in implementing the international initiative of EITI aiming to improve the transparency in payments and revenues from extractive industry sectors and hydro energy sector, through the establishment of EITI Secretariat and of MSG. However the relevant legal basis should be revisited to comply with the EITI Standard of 2016. In

addition to that the government should engage with the public in outreach activities to collect the feedback from stakeholders located in regions affected by extractive activities;

2. The related EITI reporting aspects, including the content, the time-frame and the frequency are provided in sporadic way in different relevant pieces of legislation. To unify such procedures we have proposed a new draft law which also imposes sanctions for the official responsible for such reporting failing to do so, or providing incomplete or inaccurate reports;
3. Pursuant to Directive 2013/34/EU and EITI Requirement 4, Albanian Government and Parliament should promptly enact legislation which transposes the terms of the Directive into its national law and we further suggest modeling such new law on similar terms of those of the UK Regulations. This will not only satisfy the relevant criteria set out in EITI Requirements 4 but also assure that any new legislation is passed taking into account the latest international trends, particularly in light of Albania's request of accession to the EU.
4. The definitions of beneficial ownership for the companies exercising their activities in the extractive industry sector is lacking in the current legislation in force. In this respect, the team of expert has proposed the drafting of new provisions encapsulating the required meaning. It is important that thresholds are also agreed upon – in order to follow the latest EU guidelines. In this respect the working group recommend including also a provision for setting a minimum percentages to be qualified as beneficial owner on the basis of participation and/or control over the company operating in the sectors of extractive industry and hydro-energy or companies which do not have any economic activity as such but rather act as intermediary only, channeling income from other sources. We further recommend the establishment of a public register containing the required information regarding the beneficial owners, which document should reflect every change in this respect.
5. It is also recommended that the MSG consider and reviews with stakeholders what may be the most efficient ways to collect data on BO/PEPs and in this context it should also consider the BO declaration form (see Annex 6) which should be used by the relevant companies to provide such information on BO. MSG should also consider whether it should organize relevant workshops to ensure that companies understand what BO is and why it is important that such information is provided in an accurate and timely manner.
6. The related provisions of the respective legislation in most of the cases do not comply with EITI requirements. For instance, in the hydrocarbon sector is not fully compliant to EITI requirement, as the normative act addressing this requirement, stipulate the obligation to endorse a sub-normative act regulating this process, which is not yet drafted and approved. In the same context, the only administrative act that regulates the cooperation and exchanges of information between respective public institutions, with relevance to import, export, production, and transport of hydrocarbons, serves the main purpose to identify any possible violation by the operators, but does not provide any obligation of these institutions to make transparence on these data as required by EITI. In this respect, the team of expert has proposed the drafting and approval of a sub-normative act regulating the process of reporting from General Tax Office and General Custom Office of the data serving transparency in this sector;

Methodology

In order to better serve to the objectives of the assignment, a well oriented methodology is essential. The development of an inventory of the national existing laws, DCMs and Minister's sub-legal acts in petroleum, mining and hydropower sectors was the starting point. The collected information is reviewed, analyzed and assessed in order to identify the gaps and the level of compliance between the Albanian legal and regulatory framework and relevant EITI Standard. Although the EITI Standards are the basic benchmarks for the purposes of this report, the legislative review requires taking into account other pertinent international norms.

The main source in performing the gap analysis is the legal framework in force, including the laws, decisions of Council of Ministers and orders/guidelines/regulations approved in ministry level. This report takes also into account several research studies and report published in Albania and other EITI member countries.

The implementing project team has made reference to the terminology provided in the EITI standards 2016 by identifying the mandatory actions to be taken as well as those that are optional. In compliance with this terminology, the term "EITI report" refers to the information and data that should be disclosed in accordance with EITI standards.

In addition, tables of concordances are developed to introduce in a structured way all the findings derived from the gap analysis of the legal and regulatory framework. The table of compliance covers the national legislation on extractive sector and the relevant EITI standard and indicates whether the Albanian legislation is in full/partial/non compliance with the EITI standards necessary for the EITI reporting.

This final report and its annexes also provide comments and recommendations aimed at improving the current legislation in terms of alignment with mandatory EITI standards and/or other EU and international norms.

In its final phase, a workshop will be organized in order to share and validate the findings of the review and the recommendations, as well as to introduce the proposed draft legal/sub-legal acts to the main stakeholders.

Project background

Starting from May 2013, Albania is recognized as an EITI-compliant country, meaning that Albania has established an effective process for annual declaration and the reconciliation of all revenues paid to the Government by the extractive industry and hydro-energy sector.

The EITI principles are founded upon the belief that natural resource wealth is a vital resource for the economic growth of one country and that the citizens and the national interests should benefit from them.

The transparency is in the name and heart of the EITI initiative, which is a feature that feeds the accountability in the management of the public finances but also in doing business and public life at large. EITI requirements are intended to apply equally to all subjects belonging in one group of EITI stakeholders.

This EITI initiative involves a wide range of stakeholders including government institutions and agencies, companies operating in the sector of extractive industry, financial organizations and non-governmental entities. It gives alike opportunities to them to provide opinions and recommend solutions for a feasible and effective approach towards the disclosure of payments and revenues.

All the implementing countries, like Albania, are encouraged in exceeding the EITI requirements whilst such requirements represent only the minimum requirements for one implementing country. For this purpose the EITI Standards indicate when an issue is mandatory by using the terms “must”, “should” and “required”. In this respect, this review makes reference only to the minimum requirements which will be taken into account in the assessment of Albania toward new EITI Standard of 2016.

EITI reporting does not constitute an unbending form to be filled out by implementing countries. Instead, the countries are encouraged to build on their most convenient systems and practices for EITI data collecting, data disclosure and their reporting.

Compliance with EITI Standards involves various state agencies, which duties and responsibilities on the publication of the incomes received by companies dealing in extractive industry are set in separate laws and sub-legal acts. For this reason, an overview of the specific legal and regulatory framework and an analysis of the roles and responsibilities of the relevant government agencies have been carried out.

In addition to extractive-specific legal and regulatory framework, there are additional laws that can provide context for the sector. For example, the companies’ obligation to comply with tax and custom rules is regulated in other acts. The interaction among state agencies in particular and also with companies operating in the field of oil, gas and mining should be coordinated to provide for accurate and timely publication of the payments made to government.

Albanian legislation has been amended in this respect, including in particular the amendments to the Hydrocarbon Law and the law on the mining sector. However, additional improvements are necessary still. As a temporary measure, Albanian EITI signed a number of MoUs with oil and gas companies as well as the fiscal administration on implementation of the EITI standards until such time as the legal framework will adequately cater for the implementation of such standards.

Overall objective

The goal of the EITI Report is to contribute to public debate, facilitate governance reforms and meet the requirements of the EITI Standards. This assignment will provide a suitable and comprehensive report which shall include an analysis of the current state of affairs, as well as seeking to identify the key areas for improvement with a view to better promote an effective and successful collaboration between government institutions and business operators regarding qualitative and quantitative data collection and the reporting process as a whole. A consistent process of data collection and reporting is necessary for improving the understanding, analysis and accountability of the extractive sector.

The primary objective of the assignment is to make a critical review of the existing legal and institutional framework and analyzing the legal and regulatory rules and procedures related to EITI implementation in Albania and EITI Standards. To this end, particular attention should be paid to Laws, Decisions of Council of Minister, Regulations and Instructions.

Pursuant to the identified gaps and inconsistencies, the implementing project team will recommend concrete proposals for the review/change of particular acts and/or sub-legal acts. The proposal will consist of several draft acts to be consulted further with the interested groups. A workshop with key stakeholders will be held at the conclusive phase of this assignment.

This assignment will be carried out by a group of experts composed of local lawyers who are familiar with the Albanian legal framework and an international lawyer who will assist in this task by bringing in where relevant the best international practices and European standards and/or latest legislation.

Purpose of the assignment

The purpose of this assignment is the identification and assessment of the provisions of the EITI Standards that are applicable to the national legal and regulatory framework, followed by the corresponding recommendations in respect of the necessary amendments to such legislation to ensure compliance with the EITI Standard.

The implementing project team has reviewed, *inter alia*, any existing disclosure mechanism related to legal and institutional framework, allocation of contracts and licenses, exploration and production, revenue collection and allocation and social and economic spending. It shall further review all relevant national legislation against the EITI Standards, Guidance Notes as well as any EU legislation and international standards or good practices.

In the conclusion of the review, the project team has formulated its recommendations on any suggested actions/steps to be taken in order to remove the identified existing obstacles to efficient and reliable data collection and successful implementation of the ETIT Standards.

Beneficial ownership - the International Framework –Enhancing Transparency and Accountability

The EU Accounting and Transparency Directive

Pursuant to the EITI Standards, compliant countries must ensure that extractive industry companies disclose the revenues they pay to each Government so that this can be reconciled to ensure that all income generated through such activities is properly accounted for in the most transparent manner. To this end, the MSG has to agree on which payments are material and also consider any relevant threshold (see EITI Requirement 4).

In addition, transparency requirements were significantly enhanced at EU level by a new Accounting Directive, namelyDirective 2013/34/EU. The Directive requires companies listed on EU based stock exchanges and “large” unlisted companies based in the EU to disclose their payments to governments for oil, gas, minerals and timber, disaggregated by country and by project.

Therefore, as a result, large extractive and logging companies will be required to disclose the payments they make to governments (referred to as “*country by country reporting-CBCR*”).

A “**payment**” includes both monetary payments and payments in kind, and "government" includes any department, agency or undertaking controlled by a national or local authority. The following types of payments shall be reported:

a) production entitlements
b) licence fees, rental fees, entry fees and other considerations for licences and/or concessions
c) signature, discovery and production bonuses
d) dividends
e) royalties
f) taxes levied on the income, production or profits of companies
g) payments for infrastructure improvements.

Any payment, whether made as a single payment or as a series of related payments, must be included in the report if it is €100,000 or more within a given financial year.

Reporting would also be carried out on a project basis, where payments have been attributed to specific projects. The Accounting Directive regulates the information provided in the financial statements of all limited liability companies which are registered in the EEA.

The same disclosure requirement has been incorporated in the proposal to revise the Transparency Directive (2004/109/EC). This includes all companies which are listed on EU regulated markets even if they are not registered in the EEA and incorporated in a third country.

The information disclosed on payments to governments will be publicly available to all stakeholders either through the stock market information repository or the business registry in the country of incorporation (in the same way as financial statements are made available).

The EU mandatory disclosure requirement will complement the EITI efforts by legally requiring companies registered or listed in the EU to disclose payments to governments along the same lines as EITI. In doing so, the ultimate objective is to contribute to the strengthening of the EITI and to extend its scope to all resource-rich countries. The Directive introduces a disclosure requirement for payments to governments by listed and large non-listed companies with activities in the extractive industry and the logging of primary forests.

A “large undertaking” is defined in the Accounting Directive as a business that, on its balance sheet date, exceeds two of the three following criteria: (i) balance sheet assets of €20 million; (ii) net turnover of €40 million; (iii) average number of 250 employees during the financial year.

However, disclosures also are required by "public interest entities" of any size, namely, limited liability companies that are: (i) admitted to trading on an EU regulated market; (ii) credit institutions; (iii) insurance undertakings; or (iv) so designated by Member States because of their significant public relevance.

Article 36 of the Accounting Directive defines an "undertaking active in the extractive industry" as "an undertaking with any activity involving the exploration, prospection, discovery, development, and extraction of minerals, oil, natural gas deposits or other materials, within the economic activities listed […]," which includes: mining of certain metals and minerals; extraction of crude petroleum and natural gas; quarrying; extraction of peat and salt; and operation of gravel and sand pits.

Parties that are subject to the Directive's disclosure obligations are required to prepare and publish an annual report containing the following information in relation to the covered extractive or logging activities: (i) the total amount of payments, including payments in kind, to each government within a financial year; (ii) the total amount per type of payment, including payments in kind, to each government within a financial year; (iii) whenever the foregoing payments have been attributed to a specific project, the amount per type of payment, including payments in kind, for each such project within a financial year and the total amount of payments for each such project.

The UK has passed "The Reports on Payments to Governments Regulations 2014" (the "UK Regulations") which translated the Directive into its national law. Our recommendation is that the Albanian Government and Parliament should promptly enact legislation which transposes the terms of the Directive into its national law, much the same way the UK and other countries have done and we further suggest modeling such new law on similar terms of those of the UK Regulations. This will not only satisfy the relevant criteria set out in EITI Requirements 4 but also assure that any new legislation is passed taking into account the latest international trends, particularly in light of Albania's request of accession to the EU.

Companies should publish this information in annual reports to submit to the National Business Centre (or any other entity deemed appropriate for such filings) and any such reports should be made readily accessible, possibly free of charge.

United Kingdom

Who is subject to the reporting requirements?

A large undertaking is one that meets at least two of the three following criteria: (a) balance sheet total on its balance sheet date exceeds GBP £18 million; (b) net turnover on its balance sheet date exceeds GBP £36 million; (c) the average number of employees during the financial year to which the balance sheet relates exceeds 250.

Information which must be disclosed

Companies must disclose, in an annual report, their payments made to governments in relation to their relevant activities for each financial year, in the following form: (a) the government to which each payment has been made, including the country of that government; (b) the total amount of payments made to each government; (c) the total amount per type of payment made to each government; and (d) where those payments have been attributed to a specific project, the total amount per type of payment made for each project and the total amount of payments for each project. Payments in kind must be reported in value and, where applicable, in volume, with notes provided explaining how the value has been determined. Where any payment is not attributable to a specific project, that payment may be disclosed in the report without splitting or disaggregating the payment and without allocating it to a specific project.

A single payment must be disclosed if it amounts to at least GBP £86,000. A series of related payments within a financial year must be disclosed if the series of payments amounts to at least GBP £86,000.

How the information is disclosed and accessed

The Reports are filed within the UK Company Registrar who, from January 2016 has introduced its "extractive service" for companies to use in relation to electronically submit such reports and for third parties to access (free of charge).

BENEFICIAL OWNERSHIP

Developing a roadmap for beneficial ownership disclosure

Introduction

Through the adoption of the 2016 EITI standards, and in particular Requirement 2.5, it is a mandatory requirement that all implementing countries ensure that ***corporate entities that bid for, operate, or invest in any extractive assets disclose the identity of their beneficial owners***. The EITI Standards also require that any "***politically exposed person***" who is a beneficial owner must be identified by 1 January 2020.

It is recommended that the beneficial ownership information is made available through a public register. The very minimum is for such information to be included in the EITI Report, or the report should include a link to an online beneficial ownership information platform.

To ensure that any relevant steps are taken, implementing counties are therefore required to agree on and **publish a roadmap for their beneficial ownership disclosures by 1 January 2017**.

With this in mind, this section of the Report aims to guide the Albanian MSG towards the creation of a successful roadmap for the disclosure of beneficial ownership.

What should the roadmap contain?

Requirement 2.5.b.ii states:

"*By 1 January 2017, the MSG publishes a roadmap for disclosing beneficial ownership information in accordance with clauses (c)-(f) below. The MSG will determine all milestones and deadlines in the roadmap and the MSG will evaluate implementation of the roadmap as part of the MSG's annual activity report*".

Therefore the roadmap needs to contain and address the following:

1. Plans and activities for how the Government will ensure that the "corporate entities that bid for, operate or invest in extractive assets" disclose the "identities of their beneficial owners, the level of ownership and details about how ownership or control is exerted".

To achieve this, the EITI recommends that the roadmap includes activities aimed at broad consultations with government agencies and other stakeholders to identify the agency(ies) that is responsible or could be best suited to oversee, collate and maintain beneficial ownership information, as well as any existing public filings processes that could easily accommodate beneficial ownership disclosures. This may include reviewing and/or amending existing company filing requirements upon company registration to include beneficial ownership information and considering adding filing requirements related to beneficial ownership disclosure in bidding processes and licence registries for extractive projects.

The EITI pilot project on beneficial ownership pointed out that in most countries the concept of beneficial ownership was not covered by any existing legislation which also means there is a very low chance of legal obstacles to beneficial ownership disclosure. At the same time, many countries concluded that **promulgating legislation would likely result in better compliance with beneficial ownership disclosure requirements**. It is important that the MSG therefore seek to identify where such requirement might be translated in terms of national legal instruments. We set out our recommendation in this regard below.

Defining "beneficial ownership"

Requirement 2.5.f.i defines a beneficial owner "the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity".

The EITI Standard notes that the MSG must agree an appropriate definition of the term "beneficial owner", which should align with international practice and take into account any applicable national laws and should also include relevant ownership thresholds. It should further include reporting obligations for "politically exposed persons".

Below we report some definitions of "beneficial ownership" used internationally:

- **Financial Task Force definition**: the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

  This definition extends beyond legal ownership and control and focuses on the natural ultimate (actual) ownership and control. That is, the person who actually takes advantage of capital or assets of the legal person, as well as those who really exert effective control over it (whether or not they occupy formal positions within that legal person). Another essential element of the FATF definition is that t includes the natural person on whose behalf a transaction is being conducted even where that person does not have actual or legal ownership or control over the customer.

- **4th EU Anti Money Laundering definition**: "beneficial owner" means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction is being conducted and includes at least:

  (a) In the case of corporate entities:

  (i) The natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed in a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

  A shareholding of 25% plus one share or an ownership interest of more than 25% in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25% plus one share or an ownership interest of more than 25% in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of

indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control.

(ii) If, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s), the obliged entities shall keep records of the actions taken in order to identify the beneficial ownership under point (i) and this point.

(b) In the case of trusts:

(i) The trustee(s);

(ii) The protector, if any;

(iii) The beneficiaries;

(iv) Any other natural person exercising ultimate control over the trusts by means of direct or indirect ownership or by other means.

The EITI pilot showed that half of the pilot countries included a minimum threshold in their definitions whereby a natural person who directly or indirectly holds a minimum percentage of ownership or control of the company was considered a beneficial owner. This approach was also applied to cases of indirect control, i.e. where ownership was held through a chain of companies or legal entities. Thresholds range from 5% to 25%. These should be established taking into account the corporate structure of the companies operating in the country, an individual's full aggregated interest as well as different means of exercising ownership and control.

Liberia is an example of a country which agreed a definition that would encompass cases where no single individual holds enough ownership to be captured by the threshold. They have set a threshold at 5%/10% (depending on the sector), but also agreed that in cases where a single individual does not own at least 5%/10% beneficial ownership information will be requested from the top five shareholders with the greatest percentage of ownership rights.

Definitions of "Politically Exposed Persons"

EITI Requirement 2.5.f.ii reads "the definition of a beneficial owner should specify reporting obligations for politically exposed persons". The EITI model of the beneficial ownership declaration form includes fields for disclosing whether any beneficial owners are politically exposed persons ("PEPs"), including information on the public office position and roles and dates of holding office.

The EITI recommends that the roadmap includes activities aimed at investigating existing national definitions and reporting requirements for PEPs with a view of identifying national policy objectives on this topic and aligning the beneficial ownership definition accordingly.

- **4th EU Money Laundering Directive**: "politically exposed person" means a natural person who is or who has beenentrusted with prominent public functions and includes the following:
  (a) Heads of State, heads of Government, ministers and deputy or assistant ministers;
  (b) Members of parliament or of similar legislative bodies;
  (c) Members of governing bodies of political parties;
  (d) Members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;
  (e) Members of courts of auditors or of the boards of central banks;
  (f) Ambassadors, charges d-affairs and high-ranking officers in the armed forces;
  (g) Members of the administrative, management or supervisory bodies of State-owned enterprises;
  (h) Directors, deputy directors and members of the board or equivalent function of an international organisation.

- **Financial Task Force**: Foreign PEPs are individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Domestic PEPs are individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.

- **UN Convention against Corruption**: Article 53 defines PEPs as "individuals who are, or have been, entrusted with prominent public functions, and their family members and close associates".

Information which needs to be disclosed

EITI requirement 2.5.c and 2.5.d state that the beneficial ownership disclosure:

"*should include the identity(ies) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted" and that "the information about the identity of the beneficial owner should include (i) the name of the beneficial owner, (ii) the nationality and the country of residence, as well as (iii) identifying any politically exposed persons. It is also recommended that the national identity number, date of birth, residential or service address and means of contact are disclosed*".

The EITI model of beneficial ownership declaration form asks for all this information and recommends that the roadmap includes activities aimed at consultation with government, civil society, and companies with regards to the level of additional detail of the beneficial ownership disclosures, including opportunities and challenges with disclosing recommended information such as date of birth and means of contact. The roadmap could also specify whether the MSG intends to use the EITI model beneficial ownership declaration form, perhaps with some local adaptations, or if it intends to develop its own declaration form.

The FATF recommends that countries should ensure there is adequate, accurate and timely information available on the beneficial ownership of all legal persons and that the national authorities can access such information in a timely fashion.

How the information should be collected

EITI Requirement 2.5.a states: "it is recommended that implementing countries maintain a publicly available register of the beneficial owners of the corporate entities that bid for, operate or invest in extractive assets, including any identities of their beneficial owners, the level of ownership and details about how ownership control is exerted. Where possible, beneficial ownership information should be incorporated in existing filings by companies to corporate regulators, stock exchanges or agencies regulating extractive industry licensing. Where this information is publicly available, the EITI Report should include guidance on how to access this information".

It is important to note that the requirement to consider entities which "bid for, operate or invest" in extractive assets means that in effect the MSG will need to consider a wider group of companies than those it considered material for financial EITI reporting purposes.

Beneficial Ownership Information provided in Company Registries

Effective mechanisms providing for company registries to hold BO information could include some or all of the following:

- Companies are required to provide basic and BO information for the company registry upon registration.
- Companies are required to provide basic and BO information both annually and when changes occur to ensure that the information is up-to-date.
- Companies are required to make a declaration regarding the beneficial owner and the ownership structure. This could include the provision of copies of documentation for the verification of identity.
- The company registry authority is required to verify the identity of the beneficial owners.
- Companies that fail to provide BO information are subject to dissuasive administrative sanctions, such as restrictions on incorporation, and such sanctions are applied.

- The provision of false information is subject to proportionate and dissuasive administrative and criminal sanctions for the company. The company's representative could also be held personally liable.
- The company registry authority regularly applies such sanctions when obligations are breached.
- The company registry authority takes a proactive role, including checking of information against other sources (such as shareholder, population or national identity registers), to identify anomaly or inconsistencies.
- Information in the company register is recorded digitally and is searchable. The search function supports searches by multiple fields.
- Competent authorities have access to the company registry online, including full search capability.
- The company registry authority has the capability to identify indicators of misuse or unusual activity (red flags) in the database.
- Basic information on the company is publicly available, BO information could also be made publicly available, or available to financial institutions and DNFBPs.
- The company registry authority may also obtain and hold shareholder information on companies in addition to beneficial ownership information.
- The company registry authority collects information on the board of directors, senior management and the natural person authorized to act on behalf of the company. In addition, directors are required to be natural persons.
- The measures under this mechanism are combined with aspects of mechanism 2 (outlined below) given that the company will be providing information to the registry.

Companies being required to hold beneficial ownership information or to take reasonable steps

A mechanism which provides for companies to hold, or take reasonable measures to hold BO information could include some or all of the following features:

- Companies are required to hold beneficial ownership information, and they are provided with the authority to request information from shareholders on the beneficial ownership of shares.
- Companies can seek to apply restrictions against shareholders for failure to provide BO information through

appropriate courts or authorities, such as in relation to shareholder voting rights, or the sale of shares.

- The provision of false information by shareholders is subject to dissuasive administrative or criminal sanctions.
- Shareholders are required to provide information on changes to beneficial ownership without delay.
- Companies are required to provide lists of shareholders and beneficial owners to competent authorities upon request in a timely manner.
- Failure by a company to provide the information to authorities is subject to sanctions, which may include administrative penalties or restrictions on incorporation.
- Lists of shareholders and beneficial owners are required to be held, and provided, in electronic form.
- Where lists of shareholders and beneficial owners are held with a third party provider on the company's behalf, the company remains liable for the obligations.
- Companies are required to understand and hold information on their ownership structure, including any chain of ownership.
- Where BO information cannot be identified, companies are required to publish this fact on their website.
- Any companies exempt from holding BO information are exempt by the country on the basis of low ML/TF risk.
- Beneficial ownership information is required to be held in the country of incorporation.
- Companies and shareholders are made aware of their obligations through the provision of guidance and awareness raising activities, for example through the provision of information to companies upon registration.

Reliance on existing information

A mechanism which establishes a combined approach for beneficial ownership could include some or all of the following features:

- Financial institutions carry out CDD and understand their CDD obligations with respect to beneficial ownership, and are subject to AML/CFT supervision.
- If the company registry does not obtain and hold information on the beneficial owner, it may hold information relevant for beneficial ownership including directors, senior management and the company's representative.

- BO information held by the tax authority is accessible in a timely manner to competent authorities, and law enforcement authorities are aware of the information available and have mechanisms for timely access to it.
- CompetentauthoritiesareabletoidentifyfinancialinstitutionsthatmayholdBO information in a timely manner, for example, through a national register of bank accounts.
- Competent authorities are able to identify TCSPs that may hold BO information in a timely manner, for example through a central register of transactions of shares, or a register of TCSPs, or any other mechanism the supervisor uses to identify TCSPs.
- Other information on accurate and current beneficial ownership is available from asset registries such as for land, property, vehicles, shares or other assets.

Timing for information submission

The roadmap should also set out what would be the *most appropriate time for data collection of beneficial ownership information* (e.g. companies to file such information upon incorporation, when bidding for extractive licenses, when signing a contract, or when submitting regular annual reports).

The EITI pilot highlighted that there was a lack of clarity in most countries on this point, i.e. it was not clear whether the names listed were beneficial owners as of the date of the publication of the relevant EITI report, or whether the information dated further back.

It has been shown that there is considerable lack of awareness and experience with beneficial ownership across all stakeholders and that the lack of a clear distinction between legal and beneficial ownership has caused considerable confusion. It is therefore **recommended that the MSG considers including capacity building and awareness raising campaigns in its roadmap.** In many instances, it may be required to start with a simple awareness raising campaign in order to explain what beneficial ownership is all about. This could be then complemented with more technical capacity building for relevant government agencies, for example related to law enforcement related to beneficial ownership, establishment and maintenance of a beneficial ownership register, verification mechanisms, and communication with companies and so on. Capacity building for companies might be needed in order to ensure familiarity with beneficial ownership reporting, guidance on identifying and collecting initial beneficial ownership information etc.

The MSG should also early on identify **what funding and technical assistance it might need for the implementation of the roadmap** (see EITI Requirement 1.5.d). It could further set out costs estimates for the activities and indicate how these will be funded as well as any actions aimed at securing further funding for implementation and indicate for which activities it will need technical assistance.

Deadlines and responsibilities for the roadmap activities

It is recommended that the roadmap includes **measurable and time-bound activities and that it assigns responsibilities for each of these**. The MSG may want to establish a working group or committee to oversee the development and execution of the roadmap and to present regular reports to the government and the MSG.

EU Commission Proposal for amending Directive 2015/849 and Directive 2009/101/EC

It is also important to note that the July 2016 EU Commission Proposal for a Directive of the EU Parliament and of the Council amending Directive (EU) 2015/849 and Directive 2009/101/EC specifically mentions that, with regards to **intermediary entities that do not have any economic activity but mostly channel income from other sources** and only serve to distance the beneficial owners from the assets, the 25% threshold is easily circumvented and in such circumstances the Commission proposes to **lower this to 10%.**

The Commission further clarified that trusts and similar legal arrangements should be registered where they are administered.

It is also essential that access to certain beneficial ownership information is allowed in a coherent and coordinated manner, through central registers in which it is set out, establishing a clear rule of public access so that third parties throughout the EU can establish who the relevant beneficial owners are.

The set of data to be made available to the public should be limited, clearly and exhaustively defined, and should be of a general nature, so as to minimize any possible prejudice to the beneficial owners. It is important that any such information made publicly available through any national registers and through a system of interconnection within EU member States remains available for a period of 10 years following the company struck off from the register.

There should also be provision for exemptions to disclosure of and access to beneficial ownership information in exceptional circumstances, e.g. where such information would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation.

Natural persons whose personal data are held in the national registers as beneficial ownership information should be informed of the publication of their personal data before that publication takes place.

With a view to ensure coherent and efficient registration and information exchange, Member States should ensure that their authority in charge of the register set up for the beneficial ownership information of trusts cooperates with its counterparts in other Member States.

It is also essential that there is a clear obligation under Albania national law for any companies to set up a public register which sets out the relevant information on any natural person who falls within the agreed definition of "beneficial owner" or "politically exposed person". To this end, appropriate amendments should also be made to the Law 9723, dated 03.05.2007 "On the registration of the business", which deals with information companies are required to file to the National Business Centre.

The UK model

Overview

The requirements around beneficial ownership are focused on private, unlisted entities. The approach to beneficial ownership is aligned with the related provisions of the Small Business, Enterprise and Employment Act 2015.

Broadly speaking, private companies will be asked to provide information on any individuals that have a material influence on the company either through a direct shareholding, one or more intermediary entities (e.g. companies partnerships, trusts) or by other means. Information will also be requested for such individuals with political influence.

The requirements for listed companies (and their subsidiaries) are extremely modest. Companies that are members of a group for which the parent is listed will only be asked to confirm that listed status, as listed companies are already required to publish information on beneficial ownership.

Data protection considerations may mean that in some cases the information requested may not be provided by beneficial owners, or may be provided without the consent necessary for its processing. See the additional guidance below relating to the Data Protection Act 1998.

Beneficial Ownership

Definition: A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity, with control defined consistently with the interpretative provisions applying to the new public register of persons with significant control of UK companies introduced in the Small Business, Enterprise and Employment Act 2015 (the "PSC Register").

Meaning of person with significant control: A person with significant control over a company is defined as an individual that (either alone or as one of a number of joint holders of the share or right in question) meets one of the following conditions:

1. The individual holds, directly or indirectly, more than 25% of the shares in the company. The 25% threshold is calculated with reference to the nominal value of the shares in the case of a company with share capital. If the company does not

have a share capital, the condition is met by an individual holding a right to share in more than 25% of the entity's capital or profits.

2. The individual holds, directly or indirectly, more than 25% of the voting rights in the company. Voting rights held by the company itself are disregarded for this purpose.
3. The individual holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company.
4. The individual has the right to exercise, or actually exercises, significant influence or control over the company. The Secretary of State for Business Innovation and Skills is required to issue guidance on the meaning of 'significant influence or control' and regard must be had to that guidance (once available) in interpreting this condition.
5. The trustees of a trust or the members of a firm that is not a legal person exercise control over the company through one or more of 1. to 4. above in their capacity as such or would do if they were individuals, and the individual has the right to exercise, or actually exercises, significant control or influence over the activities of that trust or firm.

Publicly listed company requirements: Publicly listed entities, including wholly-owned subsidiaries of publicly listed entities, are not required to disclose information on their beneficial owners.

Reporting Requirement: Private companies that do not have reportable payments under UK EITI for the relevant period are not required to provide beneficial ownership information. Private companies that do have payments to report for the period and that have beneficial owners (as defined above) will be asked to provide the following information regarding each of these persons:

1. Name of the beneficial owner.
2. Month and year of birth.
3. Nationality.
4. Country of residence.
5. Date when beneficial interest was acquired.
6. Service address.
7. Method of control.

Due Diligence: The reporting entity should take reasonable steps to ensure that the information provided on beneficial ownership is accurate and reliable.

Relevant date: The disclosures should be based on knowledge held when the report information is supplied to the independent administrator.

Politically Exposed Persons

Definition: UK EITI has adopted the EU's definition of politically exposed person as described in the new EU Fourth Money Laundering Directive. The term 'politically exposed person' means a natural person who is or who has been entrusted with prominent public functions and includes the following, and their family members and persons known to be their close associates:

(a) heads of State, heads of government, ministers and deputy or assistant ministers;

(b) members of parliament or of similar legislative bodies;

(c) members of the governing bodies of political parties;

(d) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;

(e) members of courts of auditors or of the boards of central banks;

(f) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(g) members of the administrative, management or supervisory bodies of State-owned enterprises;

(h) directors, deputy directors and members of the board or equivalent function of an international organization.

No public function referred to in points (a) to (h) shall be understood as covering middle-ranking or more junior officials

Ownership Threshold: Reporting entities should disclose information in relation to any politically exposed persons (PEP) owners, where the PEP owner(s) hold a share in the reporting entity of more than 5%.

Reporting Requirement: Reporting entities that have owners that meet both the definition of politically exposed person and satisfy the ownership threshold test, will be asked to provide the following information:

1. Name of the PEP.
2. Month and year of birth.
3. Nationality.

4. Country of residence.
5. Date when beneficial interest was acquired.
6. Service address.
7. Name of public office holder.
8. Public office position and role.
9. Date when office was assumed.
10. Date when office was left, if applicable.
11. If the PEP beneficial owner is not the public office holder, the PEP beneficial owner's connection with the public office holder.

Due Diligence: The disclosures in relation to politically exposed persons should reflect the actual knowledge of the reporting entity based on the information available to it in the ordinary course of business. There is no requirement for the entity to perform incremental due diligence.

Relevant date: The disclosures should be based on knowledge held when the report information is supplied to the independent administrator.

Data Protection

The requested information on beneficial ownership will be 'personal data' and therefore subject to the requirements of the Data Protection Act 1998 (DPA). Companies holding personal data will be data controllers and/or processors for the purposes of the DPA. Companies should therefore fully consider the requirements of the DPA when responding to the information requested in the beneficial ownership template, bearing in mind also that the UK EITI is a voluntary process such that Schedule 2 Condition 3 of the DPA (see extract below) appears to be inapplicable.

The following extract from the DPA sets out the conditions under which the processing of personal data is permissible.

SCHEDULE 1: THE PRINCIPLES

1 Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

(a) at least one of the conditions in Schedule 2 is met; and

(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met. (Note: as the beneficial ownership and PEP information would not be classified as 'sensitive personal data' Schedule 3 of the DPA does not apply and has not been set out below.)

2 *Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.*

3 *Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.*

4 *Personal data shall be accurate and, where necessary, kept up to date.*

5 *Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.*

6 *Personal data shall be processed in accordance with the rights of data subjects under this Act.*

7 *Appropriate technical and organizational measures shall be taken against unauthorized or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.*

8 *Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.*

SCHEDULE 2: CONDITIONS RELEVANT FOR PURPOSES OF THE FIRST PRINCIPLE: PROCESSING OF ANY PERSONAL DATA

1 The data subject has given his consent to the processing.

2 The processing is necessary:

(a) for the performance of a contract to which the data subject is a party; or

(b) for the taking of steps at the request of the data subject with a view to entering into a contract.

3 The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.

4 The processing is necessary in order to protect the vital interests of the data subject.

5 The processing is necessary:

(a) for the administration of justice;

(b) for the exercise of any functions of either House of Parliament;

(c) for the exercise of any functions conferred on any person by or under any enactment;

(d) for the exercise of any functions of the Crown, a Minister of the Crown or a government department;

(e) for the exercise of any other functions of a public nature exercised in the public interest by any person.

Companies should consider only including the requested information on the EITI template if informed written consent has been obtained from the individual to whom the data relates. In seeking consent from the relevant individual, the company should consider explaining the purpose of the request, how the information will be disclosed on the EITI template and how it will be subsequently published in the UK EITI report.

The outcome of the company's consideration of the data protection issue will determine whether the company can provide a full or qualified attestation in relation to the information requested in the beneficial ownership template.

Albanian Legislative Framework

In the context outlined above, we have reviewed Albanian national legislation to ascertain what, if any, definition of BO is in existence and whether it would be advisable to include a better or new definition of BO within existing legislation or if instead it would be a case of passing new laws/regulations dealing with this.

The only law which makes use of the definition of "beneficial owner" is the Law No.9917, May 19, 2008 "*on the prevention of money laundering and financing of terrorism*" as amended (the "**Anti Money Laundering Law**").

"**Beneficial owner**" means the "*natural person, which owns or, is the last to control a customer and/or the person on whose behalf is executed the transaction. This also includes those persons exercising the last effective control on a legal person. The last effective control is the relationship in which a person: a) owns through direct or indirect ownership, at least 25 percent of stocks or votes of a legal entity; b) by himself owns at least 25 percent of votes of a legal person, based on an agreement with the other partners or shareholders; c) defines de facto the decisions made by the legal person; d) controls by all means the selection, appointment or dismissal of the majority of administrators of the legal person*".

Although the above definition reflects the key elements of BO definitions which have been internationally adopted as seen in paragraphs above, it is not clear whether it applies directly to extractive industry companies, since Article 3 does not expressly include companies operating in such sector as entities to which the law applies.

The Anti-Money Laundering Law also contains a definition of "**politically exposed person**", which includes "the persons that are obliged to declare their properties, in accordance with law no. 9049, dated 10.04.2003 "*On the declaration and audit of assets, financial*

obligations of the elected officials and certain public employees", including the members of the family or associated persons in close personal, working or business relationships, excluding employees of the middle or lower management level, according to the provisions of the civil service legislation. This category also includes individuals who have had or have important functions in a government and / or in a foreign country, such as: head of state and/or government, senior politicians, senior officials of government, judiciary or the army, senior leaders of public companies, key officials of political parties, including the members of the family or associated persons in close personal, working or business relationships". This definition is in line with (and encompasses the same categories of individual) the definition adopted by FATF.

It is therefore **recommended that the Anti-Money Laundering Law is amended to expressly refer to it applying to all companies in the extractive industry**.

It is recommended that the Anti/Money Laundering Law is also amended to incorporate a suitable lower threshold as per the Proposal.

ANNEX 1

General overview:

This part of the report aims to conduct a comprehensive assessment on the national level of MSG governance related to practices in implementation of EITI and relevant laws, regulations and administrative rules. This assessment included a review and examination of the respective existing acts that regulates the composition, organization and functioning of the MSG in order to observe their compliance toward the EITI Standard.

The MSG was initially established by the order of the Prime-Minister No. 156 dated on 27.12.2008. Even though the order highlighted the multi-stakeholder nature of the working group and determined a broad range of the main potential activities, the civil society and the company sector were represented only by one member per each. Giving that, the uncertainty as well as the inadequately and inequality in representation brought a non effective functioning and a poor communication within the MSG and interested groups.

In this respect a new order of the Prime Minister was adopted repealing the above mentioned order by setting a broader range of representatives for the companies and civil societies. In the assessment made to this order, the implemented team concluded that this act is not comprehensive and does not meet all the requirements set out in the EITI standard regarding internal governance procedures.

In addition, a higher level of representation from the government is needed in order to properly adhere to EITI requirements. In this view, the need to draft a new all-inclusive Council of Ministers act arises to comprise all the obligatory requirements pursuant to EITI standards as well as other relevant guidance materials.

What is also missing in the national legislation is the regulation of the Terms of References that each country is obliged to adopt in the frame of EITI obligatory requirements in order to specifically defines the scope and function of the MSG.

Currently is in force a Regulation adopted by the Minister in charge of energy and industry issues that somehow provides some rules on the roles and functioning of the MSG, but it introduces very general provisions. In this frame, leading the recommendation of the implementing team is developed a detailed regulation comprising the terms of references for the MSG members. Such terms of references provide guidance on the roles, rights and responsibilities of the MSG members, approval of work plans, EITI Reports and annual activity, MSG membership as well as internal government rules and procedures.

The aim of the DCM on organization and functioning of MSG and of the minister's in charge of extractive resources order on the setting of the terns and references of the MSG is to establish the required structures in charge of coordinating the national efforts in complying with EITI international standards in Albania and the national strategies and priorities in the extractive industry.

EITI Requirements	**0.1 DCM No. 993, dated 09.12.2015 "On the organization and functioning of the National Secretariat of the Transparency Initiative on Extractive Industry (EITI – Albania) in the frame**	N- non-compliant P- partial compliant F- full compliant N/A-non-applicable

	of the membership in the International Organization EITI – International" **0.2 Order of the Prime-minister No. 71 dated 21.07.2011 "On the establishment and the functioning of the inter-institutional working group in charge of following the procedures of Albania's membership in the Transparency Initiative on Extractive Industry (EITI)".** **0.3 Order of the Minister of Economy, Trade and Energy No. 20, dated 20.01.2012 "On the Organization and functioning of the MSG in charge of following the procedures of Albania's membership in the Transparency Initiative on Extractive Industry (EITI)"** **0.4 Law No. 119/2015 "On the establishment and functioning of the National Council on civil society"** **0.5 Law No. 119/2014 "On the right to information"** **0.6 Law No. 146/2014 "On information and public consultation"** **0.7 Law No. 44/2015 "Code of administrative procedure in the Republic of Albania"**[1]	A- Article P- Point

EITI Requirement:	**Albanian Legislation provisions**		**Level of Compliance**	**Recommended Action/Comments**
EITI Requirement 1: Oversight by the Multi-stakeholder Group and Provision				
1.1 Government engagement (a) The government is required to issue an unequivocal public statement of its intention to implement the EITI. The statement must be made by the head of state or government, or an appropriately delegated government representative.	0.1 P 1 0.1 P2	EITI Albania is central institution, under the authority of the ministry responsible for energy and industry, which executes its functions in the frame of the membership in EITI International. EITI Albania coordinates national efforts in implementing the EITI global standards.	F F	The decision to establish the EITI Albania and its role and functions is approved by the Albanian Government (CoM) The minister is held responsible for the

[1] The ranking of the acts and sub-legal acts is made based on the relevance of the scope of the act toward the related EITI requirement and not based on the hierarchy of the acts, screened in table.

(b) The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilise resources for EITI implementation. (c) The government must be fully, actively and effectively engaged in the EITI process. (d) The government must ensure that senior government officials are represented on the multi-stakeholder group.	0.1 P.15 0.1 P.7 0.1 P.2 0.2 P.2	The Minister of energy and industry is in charge to implement the requirement for the fulfilment of EITI standards, which requirements and tasks are provided in the DCM. EITI Albania informs periodically in writing the Prime-minister on the progress toward action plan and EITI annual report. MSG is chaired by the deputy minister of economy. The representatives of the other state institutions should be at least in the level of head of directory.	P P F F	implementation of the actions related to EITI Albania mission and tasks and the Prime-minister is informed periodically on the performance. The government has approved the acts to ensure the full, active and effective engagement in the EITI process
1.2 Company engagement (a) Companies must be fully, actively and effectively engaged in the EITI process. (b) The government must ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative	0.2 P.2e 0.1 0.3	MSG, which is a decision making body in charge of surveillance of EITI implementation, is composed of 16 members, out of which 5 are representatives from companies which operate in extractive industry sector.	F P	Company participation with regard to relevant laws and regulations, apart from those companies participating in the MSG, is provided in the law on public consultation[2].

[2] Law No. 146/2014 "On information and public consultation"

rules as well as actual practice in implementation of the EITI. The fundamental rights of company representatives substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected. (c) The government must ensure that there are no obstacles to company participation in the EITI process.	0.1 P.4 0.6 A.1 P.2 P.3 0.5 A1 P2 P3	The decision making is made by MSG, which is a tri partite platform with participants from companies operating in the industry. The law on information and public consultations establishes rules of procedure to be followed to ensure transparency and public participation in policy and decision making processes of the public authorities Such law aims to promote transparency, accountability and integrity of public authorities. The rules provided in this law aims to guarantee the public by providing with information, in the context of exercising in practice individual rights and freedoms, and the formation of views about the condition of the state and society. This law aims to promote integrity, transparency and accountability of public authorities.	F F	
1.3 Civil society engagement In accordance with the civil society				

protocol: a) Civil society must be fully, actively and effectively engaged in the EITI process. b) The government must ensure that there is an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of civil society substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected. c) The government must ensure that there are no obstacles to civil society participation in the EITI process. The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI.	0.2 P2ë 0.4 A.1 0.1 P.4 0.6 A.1 P.2 P.3 0.5 A1 P2	MSG, which is a decision making body in charge of surveillance of EITI implementation, is composed of 16 members, out of which 5 are representatives from civil society organizations. The National Council on Civil Society aims to ensure institutional cooperation with civil society organizations in the benefit of consolidation of the good governance and increase of the transparency in the public decision-making through the utmost participation of civil society in this process. The decision making is made by MSG, which is a tri partite platform with participants from civil society. The law on information and public consultations establishes rules of procedure to be followed to ensure transparency and public participation in policy and decision making processes of the public authorities. Such law aims to promote transparency, accountability and integrity of public authorities. The rules provided in this law	F F P F N	There is no government decision that narrows or restricts the public debate, but there is no provision to mention the promotion of the public debate based on EITI reports on management of natural resources. Even though, according to EITI glossary, it

d) Stakeholders, including but not limited to members of the multi-stakeholder group must: i. Be able to speak freely on transparency and natural resource governance issues. ii. Be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate. iii. Have the right to communicate and cooperate with each other. iv. Be able to operate freely and express opinions about the EITI without restraint, coercion or reprisal.	P3 0.1 P.6	aims to guarantee the public by providing with information, in the context of exercising in practice individual rights and freedoms, and the formation of views about the condition of the state and society. This law aims to promote integrity, transparency and accountability of public authorities. EITI Albania cooperates and coordinates its activity with MSG and other private/public institutions, stakeholders, civil society as well as local and/or international media	P	is within the responsibility of MSG to ensure that EITI contributes to public debate, such task is not provided expressly in any act.
1.4 Multi-stakeholder group a) The government is required to commit to work with civil society and companies, and establish a multi-stakeholder group to oversee the implementation of the EITI. In establishing the multi-stakeholder group, the government must: i. Ensure that the invitation to participate in the group is open and transparent.	0.2		F	

ii. Ensure that stakeholders are adequately represented. This does not mean that they need to be equally represented numerically. The multi-stakeholder group must comprise appropriate stakeholders, including but not necessarily limited to: the private sector; civil society, including independent civil society groups and other civil society such as the media and unions; and relevant government entities which can also include parliamentarians. Each stakeholder group must have the right to appoint its own representatives, bearing in mind the desirability of pluralistic and diverse representation. The nomination process must be independent and free from any suggestion of coercion. Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies. iii. Consider establishing the legal basis of the group.	0.3 0.2 P.1 0.3 A.5		F P P	The terms of reference of MSG are general and incomplete. The Order of the Prime-minister and the regulation on organization and functioning of MSG should be revised to fully comply with EITI Requirement 1.

b) The multi-stakeholder group is required to agree clear public Terms of Reference (ToRs) for its work. The ToRs should, at a minimum, include provisions on: The role, responsibilities and rights of the multi-stakeholder group: i. Members of the multi-stakeholder group should have the capacity to carry out their duties. ii. The multi-stakeholder group should undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society. The multi-stakeholder group should also widely disseminate the public information that results from the EITI process such as the EITI Report. iii. Members of the multi-stakeholder group should liaise with their constituency groups. Approval of work plans, EITI Reports and annual progress reports: iv. The multi-stakeholder group is	0.2 A2 0.3 A6.2 0.1 A6 0.1 A5 b) 0.1 A 3	The level of representation in the MSG for the state institutions should be no lower than director of a directory. The secretariat, to perform its mission and its objectives, cooperates and coordinates its activities with the MSG of EITI and other public and/or private institutions, interested groups, civil society, local and /or foreign media. The publication of EITI reports, ensuring the completion of the audit process and procedures for the approval of the report. The administrative activity of the secretariat is supervised, regulated and approved by the Ministry responsible for energy and industry and other	F F F P	There is only a general provision providing the approval by the Minister of energy and industry but there is no specific provision regulating the approval of the annual work plan, Independent Administrator and EITI Report.

required to approve annual work plans, the appointment of the Independent Administrator, the Terms of Reference for the Independent Administrator, EITI Reports and annual progress reports.		institutions.		
v. The multi-stakeholder group should oversee the EITI reporting process and engage in Validation.	0.2 P.1 0.3 A.5		N	
Internal governance rules and procedures:				
vi. The EITI requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner. Any member of the multi-stakeholder group has the right to table an issue for discussion. The multi-stakeholder group should agree and publish its procedures for nominating and changing multi-stakeholder group representatives, decision-making, the duration of the mandate and the frequency of meetings. This should include ensuring that there is a process for changing group members that respects the principles set out in Requirement 1.4.a. Where the multi-stakeholder group has a practice of per diems for attending EITI meetings or	0.3 A.7 0.3 A11		P F	

other payments to multi-stakeholder group members, this practice should be transparent and should not create conflicts of interest. vii. There should be sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption. viii. The multi-stakeholder group must keep written records of its discussions and decisions.		The protocol of MSG meetings represents the book of minutes of MSG meetings. The protocol is maintained by the secretary of MSG.		
1.5 Work Plan The multi-stakeholder group is required to maintain a current work plan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board. The work plan must: a) Set EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. Multi-stakeholder groups are encouraged 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	0.2		N	

and in business. b) Reflect the results of consultations with key stakeholders, and be endorsed by the multi-stakeholder group. c) Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation should be tailored to contribute to the desired objectives that have been identified during the consultation process. The work plan must: i. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation. ii. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness (4.1) and data reliability (4.9). iii. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the				

EITI Requirements within national legislation or regulation. iv. Outline the multi-stakeholder group's plans for implementing the recommendations from Validation and EITI reporting. d) Identify domestic and external sources of funding and technical assistance where appropriate in order to ensure timely implementation of the agreed work plan. e) Be made widely available to the public, for example published on the national EITI website and/or other relevant ministry and agency websites, in print media or in places that are easily accessible to the public. f) Be reviewed and updated annually. In reviewing the work plan, the multi- stakeholder group should consider extending the detail and scope of EITI reporting including addressing issues such as revenue management and expenditure (5.3), transportation payments (4.4), discretionary social expenditures (6.1.b), ad hoc sub national				

	transfers (5.2.b), beneficial ownership (2.5) and contracts (2.4). In accordance with Requirement 1.4.b (viii), the multi- stakeholder group is required to document its discussion and decisions. g) Include a timetable for implementation that is aligned with the reporting and Validation deadlines established by the EITI Board (8.1-8.4) and that takes into account administrative requirements such as procurement processes and funding.				

REPUBLIC OF ALBANIA

COUNCIL OF MINISTERS

No.____Prot **Dated ___.___2017**

DECISION

ON

THE ORGANIZATION AND FUNCTIONING OF THE MULTI-STAKEHOLDER GROUP (MSG)

Pursuant to Pursuant to point 2, article 100 of the Constitution of the Republic of Albania, point 19 of the Law No. 9000 dated on 30.01.2003 "On the organization and functioning of the Council of Ministers", upon the proposal of the Minister of the Energy and Industry, the Council of Ministers,

D E C I D E D:

1. To express the explicit intention of the government of the Republic of Albania to implement the EITI.
2. To set the rules for the establishment and organization of the multi-stakeholder working group (MSG) during the membership procedures of Albanian in the Extractive Industry Transparency Initiative (EITI).
3. The commitment of the government, companies operating in the sector of the extractive industries and civil society organizations stakeholders in the MSG is based on the following principles:
   - *Inclusive dialogue* – ensure an enabling environment where all members can engage and express their opinions freely and openly without restraint, coercion or reprisal. In addition, the non-members company and civil society representatives, substantially engaged in EITI, can contribute in discussing issues related to practice in implementation of EITI and relevant laws, regulations and administrative rules;
   - *Transparence* – ensure that the invitation to participate in the MSG is open and transparent;

- *Accessibility* – ensure that all the members enjoy access to all relevant and verified information/data, subject to the limits set by law;
- *Accountability* – ensure that all the members are devoted to the best of their knowledge and capacities to fulfill the commitments as well as to adhere to the rules, standards and guidelines, agreed upon;
- *Sustainability* – ensure valuable contribution toward adopting sustainable policies thus promoting also an environment of mutual trust;
- *Effectiveness* – ensure an adequate representation and commitment of the three main groups of stakeholders by involving high level government officials as well as civil society and company representatives that are substantially engaged in the design, implementation, monitoring and evaluation of the EITI process as guarantee that the objectives of the engagement will be achieved.

4. The MSG will be composed of the following:
   4.1. Five high level officials from the government institutions, listed as below:
      - A representative from the Ministry of Energy and Industry;
      - A representative from the Ministry of Justice;
      - A representative from the General Tax Directorate;
      - A representative from the General Customs Directorate;
      - A representative from the National Agency of Natural Resources;
   4.2. Five representatives from the private sector who will be who will be selected through a process initiated by the business sector with the support of the ALBEITI Secretariat.
   4.3. Five representatives from Civil Society Organizations who will be selected through a process initiated by the Civil Society Organizations with the support of the ALBEITI Secretariat.
5. The MSG will be chaired by the National Coordinator, who will be appointed by the Prime-minister and will be responsible for convening the group.
6. The members of MSG shall be appointed for an initial period of 3 years, with the right to be re-appointed.
7. The number of the members of MSG can be changed and additional members may be appointed upon the proposal of, and by consensus among, the MSG members and only upon the condition that the tripartite nature of the group of stakeholders must be maintained.
8. In the case one of the members resigns before the ending of the term, his/her successor shall be appointed by the MSG upon the proposal of the related stakeholder.
9. Each of the tripartite group shall designate a permanent and an alternate representative to the MSG.

10. Alternate members shall be appointed in accordance with the procedures applied in case of the primary members of the MSG and can attend the MSG meetings but can vote only in the absence of the primary member.
11. Each stakeholder, upon the decision of its members and through its own independent process can replace their representatives in the MSG anytime following their own governance mechanisms.
12. The MSG members may also agree that the MSG meeting can be attended also by external experts with advisory capacity, which enjoy speaking but not voting right as well as by observers, which may attend the meetings but will have no speaking or voting rights. The chair of the MSG should be notified for additional attendees in the MSG meetings no later than 10 days in advance of the relevant meeting.
13. The ALB-EITI Secretariat will serve as the technical secretariat of the MSG to facilitate and coordinate the meetings, in close in consultation with the Chair and the MSG members.
14. The Secretariat shall be available to the three main stakeholders on an equal basis and shall attend the meetings of the MSG without having the right to vote. The Chair may grant the ALB-EITI Secretariat the right to speak when this is necessary for the purpose of reporting.
15. ALB-EITI Secretariat functions shall include the preparation of meetings, keeping of the minutes of the meeting and circulating the minutes to the MSG and ensure to make them publicly available upon agreement among the members.
16. MSG resolutions, outcomes and other documents shall generally be available electronically. The ALB-EITI Secretariat shall retain all documents for the MSG in a format which ensures that they can be accessed electronically at any time.
17. The Chair shall inform the MSG members on a regular basis about matters arising in the ongoing conduct of business.
18. The role and functioning of the MSG is regulated by order of the minister in charge for energy and industry issues.
19. The Regulation No.20 dated on 20.01.2012 “On the organization and functioning of the Multi-Stakeholder Group during the membership procedures of Albanian in the Extractive Industry Transparency Initiative” is repealed.
20. This decision shall enter into force 15 days after publication in the official gazette.

PRIMEMINISTER

Edi RAMA

REPUBLIC OF ALBANIA
MINISTRY OF ENERGY AND INDUSTRY
THE MINISTER

No._____Prot **Dated ___.___2017**

ORDER

ON

THE APPROVAL

OF

THE REGULATION

ON SETTING THE TERMS OF REFERENCES FOR THE ORGANIZATION AND FUNCTIONING FOR THE MULTI - STAKEHOLDER GROUP (MSG) OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE IN ALBANIA (ALB-EITI)

Pursuant to point 4 of article 102 of the Constitution of the republic of Albania and point 18 of the Decision of Council of Ministers on the organization and functioning of the Multi-Stakeholder Group (MSG), upon proposal of the Director of the Secretariat, the minister in charge of energy and industry,

ORDERED:

1. The approval of the Regulation "On setting the terms of references for the organization and functioning of the multi - stakeholder group (MSG) of the Extractive Industries Transparency Initiative in Albania".

2. The chair of the Multi-Stakeholder Group is charged to take the measures to ensure the implementation of the regulation by the other MSG Members.

This order enters into force immediately.

MINISTER

DAMIAN GJIKNURI

THE REGULATION
ON
SETTING THE TERMS OF REFERENCES FOR THE ORGANIZATION AND FUNCTIONING FOR THE MULTI - STAKEHOLDER GROUP (MSG) OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE IN ALBANIA

1. Open statement on the purpose of EITI

We welcome and support the Albanian Government efforts to implement the Extractive Industries transparency Initiative (EITI) in order to meet its objectives and ensure that the EITI standard is fully implemented in Albania and the government of Albania introduces a high level of transparency and accountability through a process of open dialogue among stakeholders.

The multi-stakeholder group brings together the government, industries/private sector and civil society by combining different perspectives in providing leadership and setting policies and rules, sharing risks and responsibilities, thus achieving an effective cooperation based on common purpose and mutual trust.

2. The responsibilities and functions of the MSG

2.1. The responsibilities of the MSG:

1. The MSG is a decision making body in policy level made up of government, company and civil society representatives that oversee the EITI implementation in Albania.
2. The MSG will be supported by the EITI Secretariat.

3. The main responsibility of the MSG is to ensure that the Albania Government meets at least all the related obligatory requirements and achieve to become an EITI compliant country in a timely and effective manner.
4. The MSG gives opinions on the Albanian work plan, the EITI report and ensures that the EITI contributes to public debate about the extractive sector in Albania.
5. The MSG ensures that all the stakeholders are treated as partners in an inclusive decision-making process and are provided the opportunity to participate in the development, monitoring and evaluation of the EITI implementation process in Albania.
6. The MSG must consult on a regular basis the tripartite group of stakeholders in a clear and comprehensible manner with the purpose to achieve transparent results and removing barriers.
7. The MSG members shall report and provide full and reliable information to their respective stakeholders.

2.2. The functions of the MSG:

1. The MSG gives recommendations for a fully costed work plan containing measurable targets and a timetable for its implementation in which is integrated an assessment of capacity restraints;
2. The MSG develops and approves a communication strategy;
3. The MSG establishes and supports any sub-groups to examine specific issues, which may include preparation of reporting templates and preparation of contextual information for the annual EITI reconciliation;
4. The MSG evaluates and gives recommendations on the scope, depth and format of EITI reporting in Albania;
5. The MSG agrees the related information to be included within the annual report;
6. The MSG is engaged to endorse an Independent Administrator to undertake the annual reconciliation as well as to develop the Terms of Reference for the Independent Administrator;
7. The MSG must ensure that the EITI report is comprehensive, actively promoted, publicly accessible and contributes to public debate;
8. The MSG agrees and publishes an Annual Activity Report;
9. The MSG shall report to the Albanian Government as and when appropriate and necessary.
10. The MSG must communicate and built awareness about EITI, its scope and objectives as well as the progress of its implementation process in Albania.

2.3. ALB-EITI technical secretariat

1. The ALB-EITI secretariat is established by the Albanian Government to coordinate the work of the MSG and is responsible for the administration of the EITI activities.
2. The ALB-EITI functions include:

1. Development of the Albanian work plan, the EITI report and ensures that the EITI contributes to public debate about the extractive sector in Albania.
2. Determine the scope, depth and format of EITI reporting in Albania and involves the Agencies responsible for implementation of the ALB-EITI;
3. Assist the MSG members by providing administrative support in convening MSG meetings and follow-up;
4. Coordinate communication activities to encourage the use of EITI data, EITI website and manage relations with media;
5. Coordinate communication between MSG members and other non-member stakeholders;
6. Draft and lead consultations on MSG Work-plans;
7. Seek funding and allocate resources for EITI activities;
8. Manage the process of recruiting the Independent Administrator and/or technical assistance.

2.4. Code of Conduct

1. The provisions of the EITI Association Code of Conduct shall apply mutatis mutandis to the MSG members as well as ALB-EITI Secretariat, unless otherwise stated in this Regulation.
2. Referring to the EITI Association Code of Conduct, any attendees, whether MSG Members or non-members, proxies, alternates, observers or experts, should declare any conflict of interest, to the Chair of the MSG meetings, in writing before attending an MSG meeting and/or voting.

3. MSG membership appointment and meeting proceedings

3.1. The appointment of the MSG members

1. The MSG will be chaired by the Prime-Minister of the Republic of Albania or in its absence by the Deputy Prime-Minister, who will be responsible for convening the group.
2. The MSG consists of 15 primary members, with five representatives from each of the three groups of stakeholders.
3. The MSG members are appointed by the Government of Albania for an initial period of 3 years, with the right to be re-appointed.
4. The number of the members of MSG can be changed and additional members may be appointed upon the proposal of, and by consensus among, the MSG members and only upon the condition that the tripartite nature of the group of stakeholders must be maintained.
5. In the case one of the members resigns before the ending of the term, his/her successor shall be appointed by the MSG upon the proposal of the related stakeholder.

6. Each of the tripartite group shall designate a permanent and an alternate representative to the MSG.
7. Alternate members shall be appointed in accordance with the procedures applied in case of the primary members of the MSG and can attend the MSG meetings but can vote only in the absence of the primary member.
8. Alternates will be listed on the ALB-EITI webpage and will receive all MSG emails as a matter of course in the same way as primary members.
9. Each stakeholder, upon the decision of its members and through its own independent process can replace their representatives in the MSG anytime following their own governance mechanisms.
10. The MSG members may also agree that the meeting can be attended also by external experts with advisory capacity, which enjoy speaking but not voting right as well as by observers, which may attend the meetings but will have no speaking or voting rights. The chair of the MSG should be notified for additional attendees in the MSG meetings no later than 10 days in advance of the relevant meeting.

3.2. The meeting proceedings

1. The MSG will assemble every two months or as otherwise agreed until Albania becomes a fully compliant country with EITI standard.
2. The Chair will set the agenda for meetings. The meeting announcement, agenda and any background information shall be circulated to MSG members a minimum of one week before the meeting date.
3. If there are any necessary or urgent issues which need to be discussed and decided, the Chair will call an extraordinary meeting.
4. The Chair and MSG shall be supported by the ALB-EITI Secretariat.
5. MSG resolutions, outcomes and other documents shall generally be available electronically. The ALB-EITI Secretariat shall retain all documents for the MSG in a format which ensures that they can be accessed electronically at any time.
6. Minutes of meetings will be circulated to the MSG and will be made publicly available after agreement among the Members;
7. A request for a brief break during the meeting for group consultation purposes shall be granted at any time. The duration of the break shall be decided on a case-by-case basis by the Chair.

4. Decision-Making/Voting

The MSG will make decisions on the basis of consensus wherever possible. Where consensus is not possible the decision-making principles and voting rules will be applied.

4.1. Decision-Making Principles

1. The MSG is committed to operate in the spirit of collaboration and cooperation with the aim of reaching general agreement amongst all members on all decisions.
2. In cases where general agreement cannot be reached, a formal vote will be taken at the discretion of the Chair and the voting rules will be applied. While consensus is not always possible, decision-making principles are designed to build the greatest possible consensus.
3. A quorum of 9 MSG members or alternates with a minimum of 2 representatives from each group of stakeholders will be represented in decision-making.
4. The Chair aims for decisions to be made through consensus making votes unnecessary.

4.2. Decision-Making Rules

1. Decision-making will occur by a hierarchical system as follows:

   a) Consensus

   The Chair will seek to achieve consensus for all decisions. If this is not achieved then modified consensus will be sought.

   b) Modified Consensus

   - Consists of a two thirds or greater majority of exercised votes and includes a minimum of 2 representatives from each group of stakeholder.

   - If this is not achieved, a sub - working group will be formed comprising equal representation from each constituency, to discuss and negotiate a recommendation to proceed to the MSG. This may occur at the meeting or post meeting, with the purpose to provide a recommendation by the next MSG meeting. Once the sub-group has provided its recommendation, the MSG will seek to make a decision on the basis on consensus or modified consensus.

   - If a modified consensus is not possible, then a consensus is not possible.

   - One vote will be recorded per member, and abstentions will be recorded.

   - A quorum of 9 MSG members, with a minimum of 2 representatives from each group of stakeholders will be represented for each vote. The number of votes required to pass a motion will adjust according to any abstentions to maintain two-thirds.

4.3. Proxy Arrangements

- A quorum of 9 MSG members, with a minimum of 2 representatives from each group of stakeholder will be counted for each motion.

- Where a member is unable to be present at a meeting, that member may appoint either a named alternate member or another person to act as proxy at that meeting, and advise the EITI MSG Secretariat of the appointment in advance of the meeting.

- No person may hold more than two proxy votes for MSG members at a time with the exception of the Chair.
- In exceptional circumstances and at the Chair's discretion, when no advice on an alternate or proxy has been given and a member is absent from a meeting, the proxy will default to the Chair. The Chair may allocate the vote, abstain or use the vote at his discretion.

4.4. ***Abstention***

1. Where a member intentionally abstains from a decision-making process, their vote will not be counted for or against a decision. Their vote will be discounted from the number of eligible voters.
2. To ensure abstention by a member is intentional, a member will notify the ALBEITI Secretariat of this intention, where possible in advance, and ensure that the abstention is recorded in the minutes of the meeting, or the record of decision.

ANNEX 4

General overview: Mining sector

EITI Requirements	0.1 **Law no 10304 dated on 15.07.2010 "On the mining sector in the Republic of Albania", as amended."** 0.2 **DCM no. 320, dated 21.04.2011 "On approval of procedures and competition criteria and deadlines to review requests for mining permits in competitive areas", as amended.** 0.3 **DCM no. 741, dated 09.09.2015 "On approval of the form, return cases and manners of calculation of financial guarantees for environmental rehabilitation, for the implementation of the minimum work program and the realization of investment in mining activities** 0.4 **Decision no. 726, dated 09.02.2015 "On approval of the 3-year**	N- non-compliant P-partial compliant F-full compliant N/A-non-applicable

	action program, from 2016 to 2018, for the development of mining activities and the determination of hazardous mining areas". **0.5 DCM no. 942, dated 17.11.2010, "On approval of procedures and documentation for obtaining mining permits in open areas".** **0.6 DCM no. 442, dated 16.06.2011 "On approval of conditions, verifying documents, deadlines of validity and the procedures for reviewing requests for authorization of the marketing of precious and semi-precious minerals".** **0.7 DCM no. 479, dated 29.06.2011 "On approval of the mining strategy of the Republic of Albania".** **0.8 DCM no. 364, dated 04.05.2011 "On determining the criteria, the minimum value of surface of the mining permit area and the minimum investment value of production for a mining license".** **0.9 DCM no. 362, dated 29.04.2011 "On approval of the criteria and transfer rules, application methods for the postponement of deadlines and conversion of mining permits."** **0.10 DCM no.320, dated 21.04.2011 "On approval of procedures and competition criteria and deadlines to review requests for mining permits in competitive areas."** **0.11 DCM no. 233, dated 23.03.2011 "On approval of the form of reports, the manner of publication of data on local and national tax payments on the mining sector of the Republic of Albania, and the level of confidentiality in the context of the initiative for transparency in the extractive industry ".** **0.12 DCM no. 232, dated 23.03.2011 "On approval of the functions of the responsible structures in the mining sector of the Republic of Albania".** **0.13 DCM no. 942, dated 17.11.2010 "On approval of procedures and documentation for obtaining mining permits in open areas", as amended.** **0.14 Order no. 202, dated 20.06.2016, "On approval of the quarterly, annual, final information form and of the content of annual work**	

	plan from the holders of mining exploitation permits for the group of metallic minerals, non-metallic, coal and bitumen". **0.15 Order no. 201, dated 06.20.2016, "On approval of the quarterly, annual, final information form and of the content of annual work plan from the holders of mining exploitation permits with career for the group of construction minerals".** **0.16 Order no.414, dated 03.06.2011, "On approval of the form and content of the management plan and information held by the holder of a mining permit for the work performed, storage, waste mining treatment and their analyzing".** **0.17 Order No. 388, date 20.05.2011 "On approval of the form and content of the post-mining monitoring plan".** **0.18 Order no. 386, dated 20.05.2011 "On approval of rules for the use of the data of a mining permit".** **0.19 Order no. 384, dated 20.05.2011, "On approval of the registration procedures and documentation that will be recorded in the mining cadaster and mining registry and reporting and procedures form of this documentation by the holders of mining permits. "** **0.20 Order No. 312, dated 13.04.2011, "On approval of the form and content of the mandatory information prepared by the holders of mining permits."** **0.21 Order no.311, dated 13.04.2011, "On approval of the quarterly, annual, final information form and of the content of annual work plan from the holders of holders of mining permits to search-detection-exploit for the group of precious and semi-precious minerals".** **0.22 Order no.306, dated 13.04.2011, "On the procedures and form of annual mining development plan."** **0.23 Order no.304, dated 13.04.2011, "On approval of the form and content of the development of the mining activity project".** **0.24 Order No. 302, dated 12.04.2011, "On approval of the basic principles for the drafting of the environmental rehabilitation**	

	plan, termination activities of mining activities plan, the manner of determining the hazardous area of a mining right and mining waste management plan". 0.25 Order No.477, dated 27.06.2011 "On approval of the form, content and the procedures of drafting the approval acts and the refusal act on the mining permit application" 0.26 Instruction no. 17, dated 28.01.2015 "On determining the criteria for adoption of the subcontracting of mining permits right, research discovery, exploitation or search - discovery - exploitation". 0.27 Instruction no.718, dated 03.10.2011 "On the valuation manner of financial guarantees of mining permits". 0.28 Law no. 9975, dated 28.7.2008 "On national taxes"; 0.29 Law no. 9632, dated 30.10.2006 "On local taxes" 0.30 Law no. 125/2015 "On concessions and public private partnership", as amended; 0.31 Law no. 10 081, dated 23.2.2009 "On licenses, authorizations and permits in the Republic of Albania"; 0.32 Law 119/2014 "On the right to information"; 0.33 Law 9901/2008 "On traders and commercial companies" 0.34 Law 9917 dated 19.05. 2008 "On prevention of money laundering and financing of terrorism". 0.35 Law no. 7926, dated 04.20.1995 "For the transformation of state enterprises into commercial companies"; 0.36 Law no. 9723/2007 "On National Registration Centre" 0.37 Law no. 9920 dated 19.05.2008 "On tax procedures in the Republic of Albania" as amended. 0.38 DCM No.7, dated 4.1.2012 "On procedures and documents for collecting the mineral rent tax ".	

EITI Requirement:	Albanian Legislation provisions		Level of Compliance	Recommended Action/Comments
EITI Requirement1: Oversight by the Multi-stakeholder Group and Provision				
1.1 Government engagement (a) The government is required to issue an unequivocal public statement of its intention to implement the EITI. The statement must be made by the head of state or government, or an appropriately delegated government representative. (b) The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilise resources for EITI implementation. (c) The government must be fully, actively and effectively engaged in the EITI process.	0.1	*In terms of provision of law 10304* dated on 15.07.2010 "On the mining sector in the Republic of Albania", as amended.", the government has actively engaged on EITI processes, demonstrating the support on fulfillment of some of EITI Standards related mining activity. *Article 36, paragraph 25 of law 10304, determine as follow:* *In view of its activities, the Initiative for Transparency in Extractive Industries has the right to seek and receive information from entities holding the mining license, tax*	N/A	This provision is too general but intends to Proclaim the government support in EITI process. It is recommended to be elaborated further, in connection with these issues: 1. The type of the reported data must be extended in function of the EITIStandards(not just from a fiscal point of

(d) The government must ensure that senior government officials are represented on the multi-stakeholder group.		*administration and customs and local government bodies, and publish annual report data relating to the payment of fiscal duties, carried out by mining entities. ".* Article 50 and 51 of law 10304, determined the obligation of the reporting and the right of competent authorities to disclose data on paid fiscal obligation.	N/A	view). **2.** The data which should be reportedby the mining permit holder should be defined more clearly, in order to include the entire data to be used for the purposes of theEITI Report (not just from a fiscal point of view). The actual DCM related reporting templates from the **holders of mining permits and state institutions (tax and custom office) should be amended in order to decide deadline for subjects related the reporting and to include in the respective templates additional data.** 3. The responsible structures in Ministry and or AKBN (which is a subordinate structure of Ministry) should periodically verify the fulfilment of the reporting obligation toward EITI, by the holder of mining permits and, in accordance with Article 45, must apply

				fines toward the companies which failed to respect this obligation.
1.2 Company engagement (a) Companies must be fully, actively and effectively engaged in the EITI process. (b) The government must ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of company representatives substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected. (c) The government must ensure that there are no obstacles to company participation in the EITI process.		This standard is not applicable in relation with law 10304, dated 17.05.2010.	N/A	
1.3 Civil society engagement In accordance with the civil society protocol: e) Civil society must be fully, actively and effectively engaged in the EITI process. f) The government must ensure that there is an enabling environment for			N/A	Comments related letter (b): According to the law 10304/2010, Article 4 "Principles of mining activity" it is foreseen that the decision-making in the mining activity is done in a transparent, **preceded by consultations with the local**

civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of civil society substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected. g) The government must ensure that there are no obstacles to civil society participation in the EITI process. The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI. h) Stakeholders, including but not limited to members of the multi-stakeholder group must: v. Be able to speak freely on transparency and natural resource governance issues. vi. Be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate. vii. Have the right to communicate and cooperate with each other. viii. Be able to operate freely and express opinions about the EITI				**community** and the written opinion of the respective local government units. We consider that the consultation with local communities during the decision-making in mineral activity, including the decisions which have to do with the implementation of EITI standards, represents a form of involvement of civil society in the process of adoption of acts, regulations, etc.

without restraint, coercion or reprisal.				
1.4 Multi-stakeholder group a) The government is required to commit to work with civil society and companies, and establish a multi-stakeholder group to oversee the implementation of the EITI. In establishing the multi-stakeholder group, the government must: iv. Ensure that the invitation to participate in the group is open and transparent. v. Ensure that stakeholders are adequately represented. This does not mean that they need to be equally represented numerically. The multi-stakeholder group must comprise appropriate stakeholders, including but not necessarily limited to: the private sector; civil society, including independent civil society groups and other civil society such as the media and unions; and relevant government entities which can also include parliamentarians. Each stakeholder group must have the right to appoint its own representatives, bearing in mind the desirability of pluralistic and diverse				

representation. The nomination process must be independent and free from any suggestion of coercion. Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies. vi. Consider establishing the legal basis of the group. b) The multi-stakeholder group is required to agree clear public Terms of Reference (ToRs) for its work. The ToRs should, at a minimum, include provisions on: The role, responsibilities and rights of the multi-stakeholder group: i. Members of the multi-stakeholder group should have the capacity to carry out their duties. ii. The multi-stakeholder group should undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society. The multi-stakeholder group should also				

widely disseminate the public information that results from the EITI process such as the EITI Report. iii. Members of the multi-stakeholder group should liaise with their constituency groups. Approval of work plans, EITI Reports and annual progress reports: iv. The multi-stakeholder group is required to approve annual work plans, the appointment of the Independent Administrator, the Terms of Reference for the Independent Administrator, EITI Reports and annual progress reports. v. The multi-stakeholder group should oversee the EITI reporting process and engage in Validation. Internal governance rules and procedures: vi. The EITI requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner. Any member of the multi-stakeholder group has the right to table an issue for discussion. The multi-stakeholder group should agree and publish its procedures for				

nominating and changing multi-stakeholdergroup representatives, decision-making, the duration of the mandate and the frequency of meetings. This should include ensuring that there is a process for changing group members that respects the principles set out in Requirement 1.4.a. Where the multi-stakeholder group has a practice of per diems for attending EITI meetings or other payments to multi-stakeholder group members, this practice should be transparent and should not create conflicts of interest. vii. There should be sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption. viii. The multi-stakeholder group must keep written records of its discussions and decisions.				
1.5 Work Plan The multi-stakeholder group is required to maintain a current work plan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board. The work plan must: a) Set EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. Multi-				

stakeholder groups are encouraged 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. b) Reflect the results of consultations with key stakeholders, and be endorsed by the multi-stakeholder group. c) Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation should be tailored to contribute to the desired objectives that have been identified during the consultation process. The work plan must: v. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation. vi. Address the scope of EITI reporting, including plans for addressing technical				

aspects of reporting, such as comprehensiveness (4.1) and data reliability (4.9). vii. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation. viii. Outline the multi-stakeholder group's plans for implementing the recommendations from Validation and EITI reporting. d) Identify domestic and external sources of funding and technical assistance where appropriate in order to ensure timely implementation of the agreed work plan. e) Be made widely available to the public, for example published on the national EITI website and/or other relevant ministry and agency websites, in print media or in places that are easily accessible to the public.				

f) Be reviewed and updated annually. In reviewing the work plan, the multi- stakeholder group should consider extending the detail and scope of EITI reporting including addressing issues such as revenue management and expenditure (5.3), transportation payments (4.4), discretionary social expenditures (6.1.b), ad hoc sub national transfers (5.2.b), beneficial ownership (2.5) and contracts (2.4). In accordance with Requirement 1.4.b (viii), the multi- stakeholder group is required to document its discussion and decisions. g) Include a timetable for implementation that is aligned with the reporting and Validation deadlines established by the EITI Board (8.1-8.4) and that takes into account administrative requirements such as procurement processes and funding.				
EITI Requirement 2: Legal and institutional framework, including allocation of contracts and licenses				
2.1 Legal framework and fiscal regime (a) Implementing countries must disclose a description of the legal framework and fiscal regime governing the extractive industries. This information must include a		Law 10304 dated on 15.07.2010 "On the mining sector in the Republic of Albania", as amended Law 9975, date 28.7.2008 "On national taxes", Law Nr.9632, dated 30.10.2006 "On local taxes",	P	**Comments:** The legal framework which is linked to the scope of responsibility of each ministry (subordinate structures) is

summary description of the fiscal regime, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies. (b) Where the government is undertaking reforms, the multi-stakeholder group is encouraged to ensure that these are documented.		Law No. 8438, dated 28.12.1998, "On the income tax", amended. One of the fiscal obligations determined in in law 10304, dated 17.05.2010, is the royalty tax. According to the article 40 of law 10304 dated 15.07.2010 "On the mining sector in the Republic of Albania", as amended, royalties is an obligation of holders of mining permits, calculated as a percentage of the sale value of the raw produced minerals and is allocated into the state budget (national budget) and into the budget of the respective local government units. Based on the law 9975, date 28.7.2008 "On national taxes" are defined the main criteria related the calculation of the royalty (the percentage, the payment deadline etc). According to the Article 4, paragraph 4 of the law 9975, date 28.7.2008, 5% of the royalty is allocated to local authorities. In this regard, 95% of the royalty is allocated in national budget and 5% to the local authorities' budget. Based on the law Nr.9632, dated 30.10.2006 "On local taxes", the local authorities are entitled to decide local taxes as it is determined in Article 9 of the law, as immovable property tax, advertising table tax, cleaning. The mining permit holder pay as well other		published in their websites. Legal, sublegal and regulatory framework related to the extractive industry is published in the website of the ministry responsible for mining activity www/energjia.gov.al and fiscal legal framework is published on the ministry responsible for finance and the website of the General Tax Directory. . There is no publication/ disclose any concentrated description related the legal framework, fiscal regime including information on responsibilities and interfaces between state agencies in extractive industry. **Recommendation:** We recommend to EITI to prepare a standard template including information and updated with potential changes related legal framework and fiscal regime, including t hydrocarbon. This format does not need to be approved by a legal and or sublegal act, just to be included as published information in EITI website.

		taxes as the other companies with perform activity in different sectors as tax on profit , health and social insurance, local taxes etx		
2.2 License allocations a) Implementing countries are required to disclose the following information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report during the accounting period covered by the EITI Report: i. a description of the process for transferring or awarding the license; ii. the technical and financial criteria used; iii. information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable; and iv. any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. It is required that the information set out above is disclosed for all license awards and transfers taking place during the accounting year covered by the EITI Report, including license allocations pertaining to companies that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality		1. Law 10304 15.07.2010 "On mining sector Republic of Albania" 2. Law 125/2015 "On concessions and public priv partnership", as amended; 3. Law no.10 081, dated 23.2.2009 "on the licen authorizations and permits in Republic of Albani 4. DCM no. 320, dated 21.04.2011 "On approval procedures and competition criteria and deadli to review requests for mining permits competitive areas", as amended. 5. DCM no. 942, dated 17.11.2010, "On approval of procedures and documentation for obtaining mining permits in open areas" DCM no. 362, dated 29.04.2011 "On approval of the criteria and transfer rules, application methods for the postponement of deadlines and conversion of mining permits." According to the Article 5 of the law no.10304 "On Mining sector in Republic of Albania", the mining permits derives from these main procedures: 1. Permits awarded based on the competitive procedure, for the mineral areas which are determined as competitive areas in the annual mineral program ; 2. Permits awarded based on the principle "first in time, first in rights" for the mineral areas which are reflected as open areas in the annual	P	**Comments:** Based on the legal framework for the mining industry, it is estimated that the essential requirements of this standard are partially met. 1. Mining permits for open areas that are given based on the principle "first in time, first in right", awarded based on technical, legal and financial criteria set forth in Decision 942, dated 17.11.2010. Considering the specific of the followed procedure for awarding these mining permits, the Ministry does not proceed with any preliminary procedure which decides the conditions to be met by the applicant for the mining area. The applicant must meet the criteria and follow the procedure laid down in Decision 942. In this mining these is not publication of data concerning the technical and financial criteria with respect to the process of granting the permit. However, the applicant submits

threshold. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them. b) Where companies covered in the EITI Report hold licenses that were allocated prior to the accounting period of the EITI Report, implementing countries are encouraged, if feasible, to disclose the information set out in 2.2(a) for these licenses. c) Where licenses are awarded through a bidding process during the accounting period covered by the EITI Report, the government is required to disclose the list of applicants and the bid criteria. d) Where the requisite information set out in 2.2(a-c) is already publicly available, it is sufficient to include a reference or link in the EITI Report. e) The multi-stakeholder group may wish to include additional information on the allocation of licenses in the EITI Report, including commentary on the		mineral program; 3. Some mineral rights are awarded based on concession legal framework, which refers to a competitive procedure. In this regard the permits are issued based on the concession contract concluded between the responsible sate authority and the investor. Permits from which derives the mineral rights, are awarded based on these procedures: According to the article 41 of law 10304, the transfer of the mineral rights is allowed based on these conditions: 1- The mining permit awarded based on a competitive procedures are not allowed to be transferred; 2-The mining permit for which the mineral activity has not yet started are not allowed to be transferred; 3- The transfer of the other mining permit, awarded based on the procedures of this law, are transferable with the prior approval by the ministry; The criteria's and the rules for the transfer are approved by the decision no.320, dated 21.04.2011 of the Council of Minister. According to the provision of Article 30 of the law 10304, the final decision for approval a exploration and or exploitations permits is		his application at the counters of the NLC and its application to obtain a license to open areas, recorded and published by the website of the NLC, registry of applications http: //www.qkl.gov.al/ Application_Status.aspx Also after the approval of the permit, detailed data on the mining permit are disclosed on the website of the ministry responsible, the link below: http: //www.energjia.gov.al/al/sherbime/lejet-per-koncesionet-minerare/lejet-minerare-ekzistuese 2. The mining permit obtained through a contract concession (competitive procedure), are awarded in the early periods of time, when the new law on mining sector was not approved. However, in the case of these procedures, the responsible ministry is obliged to follow the procedures stipulated in the Law 145/2013 "On concessions and public private partnership." . Based on the requirements on the law

efficiency and effectiveness of licensing procedures.		enter into force after the publication in the National Register for the Licensees and Permits http://www.qkl.gov.al/Registries.aspx (excepts the permits which are approved by decision of Council of Ministers and/or by law of the Parliament). According to the Article 41, the transfer of a mining permit, must be as well registered in the National Register for the Licensees and Permits http://www.qkl.gov.al/Registries.aspx. According to the DCM 320, dated 21.04.2011, article 7.2, 7.3 and 7.4, the government authority (contracting authority) has the obligation to prepare and administrate the register of public competitive procedure which include this information: -name and address of contracting authority; -the area of competitive procedure presented in the map according to the coordinates; -amount on investment -member of the committee for preparation of tender documentation, and the committee for evaluation of the offers; -the names and addresses of the applicants -summary of the evaluation and compare of the offers; -summary of the clarification request on tender documents -summary of the claims and reclamation related to the procedures and the -summary how the claims are addressed. This information of the register of public competitive procedure should be disclosed to any interested party with their prior request , in		145/2013, the bid invitation and tender documents (where is included the data about the criteria, conditions which must be met by applicant etc) are published in the web side of Public Procurement Agency. Based on actual legal framework, there is not any obligation related the publication of the contract concession concluded between Contracting Authority and the winner. Nevertheless considering the fact that some of the most important contract concessions (concluded in early period) are approved by Parliament (based on the legal requirements in force in these period), results that the most of them are already published. In this regard, it result that it is published one of the most important contract which was approved by the law no.8791, dated 10.05.2001”On approval of "concession agreement form" ROT "Chrome mine Bulqize factory enrichment Bulqizë, plant selection Klos and plant ferrochrome Burrel between the Ministry of Public Economy and Privatization and the Italian Company" DARFO

		accordance with the law 119/2014 “On the right of information”.		"SPA"…”, has been published. After the concession contract the contractor must be equipped with the mining permit. The data related the mining permit holder and the permit shall be registered in the National Register of licenses / authorizations and permits, published on the NCL www.qkl.gov.al/Registries.aspx are published. 3. The mining permits granted on the basis of competitive procedures, the followed procedures, terms and conditions that must be fulfilled by applicants, are provided in the law No. 10304 and DCM. 320, dated 21.04.2011. The responsible ministry, Contracting Authority, announce in the beginning of the year all planned mining areas planned to go under competitive procedure. These mining areas are published on the website of the responsible ministry http://www.energjia.gov.al/al/sherbime/lejet-per-koncesionet- WEB Based on the planned mining

				areas, the contracting authority proceeds with opening the competitive procedure for each of mining areas. In this regard, the Contracting Authority shall publish on the website of the institution (http://www.energjia.gov.al/al/sherbime/lejet-per-koncesionet) the bid invitation for a specific mining area . The bid invitation shall be published in the Public Bulletin managed by Public Procurement Agency. The bid invitation contain data on tender documents including information on the procedure to be followed for granting permits, the criteria used, the conditions to be met by applicants, technical data mining areas (coordinates, etc.). After submitting and reviewing the bids, the committee selects the winning bid. Information regarding the winner applicant is reflected in the winner notification which is published on the Public bulletin managed by APP, http// www app.gov.al Details regarding applicants who participated in the

				competitive procedure, the conditions and criteria's used for the selection of the winners etc. are included in the register of public competition, which must be administrated for 1 year period. This register is not published on the website but it shall be provided to every interested party with their prior request according to the requirements of point 7.4 of the DCM. 320, dated 21.04.2011. The transfer of mining permits is done in accordance with the terms and procedures set out in Decision 362, dated 29.04.2011. Subjects to whom the mining permits are transferred must meet all conditions specified in paragraph 3 and 4 of Decision 362, dated 29.04.2011. Details of the subject to whom the mining permit was transferred shall be registered in the National Register of licenses/authorizations and permits, published on the QKL www.qkl.gov.al/Registries.aspx The followed procedure related to the mining permit transfer (the evaluation process on

				fulfilments of the conditions determined in DCM 362, dated 29.04.2011), is not disclosed However, we consider that the requirements of this standard are met in general because: - the transfer procedures, the criteria that must be met by applicants for transfer, are clearly specified in Decision 362, dated 29.04.2011, which is published in the official journal of the website and the ministry http://www.energjia.gov. al. -Every interested party is entitled to request information on the process of transferring of a specific mining permit, in accordance with the provisions of Law 119/2014 "For the right to information". - The relevant details about the company whose license is transferred to, including the approval of the transfer by the responsible ministry, is reflected on the National Register of licenses/ authorizations and permits, which is published. Recommendations: 1. Register of public competition, prepared and

				administered in accordance with paragraph 7.2, 7.3 and 7.4 of Decision 320, dated 21.04.2011, it should be preserved and administrated for a longer period of time (for the same period of the applicants stored documents) and it must be published on the ministry's web site after the completion of competitive procedure and granting the permit. Therefore we propose that the necessary changes to be made within the 7.2 point, while the publication in point 7.4 of Decision 320, dated 21.04.2011. 2. For mining permits granted under the principle "First in time, first in right", the responsible ministry should prepare a summary report which contains information on the subject who has applied and the followed procedure etc. This report should be published by the ministry on the website. For this purpose some amendments are needed in Decision 942, dated 17.11.2010. Specifically after paragraph 11, added 11/1 points which included the obligation of the responsible ministry to design and publish

				in the website the register on the procedures followed for the "open areas". 3. For mining permits granted under a concession contract, must be included some provision in law related the obligation for publication of these contracts.
2.3 Register of Licences a) The term license in this context refers to any license, lease, title, permit, contract or concession by which the government confers on a company(ies) or individual(s) rights to explore or exploit oil, gas and/or mineral resources. b) Implementing countries are required to maintain a publicly available register or cadastre system(s) with the following timely and comprehensive information regarding each of the licenses pertaining to companies covered in the EITI Report: i. License holder(s). ii. Where collated, coordinates of the license area. Where coordinates are not collated, the government is required to ensure that the size and location of the license area are disclosed in the license register and that the		1. Law no.10304 dated 15.07.2010 " On mining sector in Republic of Albania" 2. Law no.10081, dated 23.2.2009 "On the licen authorizations and permits in Republic of Albani 3. Order no. 384, dated 20.05.2011 "On approval of the registration procedures and documentation that will be recorded in the mining cadaster and mining registry and reporting and procedures form of this documentation by the holders of mining permits" Based on point 33, Article 2 and Article 44 of law 10304, dated 15.07.2010 , the responsible structures must administrate a Mining Registry, which include information on the legal regime, surface mining areas and neighboring areas, property, topographic situation, reserves and mineral production, data related the holder of mining permits etx. The detail data which should be reflected in Mining Registry and the procedure of administration are reflected in Order no. 384,	P	Comments: The responsible ministry disclose a general information related the awarded licenses which include data on reference number of permit, permit holder data, date of permit approval, the nature of the mineral, the extend of the area, the address of the area and the type of the permit (exploration/ exploitation or combined) This information is presented in a table/register and is published in the link: http://www.energjia.gov.al/files/userfiles/minierat2/2016/RREGJ._LEJEVE_SHKURT_2016_Aktive.pdf. This information disclosed by the Ministry do not contain the information related the coordinate of the license areas,

coordinates are publicly available from the relevant government agency without unreasonable fees and restrictions. The EITI Report should include guidance on how to access the coordinates and the cost, if any, of accessing the data. The EITI Report should also document plans and timelines for making this information freely and electronically available through the license register. iii. Date of application, date of award and duration of the license. iv. In the case of production licenses, the commodity being produced. It is expected that the license register or cadastre includes information about licenses held by all entities, including companies and individuals or groups that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality threshold. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and		dated 20.05.2011 of the Minister. The data which shall be included in Mining Registry, according to the provision of Order no. 384, dated 20.05.2011 are very detail and categorized as follow: 1. Data on the legal regime of the mining areas and the neighbor areas. 2. Data on the property of the land in mining area and the neighbor area. 3. Data on topographic situation of mining areas etx. 4. Data on the reserves and related the mineral production according to the project etx. 5. Data on the mining permit holder. 6. Data on the administrative offences of the holders, the status of the mining permit the suspension or revocation of the permit. Based on point 8 of the Order of Minister, Mining Registry is prepared by National Licens Center (NLC) in the framework of the Register Licenses, Authorizations and Permits, created a administrated under the provision of Article 14 Law no.10081, dated 23.2.2009 "On the licen authorizations and permits in Republic of Albani The responsible structures which are included in the process of verification and approval of a mining permit, are entitled to have access in these data during their work. The main important data included in the miming permit are accessible from the public because are disclosed in the system of NCL.		date of application, duration of the license and the commodity being produced (in exploitation permits). Meanwhile the main information on Mining Registry, administrated by NCL is disclosed for the public. NCL publish the National Register for the Licensees and Permits http://www.qkl.gov.al/Registries.aspx where is included data about mining permits, coordinates, maps, conditions of the permits data on reference number of permit, permit holder name, date of permit approval, the status of the permit etc . Recommendation: 1. The data which is disclose by the Ministry, must be extended, including data related the produced mineral by the permit holder. Based on DCM 232, dated 23,03.2011, "On approval of the functions of the responsible structures in the mining sector of the Republic of Albania",

the anticipated timescale for achieving them. c) Where the information set out in 2.3.b is already publicly available, it is sufficient to include a reference or link in the EITI Report. Where such registers or cadastres do not exist or are incomplete, the EITI Report should disclose any gaps in the publicly available information and document efforts to strengthen these systems. In the interim, the EITI Report itself should include the information set out in 2.3.b above.				point 2, letter h and I, AKBN, which is a subordinate structure of Ministry, is responsible to prepare a trimester report, which include data related the production, investment exc This information is provided to Ministry. In this regard the Ministry, periodically (at least annually), must update the register of the mining permit, including the data related the production.
2.4 Contracts a) Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals. b) It is a **requirement that the EITI Report documents the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. This should include relevant legal provisions, actual disclosure practices and any reforms that are planned or underway. Where applicable, the EITI Report should provide an**		1. Law no.10304 "On Mining sector in Republic of Albania"; 2. Law 125/2015 "On concessions and public priv partnership", as amended; 3. Law no.10 081, dated 23.2.2009 "On the licenses, authorizations and permits in Republic of Albani 4. Law 119/2014 "On the right of information". 5. Law 9901/2008 "On traders and trade companies" According to the broad interpretation of Article 5 of the law no.10304 "On Mining sector in Republic of Albania", the mining permits derives from these main procedures: 1.Permits awarded based on the competitive procedure or based on the principle "fist in time, first in rights". The title for exercising the mineral rights, is represented by the Mining Permits awarded based on competitive		Comments: Mining permits are disclosed for the public except data related projects ex, which are considered as confidential. The contract, concluded based on Article 16 of Law 10304, is approved by the Parliament. In this regard, based on the provision of domestic legislation, the law which will approve the contract and the contract itself must be published in Official Gazettehttp://www.qbz.gov.al/ , except the provision which is treated as confidential by parties, in accordance with the

<u>overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published.</u> c) The term contract in 2.4(a) means: i. The full text of any contract, concession, production-sharing agreement or other agreement granted by, or entered into by, the government which provides the terms attached to the exploitation of oil gas and mineral resources. ii. The full text of any annex, addendum or rider which establishes details relevant to the exploitation rights described in 2.4(c)(i) or the execution thereof. iii. The full text of any alteration or amendment to the documents described in 2.4(c)(i) and 2.4(c)(ii). d) The term license in 2.4(a) means: i. The full text of any license, lease, title or permit by which a government confers on a company(ies) or individual(s) rights to exploit oil, gas and/or mineral resources. ii. The full text of any annex, addendum or rider that establishes details relevant to the exploitation rights described in in 2.4(d)(i) or		procedure or based on procedure for open areas (principle first in time, first in rights). Based on Article 16, paragraph 3,4, in some special situations, when the investment in the mining is considered with high interest, the deadline of the permit is extended for 99 years and the ministry and the permit holder may conclude a contract with some preferential terms. This contract should be approved by the Parliament. The contract and the permit, represents the titles based on which the mineral rights are exercised. 2.Some mineral rights, permits, are awarded based on concession legal framework, which refers to a competitive procedure. In this regard the permits are issued based on the title which is represented by concession contract concluded between the responsible sate authority and the investor (this way of awarding permit is not so common in practice). Based on Article 51 of the law 10304, the responsi structures of ministry and other state authorities obliged to consider and to not disclose the data, obtained by the holder of a mining permit or data which constitutes a trade secret, in accordance wi applicable law. Technical data and study samples presented by permit holder are considered as confidential. Meanwhile other data, as approval acts, data on mineral area, coordinates, mining holder, approv acts etx are already disclosed in Mining Register		legislation in force. Main terms of Concession contract from which derive the mining permits must be reflected in the register of Concessions administrated by the Agency of the Concessions. The Conditions related the preparation and administration of this register must be approved with Decision of Council of Minister. In our information, this register is not yet created. Nevertheless, based on the law 119/2014 "On the right of information" the ministry is obliged to make available the contract and permits to every interested party with their prior request, excluding the confidential information. This legal ground in fact is very interpretative, and in different cases the public authorities may interpret narrowly this provision in order to avoid this obligation. Recommendation The disclosure of the permits and contracts and every kind of attached documents,

the execution thereof. ii. The full text of any alteration or amendment to the documents described in 2.4(d)(i) and 2.4(d)(ii).		administrated by NCL. Based on the Article 18 of the law 9901/2008 "On traders and trade companies", as amended, trade secret is a data estimated by the company as internal information, which, if disclosed to unauthorized persons, would cause substantial harm to interests of the company. Based on Article 14 of the Law 125/2015 "On concessions and public private partnership", as amended, the data related the concessionary contracts are reflected in the register of concessio administrated by the agency of the concessions. Based on the Article 15 of Law 125/2013 "On concessions and public private partnership" provided that the provisions of the public procurement law on the confidentiality are applicable concessions or public private partners under this law. Under Article 25 of Law No. 9643 dated 20.11.2006 "On public procurement" amend "The secrecy of the process", is foreseen: "Without prejudice to the provisions of this law on the obligation to publish procurement contracts and information for candidates and tenderers under Articles 21 and 57 of this law, the contracting authority shall not disclose information received from the economic operators, labelled as confidential. Such information includes in particu technical aspects, trade secrets and confidential information of offers		annexes, addendum particularly in mining industry and generally in extractive industries, should be analyzed in parallel with other legal provision of confidentiality and should be addressed parallel with the issues of beneficial ownership. The recommendation is to address the obligation of disclosure of contracts and permits in special provision of law. In every case the disclosure of the data which is considered as trade secret, must be excluded by the disclosure obligation.
2.5 Beneficial Ownership		1.Law no.10304 "On Mining sector in	P	**Comments:**

a) It is recommended that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity(ies) that bid for, operate or invest in extractive assets, including the identity(ies) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted. Where possible, beneficial ownership information should be incorporated in existing filings by companies to corporate regulators, stock exchanges or agencies regulating extractive industry licensing. Where this information is already publicly available, the EITI Report should include guidance on how to access this information. b) It is **<u>required</u>** that: i. The **<u>EITI Report documents the government's policy and multi-stakeholder group's discussion on disclosure of beneficial ownership. This should include details of the relevant legal provisions, actual disclosure practices and any reforms that are planned or underway related to beneficial ownership disclosure</u>**. ii. **<u>By 1 January 2017, the multi-stakeholder group publishes a</u>**		Republic of Albania" (Article 44 and 46); 2. Order no. 384, dated 20.05.2011 "On approval of the registration procedures and documentation that will be recorded in the mining cadastre and mining registry and reporting and procedures form of this documentation by the holders of mining permits" and Order No.477, dated 27.06.2011 "On approval of the form, content and the procedures of drafting the approval acts and the refusal act on the mining permit application" 3. Law no.10 081, dated 23.2.2009 "On the licenses authorizations and permits in Republic of Albani 4. Law No.9917 dated 19.05. 2008 "On the prevention of money laundering and financing of terrorism" 5. Law 9901/2008 "On traders and trade companies 6. Law no. 9723/2007 "On national registering centre", (Article 28, 29, 32, 36) as amended. 1. Based on Law no.10304 "On Mining sector in Republic of Albania" (Article 44 and 46) and Order no. 384, dated 20.05.2011 of Minister, the responsible structures must administrate a Mining Registry, which include information related the mining permits, and explicitly data about **the holder of mining permits including data on the owners and their shares on the company.**		As we referred above, the data on Mining Registry, created and administrated based on Law no.10304 "On Mining sector in Republic of Albania" and Law no.10 081, dated 23.2.2009 "On the licenses, authorizations and permits in Republic of Albania", is already disclosed because the NCL has published the Register of Licenses, Permits and Authorization in its website. In this context, data about the beneficial owners are included in the content of the permits (Approval act). **In some cases the data about beneficial owners do not refer to the natural persons who are the real beneficial owners but to the legal entities holding the mining permit.** **Indeed, there are evidenced some cases, where the data related the beneficial owner is confused with the data about the legal representatives of the company, holder of the mining permits.** The Trade Register, and the

<u>roadmap for disclosing beneficial ownership information in accordance with clauses (c)-(f) below. The multi-stakeholder group will determine all milestones and deadlines in the roadmap, and the multi-stakeholder group will evaluate implementation of the roadmap as part of the multi-stakeholder group's annual progress report</u>. c) **As of 1 January 2020, it is required that implementing countries request, and companies disclose, beneficial ownership information for inclusion in the EITI Report**. This applies to corporate entity(ies) that bid for, operate or invest in extractive assets and should include the identity(ies) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted. Any gaps or weaknesses in reporting on beneficial ownership information must be disclosed in the EITI Report, including naming any entities that failed to submit all or parts of the beneficial ownership information. Where a country is facing constitutional or significant practical barriers to the implementation of this requirement by 1 January 2020, the country may seek adapted implementation in		Law No. 9901/2008 "On traders and trade companies, as amended; and the Law no. 9723/2007 "On national registering centre", (Article 28, 29 and 32) as amended, provides the obligation of the founders of the companies (which are presumed to be the beneficial owners), including companies that bid for, operate or invest in extractive industries, to present data on the identification of their beneficial owner(s), the level of ownership and details about how ownership or controls exerted. Based on Law No. 9917, dated 19.5.2008 "On prevention of money laundering and financing of terrorism ", is treated narrowly the concept of BO, the beneficial owner. In fact, the law treats narrowly this issue, however is a good point of reference for further initiatives in this direction. Specifically, under Article 1 of Law No. 9917, dated 19.5.2008 "On prevention of money laundering and financing of terrorism" "*Beneficial owner" is the natural or legal person that owns or controls ultimately a customer and/or the person, on whose behalf a transaction is executed. Here are included also those persons that exercise effective final control over a legal person. Final effective control is the relationship, in which a person:* *a) owns directly or indirectly at least 25 per cent of the shares or voting rights of a legal person;*		extract provided by this Register created based on the provisions of law 9901/2008 "On traders and trade companies, as amended; and the Law no. 9723/2007 "On national registering centre", (Article 28, 29 and 32), provides data for the founders of each company or individual traders, **but in cases when the founders of the company are other companies, the beneficial owner is not disclosed/identified.** Related the law No. 9917, dated 19.5.2008 "On prevention of money laundering and financing of terrorism" we notice two main issues: - Although this Law contains definitions of "beneficial ownership" and "politically exposed person" which are mostly aligned with international norms (in particular, FATF Guidance), this law encapsulatesthese concepts in close connection withthe prevention and supervision of financial operations through which money laundering is realized.

accordance with requirement 8.1. d) **<u>Information about the identity of the beneficial owner should include the name of the beneficial owner, the nationality, and the country of residence, as well as identifying any politically exposed persons</u>**. It is also recommended that the national identity number, date of birth, residential or service address, and means of contact are disclosed. e) **The multi-stakeholder group should agree an approach for participating companies assuring the accuracy of the beneficial ownership information they provide. This could include requiring companies to attest the beneficial ownership declaration form through sign off by a member of the senior management team or senior legal counsel, or submit supporting documentation**. f) Definition of beneficial ownership: i. A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity. ii. The multi-stakeholder group should agree an appropriate		*b) alone owns at least 25 percent of the votes of a legal person under an agreement with partners or other shareholders;* *c) de facto determines the decisions taken by the legal person;* *ç) controls in any way the election, appointment and dismissal of the majority of the administrators of the legal person"*. Based on Article 2 of the law No. 9917, dated 19.5.2008, subject of this law are as follow: a) *banking entities, and any other entity licensed or supervised by the Bank of Albania, including, but not limited to the entities designated in letters ' b', 'c' ' and 'ç' of this article.* *b) non-bank financial entities;* *c) exchange offices;* *ç) savings and credit companies and their unions;* *d) postal services that perform payment services;* *dh) repealed* *e) stock exchange and any other entity (agent, broker, brokerage house etc.), which carries out activities related to issuing, counseling, intermediation, financing and any other service related to securities trading;* *ë) companies involved in life insurance or re -insurance, agents and their intermediaries as well as retirement funds;* *f) the Responsible State Authority for Administration and Sale of Public Property and any other public legal entity, which engages in legal transactions related to the public property alienation and granting of usufruct over it or which carries out recording, transfer or alienation of public property;* *g) gambling, casinos and hippodromes, of any kind;* *gj) attorneys, public notaries and other leg*		Thus the provisions of this Law may regulate specific issues relating to money laundering, coming from illegal activities. Meanwhile these concepts are very broad and relate to the identification of the factual ultimate owner, even if the company's activity is in fact legal. - Secondly, the categories of businessesto which the provisions of this lawapply, appear in an exhaustive list (which includes e.g. commercial banks, savings and credit society, lawyers, notaries, property registration offices, etc.) and this may create opportunities for certain categories of entities operating in the extractive industry to attempt not to be subject to the enforcement of the provisions of this Law. In addition to the reporting obligations, are charged entities that involve or facilitate transaction processes as **Recommendation:** We consider that the drafting, adoption and implementation of a legal framework related BO, must be extensive compared to the law No. 9917,

definition of the term beneficial owner. The definition should be aligned with (f)(i) above and take international norms and relevant national laws into account, andshould include ownership threshold(s). The definition should also specify reporting obligations for politically exposed persons. iii. Publicly listed companies, including wholly-owned subsidiaries, are required to disclose the name of the stock exchange and include a link to the stock exchange filings where they are listed. iv. In the case of joint ventures, each entity within the venture should disclose its beneficial owner(s), unless it is publicly listed or is a wholly-owned subsidiary of a publicly listed company. Each entity is responsible for the accuracy of the information provided. g) **<u>The EITI Report should also disclose the legal owners and share of ownership of such companies.</u>**		*al representatives, authorized independent chartered accountants, approved independent accountants, financial consulting offices and* *regulated professions that offer financial consulting services when they prepare or carry out transactions for their customers in the following activities:* *i) transfer of immovable properties, administration of money, securities and other assets;* *ii) administration of bank accounts;* *iii)administration of shares of capital to be used for the foundation, functioning or administration of commercial companies;* *iv)foundation, functioning or administration of legal persons and/or legal arrangement;* *v) legal agreements, sale of securities or shares of joint stock companies and the transfer of commercial activities;* *h) Real estate agents in accordance with the definition specified in the Albanian legislation for this category, when they are involved in transactions on behalf of their customers related to purchasing or sale of immovable property;* *i) repealed* *.* *j) the Agency for Legalization, Urbanization and Integration of Informal Areas/ Constructions;* *k) any other natural or legal person, in addition to the aforementioned ones, engaged in:* *i)the administration of third parties' assets/ managing the activities relate* *d to them;* *i/1) foundation, registration, administration, functioning of the legal arrangement or legal persons that are not included under letter 'gj'.* *ii) repealed;* *iii)Constructions;*		dated 19.5.2008, in order to impose to all the operating companies in extractive industries. It should also be noted that national company registries should also include (and make publicly accessible) certain information relatig to BO and therefore there should be a requirement in Albanian national law that companies must keep a public register containing the relevant information on BO/PEPs, updated on an annual basis and/or whenever any change is made. Also, it should also be considered the way how it will be implemented the imposing of this obligation and the mechanisms that will be used to ensure the effective implementation, considering that the monitoring mechanism and measures that will be applied in case of failure to comply with this obligation are crucial to the success of law enforcement. In this sense, the composition, adoption and implementation of a legal framework in terms of BO, requires a deep analysis

		iv) the business of precious metals and stones; *v) repealed;* *vi) financial agreements and guarantees;* *vii) buying and selling of works of art, or buying and selling in auctions of objects valued at 1,000,000 (one million) all or more;* *viii) safekeeping and administration of cash or liquid securities in the name of other persons;* *ix) repealed;* *x) trade of motor vehicles;* *xi) transportation and delivery activity;* *xii) travel agencies.*		and interaction with the actual legal framework, specifically with the following laws: Law No.9901, dated 14.4.2008 "On the traders and trading companies"; Law no. 9723/2007 "On national registering centre". Law No. 9917, dated 19.5.2008 "On prevention of money laundering and financing of terrorism"; **Law No. .9367, dated 7.4.2005 "On the prevention of conflicts of interest in exercising public functions";** **Law No. .9049, dated 10.4.2003 "On the declaration and audit of assets to liabilities of the elected and certain public officials ";** Criminal Code of the Republic of Albania; Law No. 10,279, dated 20.5.2010 "On administrative offenses";
2.6 State participation Where **state participation in the extractive industries gives rise to material revenue payments, implementing countries must disclose**: a) An **explanation of the prevailing**		Law 9901/2008 "On traders and trade companies"; Law no. 7926, dated 04.20.1995 "On transformation of state enterprises into commercial companies"; Law no. 9723/2007 "On national registering		Comments: In our information, there is no an SOE (state owned enterprise), which operate in mining sector. There are some companies, whose shares are

rules and practices regarding the financial relationship between the government and state-owned enterprises (SOEs), e.g., the rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing.For the purpose of EITI reporting, a SOE is a wholly or majority government- owned company that is engaged in extractive activities on behalf of the government. Based on this, the multi-stakeholder group is encouraged to discuss and document its definition of SOEs taking into account national laws and government structures. b) **Disclosures from the government and SOE(s) of their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector**, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period.This information should include details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity,		centre", Based on the provision of the 9901/2008 and law no. 7926, dated 04.20.1995, the state-owned enterprises are organized as legal entities in trade companies form. . **According to the provision of law** 9901/2008, the state owned **companies are organized and operate in the same way as the private owned companies.** Based in article 213 of the law 9901/2008 a state company, is a legal person which develops commercial activity, whose shares are owned directly or indirectly by central government, local government or the companies, which operate as a parent company as defined in Article 207 of this law. Foundation and operation of state-owned company, are subject to the provisions of this law. Based on the law 7926, dated 04.20.1995, in principle the ministry of economy represents the state owner of these companies and in some other activities (in electricity and gas activity), the Council of Minister, decide the responsible institution, who represent the state owner of these companies. Law no. 9723/2007 "On national registering centre", the SOE are registered in Trade Register and all the data related the company are disclosed in the same way for the private companies. Based on the 9901/2008, are described the		owned 100% by state, as Company Albaker sh.a, which is a company under liquidation procedure and is not exercising any commercial activity in miming sector.

carried interest. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues. Where the government and SOE(s) have provided loans or loan guarantees to mining, oil and gas companies operating within the country, details on these transactions should be disclosed.		financial relationship between the state (shareholder) and a SOE. The legal relationship between the Shareholder (state) and the companies (SOE) are defined in Article 123 and onward of the law 9901/2008 Based on the article 123, the Shareholders shall pay the nominal or higher price of their shares to the company's account, and transfer their contributions in kind to the company in a manner which depends on the character of contributions in kind or as provided by the Statute. The SOE is obliged to pay the dividends in accordance with the provision of the Articles 127, 128.		
EITI Requirement 3: Exploration and Production				
3.1 Exploration Implementing countries **should disclose an overview of the extractive industries, including any significant exploration activities.**		Law no.10304 "On Mining sector in Republic of Albania" DCM no. 233, dated 23.03.2011 Order no 384, dated 20.05.2011 Order No.477, dated 27.06.2011 DCM no. 479, dated 29.06.2011 DCM no. 726 dated 02. 09. 2015 3.Law no.10 081, dated 23.2.2009 "On the license authorizations and permits in Republic of Alban Based on Article 6, 7 and 8 of Law 10304, the mining activities are developed based on the 1.Mining strategy (which is a fundamental document, approved by DCM that defines	F	Comments: We consider this standard as fully in compliance because the Ministry already disclose general information related mining industry, including exploration activities. In this regard, are disclosed data related mining strategy, mining program, and annual mining plan. The data related the awarded permits are already disclose, considering the fact that in

		policies, development priorities, action programs and management of mineral resources for a period of 15 years, in accordance with the objectives of the national development strategy) 2. The action program for the implementation of mining strategy (Is a document, approved by DCM, which is prepared according to the strategy and is valid for 3 years. The action program include data on directions for the development of the mining sector, promotion of mining areas for which mining licenses will be awarded through the bidding process or as open area, programming of basic geological research activities, forcast annual production in the mining sector , rules for safety measures etc. 3. The annual mining plan, approved by Minister, includes data on competitive mining areas, which will be awarded mining rights, on the basis of a public competition, and open areas etc, The mining strategy is approved by the DCM no. 479, dated 29.06.2011 "On approval of the mining strategy of the Republic of Albania", which is already published in Official Gazette no.109/2011 The action program is approved by DCM no. 726, dated 02. 09. 2015 "On approval of the 3-year action program, from 2016 to 2018, for the development of mining activities and the determination of hazardous mining areas", which is already published in Official Gazette		accordance with the provision of law 10304 and law 10081, the data included in Mining Register are disclosed for the public.

		no.157/2015 Annual mining plan is published on the website of the Ministry http://www.energjia.gov.al/al/sherbime/lejet-per-koncesionet-minerare/planifikimi-minerarand in the Official Journal and is reflected in the digital mining map. -According to the provision of Article 30 of the law 10304, the final decision for approval a exploration and or exploitations permits is enter into force after the publication in the National Register for the Licensees and Permits http://www.qkl.gov.al/Registries.aspx (excepts the permits which are approved by decision of Council of Ministers and/or by law of the Parliament). According to the Article 41, the transfer of a mining permit, must be as well registered in the National Register for the Licensees and Permits http://www.qkl.gov.al/Registries.aspx. According to the DCM 320, dated 21.04.2011, article 7.2, 7.3 and 7.4, the government authority (contracting authority) has the obligation to prepare and administrate the register of public competitive procedure which include general information related competitive procedure: - This information of the register of public competitive procedure should be disclosed to any interested party with their prior request, in		

		accordance with the law 119/2014 “On the right of information”. Based on point 33, Article 2 and Article 44 of law 10304, dated 15.07.2010 , the responsible structures must administrate a Mining Registry, which include information on the legal regime surface mining areas and neighbouring areas, property, topographic situation works mining areas of mining activity support, reserves and mineral production, and data related the holder of mining permits The detail data which should be reflected in Mining Registry and the procedure of administration are reflected in Order no. 384, dated 20.05.2011 of the Minister. The data which are included in Mining Registry, referred in Order no. 384, dated 20.05.2011, are very detail and categorized as follow: 1. Data on the legal regime of the mining areas and the neighbour areas. 2. Data on the property of the land in mining area and the neighbour area. 3. Data on topographic situation of mining areas etc. 4. Data on the reserves and related the mineral production according to the project etc. 5. Data on the holder of the permit.		

		6. Data on the administrative offences of the holders, the status of the mining permit the suspension or revocation of the permit. Based on point8 of the Order of Minister, the mining Registry is prepared by National Licensing Centre (NLC) in the framework of the Register of Licenses, Authorizations and Permits, created and administrated under the provision of Law no.10081, dated 23.2.2009 "On the licenses, authorizations and permits in Republic of Albania", The responsible structures which are included in the process of verification and approval of a mining permit, are entitled to have access in these data during their work. The main important data included in the mining permit are accessible from the public because are disclosed in the electronic system of NCL, published in its website. The Ministry has already disclose in its website a general information related the exploitation and exploration permits, which are active and the permits which are revoke. This data shall be accessed in this link:http://www.energjia.gov.al/al/sherbime/lejet-per-koncesionet-minerare/planifikimi-minerarrwhich are revoked.		
3.2 Production Implementing countries **must disclose production data for the fiscal year covered by the EITI Report**, including total production volumes and the value		According to the Article 36, point 25, Article 50 point 5, 51 point 3 of the law 10304, the mining permit holder (exploration or exploitation) must report to the responsible structures in	F	Comments: We consider the actual legal framework in compliance with this standard. The actual legal framework define the

of production by commodity, and, when relevant, by state/region. This could include sources of the production data and information on how the production volumes and values disclosed in the EITI Report have been calculated.		ministry and EITI related the technical or financial data, based on the international best practices. The state institutions as the tax office, custom office etc must provide to EITI financial data related the paid taxes from the mining permit holder. According to the Article 24 "Providing the tax information from the tax administration" of the Law 9920, dated 19.05.2008, amended, the tax administration must provide tax information to some specific institutions, including to any other authority, according to the provision made by another law. Based DCM no. 233, dated 23.03.2011, are approved the standard template of report from the mining permit holder and the state institutions, as tax offices (including custom offices) Based on DCM 232, dated 23,03.2011, "On approval of the functions of the responsible structures in the mining sector of the Republic of Albania", point 2, letter h and I, AKBN, which is a subordinate structure of Ministry, is responsible to prepare a trimester report, which include data related the production, investment exc Based on DCM no. 547/2006, Article 2, AKBN ha the rights to administrate the data regarding the mining and hydrocarbons activity.		flow of the process related the collection and disclosure of the data on production in mining activity. The difficulties faced by EITI in this process and inaccuracies of the data (where is the case) are not created because of the lack of legal framework but because of the failure of the institutions and permit holder to fulfil the legal and sublegal acts obligation. Recommendation: 1. The reported data must be extended in function of the EITI standards(not just in fiscal point of view, payment of taxes, royalties, local taxes etc, but to include additional data in connection with EITI standards). The actual DCM related reporting templates from the **holders of** mining permits and state institutions (tax and custom office) should be amended in order to decide deadline for subjects related the reporting and to include in the respective templates additional data.

		Based on Article 51 of the law 10304, the responsible structures of ministry and other state authorities are obliged to consider and to not disclose the data, obtained by the holder of a mining permit or data, to which we have becom aware which constitutes a trade secret, in accordance with applicable law. Technical data a study samples, presented by permit t holder are considered as confidential. Based on the Article 18 of the law 9901/2008 "On traders and trade companies", as amended Trade secret is a data estimated by the company as internal information, which, if disclosed to unauthorized persons, would cause substantial harm to interests of the company.		2.The responsible structures in Ministry and or AKBN (which is a subordinate structure of Ministry) periodically should verify the fulfilment of the reporting obligation toward EITI, by the holder of mining permits and in accordance with Article 45 must apply fines toward the companies which
3.3 Exports Implementing countries **must disclose export data for the fiscal year covered by the EITI Report**, including total export volumes and the value of exports by commodity, and, when relevant, by state/region of origin. This could include sources of the export data and information on how the export volumes and values disclosed in the EITI Report have been calculated.		According to the Article 36, point 25, Article 50 point 5, 51 point 3 of the law 10304, the mining permit holder (exploration or exploitation) must report to the responsible structures in ministry and EITI related the technical or financial data, based on the international best practices. The state institutions as the tax office, custom office etc must provide to EITI financial data related the paid taxes from the mining permit holder. According to the Article 24 "Providing the tax information from the tax administration" of the Law 9920, dated 19.05.2008, amended, the tax administration must provide tax information to some specific institutions, including to any other authority, according to the provision		Comments: We consider the actual legal framework in compliance with this standard. The actual legal framework define the flow of the process related the collection and disclosure of the data on production in mining activity. The difficulties faced by EITI in this process and inaccuracy of the data (where is the case) are not created because of the lack of legal framework but because of the failure of the institutions and permit holder to fulfil the legal and sublegal

		made by another law. Based DCM no. 233, dated 23.03.2011, are approved the standard template of report from the mining permit holder and the state institutions, as tax administration offices (including custom administration offices) Based on DCM 232, dated 23,03.2011, "On approval of the functions of the responsible structures in the mining sector of the Republic of Albania", point 2, letter h and I, AKBN, which is a subordinate structure of Ministry, is responsible to prepare a trimester report, which include data related the production, investment etc Based on DCM no. 547/2006, Article 2, AKBN ha the rights to administrate the data regarding the mining and hydrocarbons activity. Based on Article 51 of the law 10304, the responsible structures of ministry and other state authorities are obliged to consider and to not disclose the data, obtained by the holder of a mining permit or data, to which we have becom aware which constitutes a trade secret, in accordance with applicable law. Technical data a study samples, presented by permit t holder are considered as confidential. Based on the Article 18 of the law 9901/2008 "O traders and trade companies", as amended Trad secret is a data estimated by the company as internal information, which, if disclosed to		acts obligations. Recommendation: The type of the reported data must be extended in function of the EITI standards (not just in fiscal point of view, payment of taxes, royalties, local taxes etx, but to include additional data in connection with EITI standards, such as exports). The actual DCM related reporting templates from the holders of mining permits and state institutions (tax and custom office) should be amended in order to decide deadline for subjects related the reporting and to include in the respective templates additional data. The responsible structures in Ministry and or AKBN (which is a subordinate structure of Ministry) periodically should verify the fulfilment of the reporting obligation toward EITI, by the holder of mining permits and in accordance with Article 45 must apply fines

		unauthorized persons, would cause substantial harm to interests of the company.		
EITI Requirement 4: Revenue Collection				
4.1 Comprehensive disclosure of taxes and revenues a) In advance of the reporting process, the multi-stakeholder group is **required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds**. Payments and revenues are considered material if their omission or misstatement could significantly affect the comprehensiveness of the EITI Report. A description of each revenue stream, related materiality definitions and thresholds should be disclosed. In establishing materiality definitions and thresholds, the multi-stakeholder group should consider the size of the revenue streams relative to total revenues. **The multi-stakeholder group should document the options considered and the rationale for establishing the definitions and thresholds**. b) The **following revenue streams**		According to the Article 36, point 25, Article 50 point 5, 51 point 3 of the law 10304, the mining permit holder (exploration or exploitation) must report to the responsible structures in ministry and EITI related the technical or financial data, based on the international best practices. The state institutions as the tax office, custom office etx must provide to EITI financial data related the paid taxes from the mining permit holder. According to the Article 24 "Providing the tax information from the tax administration" of the Law 9920, dated 19.05.2008, amended, the tax administration must provide tax information to some specific institutions, including to any other authority, according to the provision made by another law. Considering that this obligation for tax offices is determined by law 10304, the criteria for disclosure of data from tax office, is already met. EITI is entitled not only to be provided with the fiscal data from the permit holders and tax offices but to publish this information in its annual report (last paragraph of point 25, Article 36 of law 10304).	P	The EU Transparency and Accounting Directive has also further strengthened these disclosure requirements and is aligned with the information which is required to be disclosed under this Requirement 4 of EITI Standards. It is recommended that legislation is enacted transposing the Directive requirements into national law. In this regard, care must be taken to ensure that payments in excess of €100,000 must be disclosed by the relevant "large undertaking" operating in the extractive sector. For these purposes, a "large undertaking" is any business that, on its balance sheet date, exceeds two of the three following criteria: (i) balance sheet assets of €20 million; (ii) net turnover of €40 million; (iii) average number of 250 employees during the financial year.

<u>should be included</u>: i. The host government's production entitlement (such as profit oil) ii. National state-owned company production entitlement iii. Profits taxes iv. Royalties v. Dividends vi. Bonuses, such as signature, discovery and production bonuses vii. License fees, rental fees, entry fees and other considerations for licences and/or concessions viii. Any other significant payments and material benefit to government Any revenue streams or benefits should only be excluded where they are not applicable or where the multi-stakeholder group agrees that their omission will not materially affect the comprehensiveness of the EITI Report. c) Implementing countries **<u>must provide a comprehensive reconciliation of government revenues and company payments</u>**, including payments to and from state-owned enterprises, in accordance with the agreed scope. All companies making material payments to the government are		According to article 50 and 51, is defined that the data related local and national taxes are not considered as confidential and must be disclosed in framework of EITI activity. The forms and the manner of disclosure is approved by decision of council of minister. Based DCM no. 233, dated 23.03.2011, are approved the standard template of report from the mining permit holder and the state institutions, as tax **offices (including custom offices)** According to Annex 1 of DCM no. 233, dated 23.03.2011, the permit holder must provide to EI this information: a) Profits taxes b) royalties d) Bonuses, such as and production bonuses e) life insurance f) social and health insurance g) Other payments for the local authorities such as property tax, cleaning tax, etx h) Income tax such as employment income tax b) tax on dividents and share c) Income tax withholding i) VAT j) Custom taxes		

required to comprehensively disclose these payments in accordance with the agreed scope. An entity should only be exempted from reporting if it can be demonstrated that its payments and revenues are not material. All government entities receiving material revenues are required to comprehensively disclose these revenues in accordance with the agreed scope. d) Unless there are significant practical barriers, the government is additionally **required to provide aggregate information about the amount 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. Where this data is not available, the Independent Administrator should draw on any relevant data and estimates from other sources in order to provide a comprehensive account of the total government revenues.		According to Annex 2 of DCM no. 233, dated 23.03.2011, the tax administration must provide EITI this information: a) Profits taxes b) royalties d) Bonuses, such as and production bonuses e) life insurance f) social and health insurance g) Other payments for the local authorities such as property tax, cleaning tax, etx h) Income tax such as employment income tax b) tax on dividents and share c) Income tax withholding i) VAT j) Custom taxes k) other income (voluntary information)		
4.2 Sale of the state's share of production or other revenues collected in kind Where the sale of the state's share of		This requirement is not applicable for the mining industry because according to the legal provision the state shares of production is collected in money not in kind. .	N/A	

production or other revenues collected in kind is material, **the government, including state-owned enterprises, are required to disclose the volumes sold and revenues received**. The published data must be **disaggregated by individual buying company and to levels commensurate with the reporting of other payments and revenue streams** (4.7). Reporting could also break down disclosures by the type of product, price, market and sale volume. Where practically feasible, the multi-stakeholder group is encouraged to task the Independent Administrator with reconciling the volumes sold and revenues received by including the buying companies in the reporting process.		According to the article 40 of law 10304, royalties is an obligation of holders of mining permits, calculated as a percentage of the sale value of the raw produced minerals from the permit area and is allocated into the state budget and into the budget of the respective local government units. The values of percentages, shapes, allocation and terms of payment of royalty fees defined in national legislation. Based on DCM no.7, dated 4.1.2012 "On the procedures and the documentation for collection of royalty", are determined the procedure how the royalty will be calculated.		
4.3 Infrastructure provisions and barter arrangements The multi-stakeholder group and the Independent Administrator are required to **consider whether there are any agreements**, or sets of agreements **involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities**. To be able to do so, the multi-stakeholder group and the		This requirement is not applicable for the mining industry because according to the legal provision the exploitation and exploration of minerals is developed based on the permits, awarded based on competitive procedures, based on the principle first in application first in rights, and based on the concession agreements.	N/A	

Independent Administrator need to gain a full understanding of: the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts. Where the multi-stakeholder group concludes that these agreements are material, the multi-stakeholder group and the Independent Administrator are required to ensure that the EITI Report addresses these agreements, providing a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. Where reconciliation of key transactions is not feasible, the multi-stakeholder group should agree an approach for unilateral disclosure by the parties to the agreement(s) to be included in the EITI Report.				
4.4 Transportation revenues Where revenues from the transportation of oil, gas and minerals are material, the government and state-owned enterprises (SOEs) are expected to disclose the revenues received. The published data must be disaggregated to levels commensurate with the reporting of other payments and		This requirement is not applicable for the mining industry because the transportation services for the produced mineral are provided by the private companies. The later pay the respective taxes to the tax administration nevertheless this data is not reported because these private entities licensed in transport services are not subject of the extractive industries legal framework.	N/A	

revenue streams (4.7). Implementing countries could disclose: a) A description of the transportation arrangements including: the product; transportation route(s); and the relevant companies and government entities, including SOE(s), involved in transportation. b) Definitions of the relevant transportation taxes, tariffs or other relevant payments, and the methodologies used to calculate them. c) Disclosure of tariff rates and volume of the transported commodities. d) Disclosure of revenues received by government entities and SOE(s), in relation to transportation of oil, gas and minerals. e) Where practicable, the multi-stakeholder group is encouraged to task the Independent Administrator with reconciling material payments and revenues associated with the transportation of oil, gas and minerals.		Based on the reporting data (Annex 1) of DCM no. 233, dated 23.03.2011, the permit holder is not requested to present data on cost of transportation of the minerals. This request may be added in the DCM, nevertheless we consider that this information would not have any added value considering the fact that the tax offices do not poses this information and it is difficult to cross check or reconcile it.		
4.5 Transactions related to state-owned enterprises. The multi-stakeholder group must ensure that the reporting process		This requirement is not applicable for the mining industry because there is not any state owned company which perform exploitation and exploration activity in mining industry.	N/A	

comprehensively addresses the role of state-owned enterprises (SOEs), including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.		If such SOE would operated, the actual legal framework is clear, because the same data report as the private companies should have been done even from these SOE.		
4.6 Sub national payments. It is required that the multi-stakeholder group establish whether direct payments, within the scope of the agreed benefit streams, from companies to sub national government entities are material. Where material, the multi-stakeholder group is required to ensure that company payments to subnational government entities and the receipt of these payments are disclosed and reconciled in the EITI Report.			N/A	
4.7 Level of disaggregation. The multi-stakeholder group is required to agree the level of disaggregation for the publication of data. It is required that EITI data is presented by individual company, government entity and revenue stream. Reporting at project level is required, provided that it is consistent with the United States Securities and Exchange		Based DCM no. 233, dated 23.03.2011, are approved the standard template of report from the mining permit holder and the state institutions, as tax **offices (including custom offices)** According to Annex 1 of DCM no. 233, dated 23.03.2011, the permit holder must provide to EI this information:	F	

Commission rules and the forthcoming European Union requirements.		a) Profits taxes b) royalties d) Bonuses, such as and production bonuses e) life insurance f) social and health insurance g) Other payments for the local authorities such as property tax, cleaning tax, etx h) Income tax such as employment income tax b) tax on dividents and share c) Income tax withholding i) VAT j) Custom taxes According to Annex 2 of DCM no. 233, dated 23.03.2011, the tax administration must provide EITI this information: a) Profits taxes b) royalties d) Bonuses, such as and production bonuses e) life insurance f) social and health insurance g) Other payments for the local authorities such as property tax, cleaning tax, etx h) Income tax such as employment income tax b) tax on dividents and share c) Income tax withholding i) VAT j) Custom taxes		

		k)other income (voluntary information) Considering the flow of the data from two different directions the , the Indipendent Expert, appointed by EITI, must verify and reconcilate the data presented.		
4.8 Data timeliness. a) Implementing countries are required to produce their first EITI Report within 18 months of being admitted as an EITI candidate. Thereafter, implementing countries are expected to produce EITI Reports on an annual basis. b) Implementing countries must disclose data no older than the second to last complete accounting period, e.g. an EITI Report published in calendar/financial year 2016 must be based on data no later than calendar/financial year 2014. Multi- stakeholder groups are encouraged to explore opportunities to disclose data as soon as practically possible, for example through continuous online disclosures or,where available, by publishing additional, more recent contextual EITI data than the accounting period covered by the EITI revenue data. In the event that EITI reporting is significantly delayed, the multi-stakeholder group should take steps to ensure		Order no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI); Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization" Based DCM no. 233, dated 23.03.2011, are defined the requirements related the preparation of the EITI Report related mining industry. By this DCM are approved the standard template of reports from the mining permit holder and the state institutions, as tax **offices (including custom offices)**.		

that EITI Reports are issued for the intervening reporting periods so that every year is subject to reporting. c) The multi-stakeholder group is required to agree the accounting period covered by the EITI Report.				
4.9 Data quality and assurance. a) The EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. b) It is a requirement that payments and revenues are reconciled by a credible, Independent Administrator, applying international auditing standards, and with publication of the administrator's opinion regarding that reconciliation including discrepancies, should any be identified. i. The reconciliation of company payments and government revenues must be undertaken by an Independent Administrator applying international professional standards. ii. The Independent Administrator must be perceived by the multi-stakeholder group to be credible,		Based DCM no. 233, dated 23.03.2011, are defined the requirements related the preparation of the EITI Report related mining industry. Based on this DCM the EITI Report shall be prepared by an independent expert appointed based on legislation in force and EITI Requirements. EITI report shall be audited by an independent expert selected base on competitive procedures based on legislation in force and EITI Requirements. Based on DCM, the reports of mining companies and state authorities made to EITI, and EITI Report itself must be prepared based on international standards and EITI.		Independent Administrator is appointed "Deloitte" Audit Albania

trustworthy and technically competent. The multi- stakeholder group should endorse the appointment of the Independent Administrator. iii. The multi-stakeholder group and the Independent Administrator are required to agree a Terms of Reference for the EITI Report based on the standard Terms of Reference and the 'agreed upon procedure for EITI Reports'3 endorsed by the EITI Board. Should the multi-stakeholder group wish to adapt or deviate from these agreed upon procedures, approval from the EITI Board must be sought in advance (Requirement 8.1).				
EITI Requirement 5: Revenue Allocations				
5.1 Distribution of extractive industry revenues. Implementing countries must disclose a description of the distribution of revenues from the extractive industries. a) Implementing countries should indicate which extractive industry revenues, whether cash or in kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as		According to Annex 2 of DCM 233, dated 23.03.2011, the tax administration must provide to EITI this information: a) Profits taxes b) royalties d) Bonuses, such as and production bonuses e) life insurance f) social and health insurance g) Other payments for the local authorities such as property tax, cleaning tax, table advertising tax h) Income tax such as employment income tax b) Income tax withholding i) VAT	F	CommentsWe consider the actual legal framework in compliance with this standard. The actual legal framework define the flow of the process related the collection and disclosure of the data on production in mining activity. The difficulties faced by EITI in this process and inaccuracy of the data (where is the case) are not created because of the lack of legal framework but because of the failure of the

applicable,e.g., sovereign wealth and development funds, subnational governments, state-owned enterprises, and other extra-budgetary entities.		j) Custom taxes k) other income (voluntary information) According to the article 40 of law 10304, royalties is an obligation of holders of mining permits, calculated as a percentage of the sale value of the raw produced minerals and is allocated **into the state budget (national budget)** and into the budget of the **respective local government units**. Based on the law 9975, date 28.7.2008 "On national taxes" are defined the main criteria related the calculation of the royalty (the percentage, the payment deadline etx). According to the Article 4, paragraph 4 of the law 9975, date 28.7.2008, 5% of the royalty is allocated to local authorities. In this regard, 95% of the royalty is allocated in national budget and 5% to the local authorities' budget. Based on the law Nr.9632, dated 30.10.2006 "On local taxes", the local authorities are entitled to decide local taxes as it is determined in Article 9 of the law, as immovable property tax, advertising table tax, cleaning tax etc. Based on DCM 233, dated 23.03.2011, in the respective data reporting templates, is included the information related local taxes.		institutions and permit holder to fulfil the legal and sublegal acts obligations.
5.2 Subnational transfers. a) Where transfers between national and subnational government entities are related to revenues generated by the extractive		Based on DCM no.7, dated 4.1.2012 "On the procedures and the documentation for collection of royalty", and Instruction of Minister of Finance No. 26, dated 4.09.2008 "On national taxes", are described the detail procedures related the		Comments: In principle, there is not any legal barrier on disclosure of the data related the transfer of the

industries and are mandated by a national constitution, statute or other revenue sharing mechanism, the multi- stakeholder group is required to ensure that material transfers are disclosed. Implementing countries should disclose the revenue sharing formula, if any, as well as any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity.		calculation and payment of royalty. Based on article 2.5 of Instruction 26, dated 4.09.2008, the fiscal authorities which are in charge for collection of royalty are tax administration office (and its subordinate structures) and custom office (and its subordinate structures). The mining permit holders pay the royalty tax in tax administration office when they sell the produced mineral in domestic market. If the buyer exports the mineral, he is obliged to pay the royalty calculated on the differences of the values (between the amount of royalty on the exported mineral and amount of royalty on the sold mineral in domestic market). The mining permit holder pay the royalty tax in custom administration office when they export the produced mineral in international market. The tax and custom administration office transfer the collected royalty in the state budget. The local authorities, which are allocated in the areas where the permit holder perform activity, by 30th of each month, reconcile with the regional tax directorates and local customs offices on the royalties collected from them. Copy of the reconciliation act must be sent to the General Directory of the Budget in Ministry of Finance. According to the Article 4, paragraph 4 of the law 9975, date 28.7.2008, 5% of the royalty is allocated		royalty revenues from central government to the local government budget. We consider that the faced difficulties are more linked with the internal administrative procedure other than the legal one (lacking of the interfaces between institutions, problems with the designation of data presentation in the internal system of the tax administration offices). Recommendation: We recommend to amend the Annex 2 of DCM 233, dated 23.03.2011, prepared by the tax administration, in order to include more specifically the data on royalty (the amount transferred to local government and the amount for state budget)

		to local authorities. In this regard, 95% of the royalty is allocated in national budget and 5% to the local authorities' budget. The part of the revenue from mineral royalties, according to the percentage specified in the law, which belongs to the local government units must be distributed by the relevant structures of the Ministry of Finance budget. Ministry of Finance officially notify the regional directorate of taxes / customs, respectively, and the unit local government, to the extent the distribution of calculated income from rents minerals. Regional Directorates of tax and customs represent the request for transfer of the funds to the treasury branch. Treasury branch where the regional directorate of the taxpayer's tax proceeds, proceed, using the internal transfer method in financial computerized system of government.		

Annex 5

Assessing EITI Compliance –Hydrocarbon Sector

General overview:

The EITI Standards 2016, which is an agreement concluded between States and governed by International law, are general and interpretable, but Albanian legislation on Hydrocarbon sector has not been amended yet, from the responsible entities. The only amended on law no. 15.2015 "On Hydrocarbons" (describe below), is not sufficient to implement the EITI Standards.

The Law no. 15/2015 "For some amendments on the law no. 7746/1993 "On Hydrocarbons" (exploration and production), as amended, charges the tax administration, central and local entities and contactors who have signed the hydrocarbon agreement, to report in accordance with the EITI Requirements.

With exception of the above-mentioned legislation, other laws, regulation or acts in force, related on Hydrocarbon sector, have been drafted before the EITI Requirements 2016. The Hydrocarbon legislation should be amended accordingly with the requirements, or the respective entities (such the Council of Ministers, the Ministry of Energy and Industry, the National Agency of Natural Resources) can propose drafting of other normative acts.

The Expert assessed that the law no. 7811, dated 12.04.1994 "On approval of changes to the decree no. 782, dated 22.02.1994 "On the fiscal system in the hydrocarbons sector (research production), as amended, should be amended in order to include the information required by EITI. EITI requires that, Albania must disclose a summary description of the fiscal regime, but there are no legal obligations and procedures regulating the transparency on the fiscal regime governing extractive industries in Hydrocarbons sector.

As regards the legal obligation on publishing of production data for the fiscal year covered by the EITI Report on production and exports of the Hydrocarbon in Albania, the Expert assessed that, the Institutional statement that*"…the statutory duty of the Public Entities that process such information, is to maintain confidentiality over that information, obtained in terms of their regulatory duties, as referred in the laws applicable to tax and custom procedures in Albania…",* is incorrect, because the obligation deriving from an International Agreement ratified by the Republic of Albania (EITI membership) supersedes the obligation deriving from those statutory acts.

The main deficiency in disclosing such information, as identified in the respective ToC, Annex to this Report (on the exploration, production and exports of the Hydrocarbon) derives from the lack of internal administrative procedures and instruments for exchange of information between public bodies and interested parties.

EITI Requirements	**0.1 Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended.** **0.2 Law no. 7811, dated 12.04.1994 "On approval of changes to the decree no. 782, dated 22.02.1994 "On the fiscal system in the hydrocarbons sector (research production), as amended.** **0.3 DCM no. 970, dated 12.02.2015 "On establishing the procedures and conditions for issuing licenses for marketing of crude oil and its by-products"** **0.4 DCM no. 279, dated 12.04.2012, of the Council of Ministers "On approval of the list of objects of petroleum operations, part of the agreement concluded on 26.7.1993 between the Ministry of Industry, Energy and Mineral Resources (now the Ministry of Energy and Industry) and Albpetrol, Economic Community of Oil and Gas (today the company "Albpetrol" sh.a.) ", as amended.**	N- non-compliant P-partial compliant F-full compliant N/A-non-applicable

	0.5 DCM no.411 dated 13.05.2015 "On the procedures and conditions for granting and replication of the concession of pipeline license for import, export and transportation of crude oil." 0.6 DCM no. 755, dated 12.11.2014 "On the determination of procedures and conditions for issuing the "Processing License" for the processing plants of oil and its by-products". 0.7 DCM no. 19 dated 04.01.2015 "On the procedures and conditions for the issuance, transfer and replication of the concession license for performing the processing of crude oil for the production of its by-products activity." 0.8 Instruction no.3492, dated 30.04.2015 "On the interagency coordination of the standard procedures for the quantitative, qualitative and fiscal crude oil and its by-products in the Republic of Albania". 0.9 Order No. 76, dated 18.03.2015 "On the procedures and fees for the issuance of technical certification for entities that carry out activities in the field of processing, transportation and marketing of oil and its derivatives." 0.10 Order no. 6, dated. 09.01.2015 "On control of technical standards of oil and its derivatives, relevant procedures and fees." 0.11 Order no.392, dated 25.11.2014 "On approval of rules for provision of information to the public and / or stakeholders, on the results of the controls exercised on legal entities which have as their activity object the processing, transportation and marketing of crude oil and its derivatives". 0.12 Order no.389, dated 25.11.2014 "On information and data that must be submitted by legal entities,	

	operating in the fields of processing, transportation and marketing of oil and its derivatives." **0.13 Regulation "On the procedure of adoption of Petroleum Agreements and License Agreements and the respective deadlines", approved by the Minister.**			
EITI Requirement:	**Albanian Legislation provisions**		**Level of Compliance**	**Recommended Action/Comments**
EITI Requirement1: Oversight by the Multi-Stakeholder Group and Provision				
1.1 Government engagement (a) The government is required to issue an unequivocal public statement of its intention to implement the EITI. The statement must be made by the head of state or government, or an appropriately delegated government representative. (b) The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilise resources for EITI implementation. (c) The government must be fully, actively and effectively engaged in the EITI process. (d) The government must ensure that senior government officials are represented on the multi-stakeholder group.		Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization" Paragraph 2 The obligation of the Secretariat is the implementation of national priorities and strategies for transparency in the extractive industry. The Secretariat coordinates the national efforts in implementing the EITI global standard deriving an obligation of membership, to ensure full transparency of all taxes and charges incurred by the oil, gas, mining and other natural resources, to contribute material to the state budget, respective processes, and preparation project management related to these areas. Paragraph 15	F	

		The Minister of the Energy and Industry will be responsible for implementation of this decision. Decision no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI) Paragraph 2 (a), (b), (c), (ç), (d) Chairman of the Multi Stakeholder Group is the Deputy Minister of Ministry of Economy, Trade and Energy, and consists of the following members: (a) One member from the Ministry of Economy, Trade and Energy; (b) One member from the Ministry of Finance; (c) One member from the Ministry of Justice (ç) One member from the General Directorate of Taxes; (d) One member from the National Agency of Natural Resources		
1.2 Company engagement (a) Companies must be fully, actively and effectively engaged in the EITI		Decision no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi	P	The main possible problem in assuring the compliance with this EITI requirement stands in the limit

process. (b) The government must ensure that there is an enabling environment for company participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of company representatives substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected. (c) The government must ensure that there are no obstacles to company participation in the EITIprocess.		Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI) Paragraph 2 (e) Five members from business, selected by National Network of Extractive Industries. Paragraph 3 Invited by the Chairman, in the meetings of the group may participate members from other institutions. Law No. 146/2014 "On notification andpublic consultation". Article 6 "Obligation to notify and public consultation" Paragraph 1 Public authorities are obligated to take all the necessary instruments, in order to create opportunities for participation of the public and all stakeholders in the process of notification and public consultation.		provided by the Prime Minister Decision No.71/2011, which allows only 5 members of the National Network of Extractive Industry to participate in EITI compliance process. According to the paragraph 3 of the Prime Minister Decision no. 71, 2011, the participation of members from other institutions (for example other interested companies) is controlled by the Chairman of the Multi Stakeholder Group. This Decision, make conflict with the general disposition of the Law no 146/2014, which regulates the process of notifying the public on drafting legislative work and other strategic national and local documents. So this law provides the right to participation in the consultation process to all interested parties.
1.3 Civil society engagement In accordance with the civil society protocol: 2. Civil society must be fully, actively and effectively engaged in the EITI process. 3. The government must ensure that		Decision no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI). Paragraph 2 (ë)	P	The main possible problem in assuring the compliance with this EITI requirement stands in the limit provided by the Prime Minister Decision No. 71/2011, which allows only 5 members of the National Network of Civil Society to

there is an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of civil society substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected. 4. The government must ensure that there are no obstacles to civil society participation in the EITI process. The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI. 5. Stakeholders, including but not limited to members of the multi-stakeholder group must: ix. Be able to speak freely on transparency and natural resource governance issues. x. Be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate. xi. Have the right to communicate and cooperate with each other. xii. Be able to operate freely and express opinions about the EITI without restraint, coercion or reprisal.		Five members from civil society, selected by National Network of Civil Society for EITI. Paragraph 3 Invited by the Chairman, in the meetings of the group may participate members from other institutions. Law No. 146/2014 "On notification and public consultation". Article 6 "Obligation to notify and public consultation" Paragraph 1 Public authorities are obligated to take all the necessary instruments, in order to create opportunities for participation of the public and all stakeholders in the process of notification and public consultation. Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization" Paragraph 4, 6 4. The Secretariat (EITI Albania) operates in association with all entities involved in the extractive		participate in EITI compliance process. According to the paragraph 3 of the Prime Minister Decision no. 71, 2011, the participation of members from other institutions (for example other interested group of civil society) is controlled by the Chairman of the Multi Stakeholder Group. This Decision, make conflict with the general disposition of the Law no 146/2014, which regulates the process of notifying the public on drafting legislative work and other strategic national and local documents. So this law provides the right to participation in the consultation process to all interested parties.

		industries sector. The secretariat decision-making, approved in accordance with the EITI global standard, through multi-stakeholder group, which rises with Prime Minister order and functions as a tripartite platform, with members from civil society, relevant public entities and companies that operate in the industry. 6. The Secretariat, to achieve its task and objectives, collaborate and coordinate its activities with the Multi-Stakeholder Group of the Extractive Industries Transparency Initiative (EITI) and other institutions, public and / or private interest groups, society civil, local media and / or foreign. Besides permanent technical staff, the Secretariat, when considered appropriate to achieve its task and objectives, may contract consulting services of foreign experts, according to the legislation.		
1.4 Multi-stakeholder group a) The government is required to commit to work with civil society and companies, and establish a multi-stakeholder group to oversee the implementation of the EITI. In establishing the multi-stakeholder group, the government must: vii. Ensure that the invitation to		Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization" Paragraph 4	P	According to the paragraph 3 of the Prime Minister Decision no. 71, 2011, the participation of members from other institutions (for example media or other unions) is controlled by the Chairman of the Multi Stakeholder Group invitation. So the invitation to participate in the group is not open, but limited.

participate in the group is open and transparent. viii. Ensure that stakeholders are adequately represented. This does not mean that they need to be equally represented numerically. The multi-stakeholder group must comprise appropriate stakeholders, including but not necessarily limited to: the private sector; civil society, including independent civil society groups and other civil society such as the media and unions; and relevant government entities which can also include parliamentarians. Each stakeholder group must have the right to appoint its own representatives, bearing in mind the desirability of pluralistic and diverse representation. The nomination process must be independent and free from any suggestion of coercion. Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies. ix. Consider establishing the legal basis of the group. b) The multi-stakeholder group is required to agree clear public Terms of Reference (ToRs) for its work. The ToRs should, at a minimum, include		4. The Secretariat (EITI Albania) operates in association with all entities involved in the extractive industries sector. The secretariat's decision-making, approved in accordance with the EITI global standard, through multi-stakeholder group, which rises with Prime Minister order and functions as a tripartite platform, with members from civil society, relevant public entities and companies that operates in extractive industry. Decision no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI). Paragraph 1 1. Establishment and organization of Multi Stakeholder Group for the involvement process of Albania,as an implementing country of the Extractive Industries Transparency Initiative, and fulfilment the obligations of this initiative. Paragraph 2 Chairman of the Multi Stakeholder Group is the Deputy Minister of Ministry of Economy, Trade and Energy, and consists of the following		

provisions on: The role, responsibilities and rights of the multi-stakeholder group: viii. Members of the multi-stakeholder group should have the capacity to carry out their duties. ii. The multi-stakeholder group should undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society. The multi-stakeholder group should also widely disseminate the public information that results from the EITI process such as the EITI Report. viii. Members of the multi-stakeholder group should liaise with their constituency groups. Approval of work plans, EITI Reports and annual progress reports: iv. The multi-stakeholder group is required to approve annual work plans, the appointment of the Independent Administrator, the Terms of Reference for the Independent Administrator, EITI Reports and annual progress reports.		members: a) One member from the Ministry of Economy, Trade and Energy; b) One member from the Ministry of Finance; c) One member from the Ministry of Justice ç)One member from the General Directorate of Taxes; d) One member from the National Agency of Natural Resources; dh) One member from the Albanian Geological Survey; e) Five members from business, selected by National Network of Extractive Industries; (ë) Five members from civil society, selected by National Network of Civil Society for EITI. The level of representation in this group for public entities will be department director and above. Paragraph 3 Invited by the Chairman, in the meetings of the group may participate members from other institutions.		

viii. The multi-stakeholder group should oversee the EITI reporting process and engage in Validation. Internal governance rules and procedures: viii. The EITI requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner. Any member of the multi-stakeholder group has the right to table an issue for discussion. The multi-stakeholder group should agree and publish its procedures for nominating and changing multi-stakeholder group representatives, decision-making, the duration of the mandate and the frequency of meetings. This should include ensuring that there is a process for changing group members that respects the principles set out in Requirement 1.4.a. Where the multi-stakeholder group has a practice of per diems for attending EITI meetings or other payments to multi-stakeholder group members, this practice should be transparent and should not create conflicts of interest. vii. There should be sufficient advance notice of meetings and timely				

circulation of documents prior to their debate and proposed adoption. viii. The multi-stakeholder group must keep written records of its discussions and decisions.				
1.5 Work Plan The multi-stakeholder group is required to maintain a current work plan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board. The work plan must: a) Set EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. Multi-stakeholder groups are encouraged 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. b) Reflect the results of consultations with key stakeholders, and be endorsed by the multi-stakeholder group. c) Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation should be tailored to contribute to the desired objectives		Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization" Paragraph 2, 5 2. The mission of the secretariat is the fulfilment of national priorities and strategies for transparency in the extractive industry. The Secretariat coordinates the national efforts in implementing the standard global EITI, deriving as an obligation of membership, to ensure full transparency of all fees and charges incurred by the oil, gas, mining and other natural resources, with a material contribution in the state budget, the respective processes, and the preparation of project management related to these areas. 5. Tasks and objectives of the Secretariat, in accordance with the requirements of EITI standards are:	F	

that have been identified during the consultation process. The work plan must: ix. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation. x. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness (4.1) and data reliability (4.9). xi. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation. xii. Outline the multi-stakeholder group's plans for implementing the recommendations from Validation and EITI reporting. d) Identify domestic and external sources of funding and technical assistance where appropriate in order to ensure timely implementation of the agreed work plan.		a) Establishment of the necessary structure, to support the program of approved instruments for EITI Albania; b) Publication of EITI reports, ensuring the audit process and the completion of the procedures for drafting of the approval report; c) Determination, in collaboration with the multi-stakeholder group and the line ministry, of national objectives of the EITI implementation; ç) Review of the legal basis to reflect the EITI standards requirements in the respective legislation, and to identify the various obstacles for its implementation; d) Identification of sustainable funding sources to implement the national plan for EITI, as well as their monitoring; dh) The publication and the allocation of reports; e) Following a communication and information strategy, referred to EITI global standard and national strategy for transparency, in national and international level; ë) Building capacities / training of		

e) Be made widely available to the public, for example published on the national EITI website and/or other relevant ministry and agency websites, in print media or in places that are easily accessible to the public. f) Be reviewed and updated annually. In reviewing the work plan, the multi-stakeholder group should consider extending the detail and scope of EITI reporting including addressing issues such as revenue management and expenditure (5.3), transportation payments (4.4), discretionary socialexpenditures (6.1.b), ad hoc subnational transfers (5.2.b), beneficial ownership (2.5) and contracts (2.4). In accordance with Requirement 1.4.b (viii), the multi- stakeholder group is required to document its discussion and decisions. g) Include a timetable for implementation that is aligned with the reporting and Validation deadlines established by the EITI Board (8.1-8.4) and that takes into account administrative requirements such as procurement processes and funding.		the civil servants, civil society, including the media and interest groups associated with EITI. f) Training of EITI's employees, in the accordance with the national program for EITI-Albania. g) Reporting periodically to multi-stakeholder group, on the progress of implementation program and membership stages. gj) Extension of the scope of the EITI in other areas of natural resources. h) The identification and realization of various projects related to transparency and anti-corruption in the extractive industry and hydropower.		
EITI Requirement 2: Legalandinstitutionalframework,includingallocationofcontractsand licenses				
2.1 Legal framework and fiscal regime (a) Implementing countries must disclose a		Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and	P	There are no legal obligations and procedures regulating the transparency

description of the legal framework and fiscal regime governing the extractive industries. This information must include a summary description of the fiscal regime, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies. (b) Where the government is undertaking reforms, the multi-stakeholder group is encouraged to ensure that these are documented.		production), as amended, In Article 9, paragraph 3, provides the obligation of the operating licensees to report data and information in accordance with the EITI Standard. This Article stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly.		on the fiscal regime governing extractive industries in hydrocarbons, although selective information is being made public on ad-hock basis, but this publication does not derive from a clear legal obligation. The Law no. 7811, dated 12.04.1994 "On approval of changes to the decree no. 782, dated 22.02.1994 "On the fiscal system in the hydrocarbons sector (research production), as amended, should be amended in order to include the required information. As an example could be, the provision of article 36, paragraph 25 of the Law No 10304/2010 "On mining sector in the Republic of Albania", as amended.
2.2 Licence allocations a) Implementing countries are required to disclose the following information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report during the accounting period covered by the EITI Report: i. a description of the process for transferring or awarding the license; ii. the technical and financial criteria used; iii. information about the recipient(s) of the license that has been transferred or awarded, including		The Minister Order 121/2015 (MEI) "On amendments in the Regulation for the approval of the procedures of the Hydrocarbon agreements and Licensing Agreements as well as the respective timeframe", which provides the steps and procedures for the award of hydrocarbon agreement and respective licenses. The Minister Guideline 132/2015 (MEI) "On the procedures for the hydrocarbon agreement", which provides the obligation of AKBN to publish and disclose the information related to the map of the Free	P	The information provided is of a general nature and does not cover the list of applicants and the bid criteria, and the Web-Page of AKBN (as the competent authority), has not been updated with this information (to date). It is important to mention two normative acts as follows: i. Regulation on adoption of Hydrocarbon Agreement, License Agreement and the respective deadlines; ii. Minister Order no.121/2015 "On amendments in the Regulation on adoption of Hydrocarbon

consortium members where applicable; and iv. any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. It is required that the information set out above is disclosed for all license awards and transfers taking place during the accounting year covered by the EITI Report, including license allocations pertaining to companies that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality threshold. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them. b) Where companies covered in the EITI Report hold licenses that were allocated prior to the accounting period of the EITI Report, implementing countries are encouraged, if feasible, to disclose the information set out in 2.2(a) for these licenses. c) Where licenses are awarded through a bidding process during the accounting period covered by the EITI Report, the government is required to		Exploration Blocks for hydrocarbon.		Agreement, License Agreement and the respective deadlines". The normative acts mentioned above, contain a detailed information, related to the procedure on adoption of Hydrocarbon Agreement and License Agreement. This Regulation also, establishes deadlines for the scrutiny of the document and the application of the interested party from the responsible entities (The Ministry of Energy and Industry, the National Agency of Natural Resources and Albpetrol sh.a).	

disclose the list of applicants and the bid criteria. d) Where the requisite information set out in 2.2(a-c) is already publicly available, it is sufficient to include a reference or link in the EITI Report. e) The multi-stakeholder group may wish to include additional information on the allocation of licenses in the EITI Report, including commentary on the efficiency and effectiveness of licensing procedures.				
2.3 Register of Licences a) The term license in this context refers to any license, lease, title, permit, contract or concession by which the government confers on a company(ies) or individual(s) rights to explore or exploit oil, gas and/or mineral resources. b) Implementing countries are required to maintain a publicly available register or cadastre system(s) with the following timely and comprehensive information regarding each of the licenses pertaining to companies covered in the EITI Report: i. License holder(s). ii. Where collated, coordinates of the license area. Where coordinates are not collated, the government is required to ensure that the size and location of the license area are		Law No. 146/2014 "On notification and public consultation". Article 7 "Electronic register for notification and public consultation"; Paragraph 1 Every draft act is published in the electronic register for notification and public consultation. This register is an official website, which serves as a main point for consultation, and through this register is provided access and is offered the opportunity of communication of the stakeholders concerned with public entities. This form ensures and strengthens equality in terms of access to information and services, taking into consideration specific needs for specific individuals or	P	The AKBN, has developed a register for the hydrocarbon agreements and licence agreements in its web-page, but the obligation to create and administer such register is not regulated by any legal or administrative act (to our knowledge), if this is the case, its existence is fully under the subjectivity of the authority and specific information may or may not appear therein. The main information not appearing in the Register are: • coordinates of the license area; • duration of the license; • phases (exploration or extraction).

disclosed in the license register and that the coordinates are publicly available from the relevant government agency without unreasonable fees and restrictions. The EITI Report should include guidance on how to access the coordinates and the cost, if any, of accessing the data. The EITI Report should also document plans and timelines for making this information freely and electronically available through the license register. iii. Date of application, date of award and duration of the license. iv. In the case of production licenses, the commodity being produced. It is expected that the license register or cadastre includes information about licenses held by all entities, including companies and individuals or groups that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality threshold. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale		groups. Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended. Article 4 “Hydrocarbon Operations” In accordance with the article l2. (2) and unless the assessment of facility operations carried out, under and in accordance with a permit issued for evaluation facility, also in accordance with article 8, no one shall require, develop or produce hydrocarbons in Albania, with no permission by the Ministry, under the terms and conditions of a Hydrocarbon Agreement. The exploration, discoveries, exploitation of hydrocarbons and other operations, as defined in this law, arranged only by entities which related a Hydrocarbon Agreement included in Category IV.1 of the Annex of Law “On licenses”. These Agreements relate, in accordance with the following provisions of this law. Silent approval shall not apply for those agreements.		

for achieving them. c) Where the information set out in 2.3.b is already publicly available, it is sufficient to include a reference or link in the EITI Report. Where such registers or cadastres do not exist or are incomplete, the EITI Report should disclose any gaps in the publicly available information and document efforts to strengthen these systems. In the interim, the EITI Report itself should include the information set out in 2.3.b above.				
2.4 Contracts a) Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals. b) It is a **requirement that the EITI Report documents the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. This should include relevant legal provisions, actual disclosure practices and any reforms that are planned or underway. Where applicable, the EITI Report should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published.**	0.1	Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended, as provided in its article 9.	P	The hydrocarbon agreements are approved through a Decision of Council of Ministers (DCM), which as a general obligation, enters into force after its publishing in the Official Journal (www.qbz.gov.al). This obligation is not always respected, such as: The DCM no. 90, dated 27.01.2009 „Hydrocarbon agreement for the Visoka oilfield...", which has been publish without the respective contract attached.

c) The term contract in 2.4(a) means: i. The full text of any contract, concession, production-sharing agreement or other agreement granted by, or entered into by, the government which provides the terms attached to the exploitation of oil gas and mineral resources. ii. The full text of any annex, addendum or rider which establishes details relevant to the exploitation rights described in 2.4I(i) or the execution thereof. iii. The full text of any alteration or amendment to the documents described in 2.4I(i) and 2.4I(ii). d) The term license in 2.4(a) means: i. The full text of any license, lease, title or permit by which a government confers on a company(ies) or individual(s) rights to exploit oil, gas and/or mineral resources. ii. The full text of any annex, addendum or rider that establishes details relevant to the exploitation rights described in in 2.4(d)(i) or the execution thereof. ii. The full text of any alteration or amendment to the documents described in 2.4(d)(i) and 2.4(d)(ii).				

2.5 Beneficial Ownership a) It is recommended that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity(ies) that bid for, operate or invest in extractive assets, including the identity(ies) of their beneficial owner(s), the level of ownership and details about how ownership or controls exerted. Where possible, beneficial ownership information should be incorporated in existing filings by companies to corporate regulators, stock-exchanges or agencies regulating extractive industry licensing. Where this information is already publicly available, the EITI Report should include guidance on how to access this information. b) It is **required** that: i. The **EITI Report documents the government's policy and multi-stakeholder group's discussion on disclosure of beneficial ownership. This should include details of the relevant legal provisions, actual disclosure practices and any reforms that are planned or underway related to beneficial ownership disclosure**. ii. **By 1 January 2017, the multi-**		Law No. 9901/2008 "On traders and trade companies, as amended; and the Law no. 9723/2007 "On national registering centre", (Article 28, 29 and 32) as amended, provides the obligation of the beneficiaries that bid for, operate or invest in extractive assets, including the identity(ies) of their beneficial owner(s), the level of ownership and details about how ownership or controls exerted. The Trade Register, as a rule, provides data for the founders of each company or individual traders, but in cases when the founders of the company are other companies, the beneficial owner is not disclosed/identified.	P	The issue identified in regard to identification of the beneficial owner, may be solved through the amendment of the Law no. 9723/2007 "On national registering centre", or Law no. 7746, dated 28.07.1993 "On Hydrocarbons".

stakeholder group publishes a roadmap for disclosing beneficial ownership information in accordance with clauses I-(f) below. The multi-stakeholder group will determine all milestones and deadlines in the roadmap, and the multi-stakeholder group will evaluate implementation of the roadmap as part of the multi-stakeholder group's annual progress report. c) **As of 1 January 2020, it is required that implementing countries request, and companies disclose, beneficial ownership information for inclusion in the EITI Report**. This applies to corporate entity(ies) that bid for, operate or invest in extractive assets and should include the identity(ies) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted. Any gaps or weaknesses in reporting on beneficial ownership information must be disclosed in the EITI Report, including naming any entities that failed to submit all or parts of the beneficial ownership information. Where a country is facing constitutional or significant practical barriers to the implementation of this requirement by 1 January 2020, the country may seek adapted				

implementation in accordance with requirement 8.1. d) **<u>Information about the identity of the beneficial owner should include the name of the beneficial owner, the nationality, and the country of residence, as well as identifying any politically exposed persons</u>**. It is also recommended that the national identity number, date of birth, residential or service address, and means of contact are disclosed. e) **The multi-stakeholder group should agree an approach for participating companies assuring the accuracy of the beneficial ownership information they provide. This could include requiring companies to attest the beneficial ownership declaration form through sign off by a member of the senior management team or senior legal counsel, or submit supporting documentation**. f) Definition of beneficial ownership: i. A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity. ii. The multi-stakeholder group should agree an appropriate definition of the term beneficial owner. The definition should be aligned with (f)(i) above				

and take international norms and relevant national laws into account, andshould include ownership threshold(s). The definition should also specify reporting obligations for politically exposed persons. g. Publicly listed companies, including wholly-owned subsidiaries, are required to disclose the name of the stock exchange and include a link to the stock exchange filings where they are listed. iv. In the case of joint ventures, each entity within the venture should disclose its beneficial owner(s), unless it is publicly listed or is a wholly-owned subsidiary of a publicly listed company. Each entity is responsible for the accuracy of the information provided. g) **<u>The EITI Report should also disclose the legal owners and share of ownership of such companies.</u>**				
2.6 State participation Where **<u>state participation in the extractive industries gives rise to material revenue payments, implementing countries must disclose</u>**: a) An **explanation of the prevailing rules and practices regarding the financial relationship between the**		The Information provided in this Report, derives from the EITI membership requirement and is regulated as administrative procedure by the following normative acts: • Decision of Council of Ministries (DCM) no. 993, dated 09.12.2015 of the "On the	F	All the information regarding the requirement of Paragraph 2.6 "State Participation", with relevance to hydrocarbon sector, has been provided by the EITI Albania Report 2013-2014.

government and state-owned enterprises (SOEs), e.g., the rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing.For the purpose of EITI reporting, a SOE is a wholly or majority government-owned company that is engaged in extractive activities on behalf of the government. Based on this, the multi-stakeholder group is encouraged to discuss and document its definition of SOEs taking into account national laws and government structures. b) **Disclosures from the government and SOE(s) of their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector**, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period.This information should include details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected		organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization"; • Decision of Prime Minister no. 71, dated 21.07.2011 "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI).		

to disclose the terms of the transaction, including details regarding valuation and revenues. Where the government and SOE(s) have provided loans or loan guarantees to mining, oil and gas companies operating within the country, details on these transactions should be disclosed.				
EITI Requirement 3: Exploration and Production				
3.1 Exploration Implementing countries **should disclose an overview of the extractive industries, including any significant exploration activities.**	0.1	Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended, In Article 9, paragraph 3, provides the obligation of the operating licensees to report data and information in accordance with the EITI Standard. This Article stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly. According to the Article 2 of the Council of Minister Decision no. 547/2006 (as amended), AKBN ought to accumulate information regarding the production data for hydrocarbons, potential and actual production, make measurements for	P	The information provided is of a general nature and does not cover the list of applicants and the bid criteria, and the Web-Page of AKBN (as the competent authority), has not been updated with this information (to date). The main deficiency in disclosing such information derives from the lack of internal administrative procedures and instruments for exchange of information between public bodies and interested parties.

		production volumes and the value of production. The Minister Guideline 132/2015 (MEI) "On the procedures for the hydrocarbon agreement", which provides the obligation of AKBN to publish and disclose the information related to the map of the Free Exploration Blocks for hydrocarbon.		
3.2 Production Implementing countries **must disclose production data for the fiscal year covered by the EITI Report**, including total production volumes and the value of production by commodity, and, when relevant, by state/region. This could include sources of the production data and information on how the production volumes and values disclosed in the EITI Report have been calculated.		Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended, In Article 9, paragraph 3, provides the obligation of the operating licensees to report data and information in accordance with the EITI Standard. This Article stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly. Order no.389, dated 25.11.2014 "On information and data that must be submitted by legal entities, operating in the fields of processing, transportation and marketing of oil and its derivatives." According to the Article 2 of the Council of Minister Decision no. 547/2006 (as amended), AKBN	P	The reasoning, that EITI reporting requirements for the recipient Government institutions, currently conflict with the statutory duty of the Public Entities that process such information, to maintain confidentiality over the information obtained in terms of their regulatory duties, as referred in the laws applicable to tax and custom procedures in Albania, does not stand as the obligation deriving from an International Agreement ratified by the Republic of Albania (EITI membership) supersedes the obligation deriving from those statutory acts. The main deficiency in disclosing such information derives from the lack of internal administrative procedures and instruments for exchange of information between public bodies and interested parties.

		ought to accumulate information regarding the production data for hydrocarbons, potential and actual production, make measurements for production volumes and the value of production.		
3.3 Exports Implementing countries **must disclose export data for the fiscal year covered by the EITI Report**, including total export volumes and the value of exports by commodity, and, when relevant, by state/region of origin. This could include sources of the export data and information on how the export volumes and values disclosed in the EITI Report have been calculated.		Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended, In Article 9, paragraph 3, provides the obligation of the operating licensees to report data and information in accordance with the EITI Standard. This Article stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly. Minister Order no.389, dated 25.11.2014 "On information and data that must be submitted by legal entities, operating in the fields of processing, transportation and marketing of oil and its derivatives." DCM no.411 dated 13.05.2015 "On the procedures and conditions for granting and replication of the concession of pipeline license for import, export and transportation of crude oil", in Paragraph 4 (i) provides the obligation of the	P	The reasoning, that EITI reporting requirements for the recipient Government institutions, currently conflict with the statutory duty of the Public Entities that process such information, to maintain confidentiality over the information obtained in terms of their regulatory duties, as referred in the laws applicable to tax and custom procedures in Albania, does not stand as the obligation deriving from an International Agreement ratified by the Republic of Albania (EITI membership) supersedes the obligation deriving from those statutory acts. The main deficiency in disclosing such information derives from the lack of internal administrative procedures and instruments for exchange of information between public bodies and interested parties.

		operator/s to respect the obligations deriving from the International Agreements ratified by the Republic of Albania, therefore the obligation to report accordingly to the EITI secretariat.		
EITI Requirement 4: Revenue Collection				
4.1 Comprehensive disclosure of taxes and revenues a) In advance of the reporting process, the multi-stakeholder group is **required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds**. Payments and revenues are considered material if their omission or misstatement could significantly affect the comprehensiveness of the EITI Report. A description of each revenue stream, related materiality definitionsand thresholds should be disclosed. In establishing materiality definitions and thresholds, the multi-stakeholder group should consider the size of the revenue streams relative to total revenues. **The multi-stakeholder group should document the options considered and the rationale for establishing the definitions and thresholds**. b) The **following revenue streams**		Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended, In Article 9, paragraph 3, provides the obligation of the operating licensees to report data and information in accordance with the EITI Standard. This Article stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly. The Joint Ministers Guideline No. 3492/2015, paragraph 6/2 oblige the relevant institutions to exchange information on fiscal regime and other violations on the purpose of official control, which does not comply with the transparency obligation as provided by EITI.	P	There are no legal obligations and procedures regulating the transparency on the fiscal regime governing extractive industries in hydrocarbons, although selective information is being made public on ad-hock basis, but this publication does not derive from a clear legal obligation. The Law no. 7811, dated 12.04.1994 "On approval of changes to the decree no. 782, dated 22.02.1994 "On the fiscal system in the hydrocarbons sector (research production), as amended, should be amended in order to include the required information. The reasoning, that EITI reporting requirements for the recipient Government institutions, currently conflict with the statutory duty of the Public Entities that process such information, to maintain confidentiality over the information obtained in terms of their regulatory duties, as referred in the laws applicable to tax and custom procedures in Albania, does not stand as the obligation deriving from an

<u>should be included</u>: i. The host government's production entitlement (such as profit oil) ii. National state-owned company production entitlement iii. Profits taxes iv. Royalties v. Dividends vi. Bonuses, such as signature, discovery and production bonuses vii. License fees, rental fees, entry fees and other considerations for licences and/or concessions viii. Any other significant payments and material benefit to government Any revenue streams or benefits should only be excluded where they are not applicable or where the multi-stakeholder group agrees that their omission will not materially affect the comprehensiveness of the EITI Report. c) Implementing countries **<u>must provide a comprehensive reconciliation of government revenues and company payments</u>**, including payments to and from state-owned enterprises, in accordance with the agreed scope. All companies making material payments to the government are				International Agreement ratified by the Republic of Albania (EITI membership) supersedes the obligation deriving from those statutory acts.

required to comprehensively disclose these payments in accordance with the agreed scope. An entityshould only be exempted from reporting if it can be demonstrated that its payments and revenues are not material. All government entities receiving material revenues are required to comprehensively disclose these revenues in accordance with the agreed scope. d) Unless there are significant practical barriers, the government is additionally **required to provide aggregate information about the amount 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. Where this data is not available, the Independent Administrator should draw on any relevant data and estimates from other sources in order to provide a comprehensive account of the total government revenues.				
4.2 Sale of the state's share of production or other revenues collected in kind Where the sale of the state's share of production or other revenues collected in kind is material, **the government, including state-owned enterprises, are required to disclose the volumes sold and revenues received**. The published		Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended, In Article 9, paragraph 3, provides the obligation of the operating licensees to report data and information in accordance with the EITI Standard. This Article	F	

data must be **disaggregated by individual buying company and to levels commensurate with the reporting of other payments and revenue streams** (4.7). Reporting could also break down disclosures by the type of product, price, market and sale volume. Where practically feasible, the multi-stakeholder group is encouraged to task the Independent Administrator with reconciling the volumes sold and revenues received by including the buying companies in the reporting process.		stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly. Order no. 389, dated 25.11.2014 "On information and data that must be submitted by legal entities, operating in the fields of processing, transportation and marketing of oil and its derivatives." According to the Article 2 of the Council of Minister Decision no. 547/2006 (as amended), AKBN ought to accumulate information regarding the production data for hydrocarbons, potential and actual production, make measurements for production volumes and the value of production.		
4.3 Infrastructure provisions and barter arrangements The multi-stakeholder group and the Independent Administrator are required to **consider whether there are any agreements**, or sets of agreements **involving the provision of goods and services (including loans, grants and**		Decision no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI); Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the	F	

infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities. To be able to do so, the multi-stakeholder group and the Independent Administrator need to gain a full understanding of: the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts. Where the multi-stakeholder group concludes that these agreements are material, the multi-stakeholder group and the Independent Administrator are required to ensure that the EITI Report addresses these agreements, providing a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. Where reconciliation of key transactions is not feasible, the multi-stakeholder group should agree an approach for unilateral disclosure by the parties to the agreement(s) to be included in the EITI Report.		organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization"		
4.4 Transportation revenues Where revenues from the transportation of oil, gas and minerals are material, the government and state-owned enterprises		Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended, In Article 9, paragraph 3, provides the obligation	F	

(SOEs) are expected to disclose the revenues received. The published data must be disaggregated to levels commensurate with the reporting of other payments and revenue streams (4.7). Implementing countries could disclose: a) A description of the transportation arrangements including: the product; transportation route(s); and the relevant companies and government entities, including SOE(s), involved in transportation. b) Definitions of the relevant transportation taxes, tariffs or other relevant payments, and the methodologies used to calculate them. c) Disclosure of tariff rates and volume of the transported commodities. d) Disclosure of revenues received by government entities and SOE(s), in relation to transportation of oil, gas and minerals. e) Where practicable, the multi-stakeholder group is encouraged to task the Independent Administrator with reconciling material payments and revenues associated with the transportation of oil, gas and minerals.		of the operating licensees to report data and information in accordance with the EITI Standard. This Article stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly. Minister Order no.389, dated 25.11.2014 "On information and data that must be submitted by legal entities, operating in the fields of processing, transportation and marketing of oil and its derivatives." DCM no.411 dated 13.05.2015 "On the procedures and conditions for granting and replication of the concession of pipeline license for import, export and transportation of crude oil", in Paragraph 4 (i) provides the obligation of the operator/s to respect the obligations deriving from the International Agreements ratified by the Republic of Albania, therefore the obligation to report accordingly to the EITI secretariat.		
4.5 Transactions related to state-owned		Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and	F	

enterprises. The multi-stakeholder group must ensure that the reporting process comprehensively addresses the role of state-owned enterprises (SOEs), including material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.		production), as amended, In Article 9, paragraph 3, provides the obligation of the operating licensees to report data and information in accordance with the EITI Standard. This Article stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly. Decision no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI); Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization"		
4.6 Sub national payments. It is required that the multi-stakeholder group establish whether direct payments, within the scope of the agreed benefit streams, from companies to sub national government entities are material. Where material, the multi-stakeholder group is required to ensure that company			N/A	

payments to sub national government entities and the receipt of these payments are disclosed and reconciled in the EITI Report.				
4.7 Level of disaggregation. The multi-stakeholder group is required to agree the level of disaggregation for the publication of data. It is required that EITI data is presented by individual company, government entity and revenue stream. Reporting at project level is required, provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming European Union requirements.			N/A	
4.8 Data timeliness. a) Implementing countries are required to produce their first EITI Report within 18 months of being admitted as an EITI candidate. Thereafter, implementing countries are expected to produce EITI Reports on an annual basis. b) Implementing countries must disclose data no older than the second to last complete accounting period, e.g. an EITI Report published in calendar/financial year 2016 must be based on data no later than calendar/financial year 2014. Multi-stakeholder groups are encouraged		Decision no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI); Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization"	F	

to explore opportunities to disclose data as soon as practically possible, for example through continuous online disclosures or, where available, by publishing additional, more recent contextual EITI data than the accounting period covered by the EITI revenue data. In the event that EITI reporting is significantly delayed, the multi-stakeholder group should take steps to ensure that EITI Reports are issued for the intervening reporting periods so that every year is subject to reporting. c) The multi-stakeholder group is required to agree the accounting period covered by the EITI Report.				
4.9 Data quality and assurance. a) The EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. b) It is a requirement that payments and revenues are reconciled by a credible, Independent Administrator, applying international auditing standards, and with publication of the administrator's opinion regarding that reconciliation including discrepancies, should any be identified. i. The reconciliation of company			F	Independent Administrator is appointed "Deloitte" Audit Albania

payments and government revenues must be undertaken by an Independent Administrator applying international professional standards. ii. The Independent Administrator must be perceived by the multi-stakeholder group to be credible, trust worthy and technically competent. The multi- stakeholder group should endorse the appointment of the Independent Administrator. iii. The multi-stakeholder group and the Independent Administrator are required to agree a Terms of Reference for the EITI Report based on the standard Terms of Reference and the 'agreed upon procedure for EITI Reports'3 endorsed by the EITI Board. Should the multi-stakeholder group wish to adapt or deviate from these agreed upon procedures, approval from the EITI Board must be sought in advance (Requirement 8.1).				
EITI Requirement 5: Revenue Allocations				

5.1 Distribution of extractive industry revenues. Implementing countries must disclose a description of the distribution of revenues from the extractive industries. b) Implementing countries should indicate which extractive industry revenues, whether cash or in kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable, e.g., sovereign wealth and development funds, sub national governments, state-owned enterprises, and other extra-budgetary entities.		Law no. 7746, dated 28.07.1993 "On Hydrocarbons" (exploration and production), as amended, In Article 9, paragraph 3, provides the obligation of the operating licensees to report data and information in accordance with the EITI Standard. This Article stipulates the obligation of the General Directorate of Taxes, Albanian Custom Administrate and the central and local public institutions collecting revenue from the sector to report accordingly. Decision no. 71, dated 21.07.2011 of Prime Minister "On establishment and organization of Multi Stakeholder Group for involvement of Albania in Extractive Industries Transparency Initiative (EITI); Decision no. 993, dated 09.12.2015 of the Council of the Ministries "On the organization and operation of the Extractive Industries Transparency Initiative (Albanian EITI Secretariat), in support of the membership in EITI International Organization"	F	
5.2 Sub-national transfers. a) Where transfers between national and sub-national government entities are related to revenues generated by the extractive industries and are			N/A	

mandated by a national constitution, statute or other revenue sharing mechanism, the multi-stakeholder group is required to ensure that material transfers are disclosed. Implementing countries should disclose the revenue sharing formula, if any, as well as any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant sub-national entity.				

Annex 6

BENEFICIAL OWNERSHIP ROADMAP TEMPLATE

ROADMAP RECOMMENDATION	OBJECTIVE	ACTIVITIES (CAPACITY BUILDING NEEDS, TECHNICAL ASSISTANCE)	RESPONSIBLE	TIME FRAME	FINANCIAL ASSISTANCE (COST AND FUNDING)
1.Consider links between BO and national reform priorities	Supporting increased transparency and fight against corruption, which is a crucial requirement for Albania's accession to the EU.		[INSERT BODY RESPONSIBLE FOR THIS]		
2. Consider the institutional framework for BO disclosure	Establishing the best/most effective manner to implement BO disclosure (i.e. whether by incorporating the BO definition and disclosure obligations in existing legislation or otherwise)	Reviewing and/or amending existing company filing requirements upon company registration to include beneficial ownership information, and considering adding filing requirements related to beneficial ownership disclosure in bidding processes and license registries for extractive projects.	EITI Albania		
3. Beneficial ownership definition	MSG to agree on a definition of BO to apply within the national legislative context and satisfy the EITI Standard on BO and other relevant international norms.	Reviewing whether national laws include a definition of beneficial owners, exploring existing international and national definitions, and agreeing an appropriate definition and ownership		By Jan 2017	

ROADMAP RECOMMENDATION	OBJECTIVE	ACTIVITIES (CAPACITY BUILDING NEEDS, TECHNICAL ASSISTANCE)	RESPONSIBLE	TIME FRAME	FINANCIAL ASSISTANCE (COST AND FUNDING)
	MSG also to agree on applicable thresholds.	thresholds in order to operationalize reporting of beneficial ownership. Engage international and local lawyers to advise on BO definition and implementation. MSG to meet, discuss and agree on definition of BO.		By Jan 2017 INSERT DATE	
4.Reporting obligations for Politically Exposed Persons	MSG to agree on reporting obligations for PEPs and applicable definitions/thresholds to satisfy the EITI Standards and relevant international norms.	Investigating existing national and international definitions and reporting requirements for PEPs with a view to identifying national policy objectives on this subject and aligning the beneficial ownership definition accordingly.		In progress.	
5.Level of detail to be disclosed		Consultation with government, civil society and companies with regards to the level of additional detail of the beneficial ownership disclosures, including opportunities and challenges with disclosing recommended information such as date of birth and means of contact.			

ROADMAP RECOMMENDATION	OBJECTIVE	ACTIVITIES (CAPACITY BUILDING NEEDS, TECHNICAL ASSISTANCE)	RESPONSIBLE	TIME FRAME	FINANCIAL ASSISTANCE (COST AND FUNDING)
		The roadmap could also specify whether the multi-stakeholder group intends to make use of the EITI's model beneficial ownership declaration form, perhaps with some local adaptations, or whether the multi-stakeholder group intends to develop its own declaration form. Organize workshop with relevant eligible companies to explain the context surrounding BO disclosure and what needs to be disclosed in practice.			
6.Data collection	MSG to consider most efficient ways to collect data on BO/PEPs and any obstacles, including reviewing and defining the BO declaration form to be used by relevant companies.	Identifying the companies that will be required to participate in beneficial ownership reporting. The roadmap could also include consultation activities aimed at identifying the most efficient and sustainable data collection approach. Organize workshops on BO and its definition and disclosure requirements held			

ROADMAP RECOMMENDATION	OBJECTIVE	ACTIVITIES (CAPACITY BUILDING NEEDS, TECHNICAL ASSISTANCE)	RESPONSIBLE	TIME FRAME	FINANCIAL ASSISTANCE (COST AND FUNDING)
		by lawyers and inviting senior representatives of the eligible extractive industry companies. Produce the BO declaration form at workshop and provide clear instructions on how to fill these in and the process for submitting them.			
7.Assuring the accuracy of the data					
8.Data timeliness					
9.Data accessibility					

REPUBLIC OF ALBANIA

ASSEMBLY

DRAFT LAW

No. _____, dated_____2017

ON THE TRANSPARENCY OF THE EXTRACTIVE INDUSTRIES ACTIVITIES IN THE REPUBLIC OF ALBANIA

Based on Articles 78 and 83, paragraph 1 of the Albanian Constitution, with the proposal of the Council of Ministers,

ASSEMBLY

OF THE REPUBLIC OF ALBANIA

DECIDED:

Article 1

Purpose of the law

1. The purpose of this law is to ensure and increase transparency in extractive industries activities in particular and natural resources in general through the implementation of international reporting standards of the Extractive Industries Transparency Initiative (hereinafter mentioned in this law as EITI).

2. Implementation of the EITI Standard will increase accountability in respect of revenue collection from extractive industry activities and their allocation to public benefit, which will also improve the investment climate in Albania.

3. This law promotes the participation of citizens and civil society organizations as well as their contribution to public debates relating to extractive industry activities.

Article 2

Object of the law

1. The object of this law is to define and establish clear rules for both State institutions/entities/units and commercial companies operating in the extractive industry sector relating to their respective obligations to duly and timely collect data and provide accurate reporting as provided in this law and its sub-legal acts.

2. It also provides administrative measures applicable in case of failure to submit any or all of the required information and/or to report the said information within the prescribed deadlines.

Article 3

Scope of the law

1. This law applies to entities listed in point 2 of this article, concerning the obligation to report and reconcile the data on production and respective processes, fiscal payments and other payments incurred by the industries of hydrocarbon, mining, and other extractive industry activities.

2. The provisions of this law shall apply to:

a) Public and private legal entities, domestic or foreign, carrying out exploration andexploitation activities in the sector of hydrocarbons, mining, hydro-energy or other sectors of extractive industries in the Republic of Albania;

b) State institutions represented, customs and tax administration, at both central and/or local level;

c) State institutions and/or public legal entities, which under the relevant legislation in force, conclude and monitor contracts and/or grant and monitor permits, licenses and authorizations to operate in the sector of hydrocarbons, mining, hydro-energy or other sectors of extractive industries in the territory of the Republic of Albania.

d)Secretariat for the Extractive Industries Transparency Initiative Albania, herein after mentioned as ALBEITI;

e) any other state institutions and/or public legal entities that collect and/or manage and/or publish data related to the activities set out in paragraph 1 of this article, within the obligations laid down in legislation in force, including line Ministries and their depending units and the Statistical Institute.

Article 4

Definitions

1. For the purpose of this law the following selected terms have the following meanings:

a. "EITI Standard" means the global transparency standard for improving governance of extractive industry and natural resources, comprised of specific requirements;

b. "EITI report" means the annual report produced by Albania, as a country implementing EITI, revealing information on extractive industries sector as well as the hydropower sector, in narrative and data format aiming to facilitate the engagement between various stakeholders involved in the EITI process;

c. "Contextual information" means the information about the extractive industry that allows the reader to understand the figures published in an EITI report;

d. "Extractive industry resources" comprises oil, gas and mining industries as well as hydro-energy sector.

e. "Reporting year" means the calendar year staring on January 1 and ending on December 31.

f. “Work plan” means the document developed and agreed by the multi-stakeholders group, which includes objectives and priorities for EITI implementation as well as associated activities which should be measurable and time bound, fully costed and aligned with the reporting and validation deadlines.

g.“Beneficial owner” means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.

2. For the other terms used in this law, the reference should be made to the law that primarily regulates that issue as well as to the EITI glossary.

Article 5

EITI report

1. The EITI report aims to facilitate the engagement of all stakeholders involved in EITI process to generate the information on the management of extractive and hydropower sectors in a format that allows for a proper understanding, analysis and accountability of these sectors.

2. If the circumstances will allow, the EITI report will expand its scope covering information on the management of other natural resources.

3. EITI report shall be produced on annual basis and must disclose data no older than two years. Even in case of delays, every year is subject to reporting.

4. In exceptional circumstances when the deadline cannot be reached, the multi-stakeholders group may request prior EITI Board approval for adapted implementation and/or extension which, if so approved, should be reflected in the amended work-plan.

5. The multi-stakeholders group is encouraged to explore opportunities to disclose data as soon as practically possible but in any case the data should not be older than the two immediately preceding fiscal years.

6. The failure to submit satisfactory reports and/or to meet the deadlines causes the suspension or revoking of the status of Albania as an EITI implementing country.

Article 6

The material of the reporting

1. The annual report should reflect a comprehensive reconciliation of company payments and government revenues from the extractive industries sectors.

2. The commercial companies and individuals whom operate in the extractive industries sectors are obliged to disclose any kind of payments, including royalties, dividends, bonuses such as signature or production bonuses, licence fees, rental fees, profit taxes and also payments in kind related to their exploration and/exploitation activity and they will be held responsible for the accurate and timely disclosure and/or reporting. Each such commercial entity shall nominate and disclose the details of the specific individual(s) who shall be responsible for providing the required information within the prescribed deadlines. Such information shall be provided by each such entity exclusively in the format requested and provided by the multi-stakeholder group.

3. The public entities receiving revenues from the extractive industry sectors will be held responsible for timely providing a comprehensive account of the total government revenues.

Article 7

Multi-stakeholder group

1. Multi-stakeholder Group (MSG), which is composed of representatives from government, extractive industries companies and civil society organizations, is a decision-making body in charge to lead and manage the implementation of EITI Requirements in Albania aiming to achieve EITI compliance in a timely and effective manner.

2. The organization and functioning of the MSG will be decided by the Council of Ministers.

Article 8

Albanian Secretariat for the Extractive Industries Transparency Initiative (ALBEITI)

1. ALBEITI is a public legal person, depending on the Ministry responsible for extractive industry, which exercises functions within the international organization membership "EITI International".

2. ALBEITI serves as the technical secretariat for the activity of the MSG and collects all the information submitted by the entities listed in point 2 of article 3 of this law.

3. Secretariat for the Extractive Industries Transparency Initiative has the right to request additional information, corrections or clarification of the reported data/information by the entities mentioned in article 3 point 2 of this law, which must be made available within a reasonable timeframe indicated in the correspondence of ALBEITI.

4. The organisation and functioning of Secretariat for the Extractive Industries Transparency Initiative is regulated by a decision of Council of Ministers.

Article 9

Obligation for the publication of updated information

1. State institutions in charge to implement the legal, regulatory, contractual framework and fiscal regime that apply to the extractive industries sectors are obliged to publish and disclose information on the rules and procedures relating to how the extractive industries sector is managed. Such information should be updated as needed and made available on the official website of the relevant institution.

2. Every state institution and/or public legal entity, which under the particular legislation in force, are in charge to award, conclude, monitor the contracts, permits, licenses and authorizations to operate in the extractive industries sector within the territory of Republic of Albania, is obliged to publish and disclose on the official website a complete list of signed contracts, permits, licenses and authorizations awarded for the exploration and/or exploitation in the sector of extractive industries, including the full text of such documents.

3. This list and information should be updated periodically to reflect signing or the termination of contracts and/or granting or revocation of permits, licenses and authorizations, as the case will be.

Article 10

Obligations of public entities for periodical reporting

1. State institutions and/or public legal entities are obliged to submit to the ALBEITI, periodic information and reports regarding signed contracts, permits, licenses and authorizations awarded for exploration-exploitation in the sector of extractive industries.

2. The information and reporting should also include data regarding revenues collected by contractors and/or holders of licenses, permits and authorizations such as payments for training bonuses, signing bonuses, exploration bonuses, production bonuses, license fee payments, authorization permit payments, lease payments and/or servitude and usufruct fee and likewise payments.

3. Reporting of data under point2 of this article is made within the time limits specified in article 16 of this law and in accordance with the procedure and reporting templates proposed by Minister responsible for extractive resources and approved by Decision of Council of Ministers.

Article 11

Obligations of public and private entities for periodical reporting of payments

1. Public and private legal entities, domestic or foreign, carrying out exploration and/or exploitation activities in the extractive industries sectors in the territory of the Republic of Albania are obliged to submit to the ALBEITI, periodic information and reports on the production, exported production, data on respective processes of production, values of the fees and taxes paid to the bodies of the tax administration, central and local, and bodies of customs administration and other payments, including but not limited to the bonus payment for production, training, assignment, lease payments, usufruct, servitude, license fees, permit authorization and likewise payments.

2. The information and reporting should also include data regarding payments made by contractors and/or holders of licenses, permits and authorizations such as payments for training bonuses, signing bonuses, exploration bonuses, production bonuses, license fee payments, authorization permit payments, lease payments and/or servitude and usufruct fee and likewise payments.

3. Reporting of data under point 1 and 2 of this article is made within the time limits specified in article 16 of this law and in accordance with the procedure and reporting templates proposed by Minister responsible for extractive resources and approved by Decision of Council of Ministers.

Article 12

Obligations of reporting for fiscal administrations and local government units

1. The central customs and tax administration and local government units are obliged to report to ALBEITI and provide periodic information on the production, exported production, values of the fees and taxes paid to the tax and customs administration, in central

and regional level and other payments realized in favor of the state budget and/or local government budgedby the entities specified in point 2 of article 3 of this law.

2. Reporting of data under point1 of this article is made within the time limits specified in article 16 of this law and in accordance with the procedure and reporting templates proposed by Minister responsible for extractive resources and approved by Decision of Council of Ministers.

Article 13

Beneficial ownership Information

1. Public and private legal entities, domestic or foreign, carrying out exploration and/or exploitation activities in the extractive industries sectors in the territory of the Republic of Albania are obliged to disclose and report data on their beneficial owner/sby annually submitting the relevant beneficial ownership Declaration Form which is accessible on the EITI website or provided to them by the EITI, which shall include accurate information regarding
(a) the full name, date of birth, nationality, country or state of residence, residential addresses and service address of each beneficial owner; and
(b) a statement of the nature and extent of the interest held by each beneficial owner.
Each entity shall immediately notify the ministry responsible for the extractive resources if such information changes during the course of a fiscal year by providing the updated information.

2. The data on beneficial ownership shall be immediately reported to the ministry responsible for the extractive resources but in any case no later than 10 days after the transaction has occurred.

3. A beneficial owner, for the purpose of this law, is considered an individual if he or she owns or controls more than 25% of a company's shares or of voting rights and/or if he or she is politically exposed, regardless of their participation in the company, provided that, in the event of companies not carrying out any economic activity but rather acting as intermediary channelling income from other sources, the applicable threshold shall be lowered to 10%.

4. Public and private legal entities, domestic or foreign that bid in a competitive procedure and/or in every kind of legal procedure in order to be awarded with a contract and/or licence and/or permit and or authorization for operating and/or investing in any extractive assets must disclose the identity of their beneficial owner/s.

5. The subject referred in article 9 of this law, which under the particular legislation in force, awards and monitors contracts, permits, licenses and authorizations for entitiesoperating in the sectors of extractive industries are obliged to include the condition of beneficial ownership data disclosure in the tender documents.

6. Reporting of data on beneficial ownership is made within the time limits specified in article 16 of this law and in accordance with the procedure and reporting templates proposed by Minister responsible for extractive resources and approved by Decision of Council of Ministers.

Article 14

Beneficial ownership register

1. The ministry responsible for the extractive resources shall establish, maintain and update a register of beneficial owners of the companies that bid for, operate and/or invest in extractive assets.

2. This register shall reflect adequate, accurate and current information in respect of the beneficial owners of the companies mentioned in point 1 of this article and shall include the information provided by each company as listed in article 11 point 1.

3. The register shall be publicly available and instantly accessible except for the information on the date of birth and residential address of the beneficial owner.

4. The format of the register, methodology, methods, processes and procedures to be used for the collection of data as well as for the assessment of the gathered information will be approved by the Council of the Ministers.

Article 15

Inter-institutional cooperation

1. State institutions and/or public legal entities that collect and/or manage and/or publish the data concerning exploration and/or exploitationactivitiesin the extractive industries sectors are required to effectively cooperate with ALBEITI through mutual exchange of information managed, in the context of defining and updating the information to be reported by them.

2. Data on ownership of the companies operating in the extractive industries sectors, their volume of production, exported production, data on respective processes of production, values of the fees and taxes paid and other payments, such as payment bonus of production, training, signing, paying rent, usufruct, servitude, license fee, license and authorization and other likewise payments, are not considered confidential.

3. Institutions of the central customs and tax administration and local self-governing units are obliged to cooperate with ALBEITI in the context of defining and updating the information to be reported by them.

4. ALBEITI informs regularly the relevant institutions that fail to fully comply with the requirements and timelines set in this law and its implementing provisions.

Article 16

Reporting timeliness

All entities referred to in article 3 point 2 of this law are obliged to report to ALBEITI their respective information for each reporting year by no later than March 31st of the consecutive year.

Article 17

Administrative offenses

1. The following violations of this law, when they do not constitute a criminal offense, consist on administrative offenses and are punished as follows:

a) Failure to provide complete and accurate information as per the article 6 point 2 and 3 of this law will be sanctioned with a fine in the amount from ___to _____ALL.
b) Violation of article 8, point3, with a fine in the amount of _____ALL for each ALBEITI request.
c) Violation of article 11 point 2with a fine in the amount of ____ALL.
d) Violation of article 16 with a fine in the amount of ___ALL for each delayed working day.

2. When the state and public institutions fail to comply with the requirements and timeliness provided for in this law, as per the information provided by ALBEITI, the head of the respective institution shall apply disciplinary measures against the responsible officials, in accordance with the provisions of law on the civil servantand Labour Code.

3. The fines provided for in point 1 of this article, are set by the relevant structure within the ministry responsible for extractive resources as per the information provided by ALBEITI on the nature of the violation.

4. In case the public and private legal entities carrying out exploration and/or exploitation activities in the extractive industries sectorsfail to apply corrective measures even after the application of fines as per point 1 of this article, the responsible institutions reserves the right to initiate proceedings for cancellation of the contract and/or revocation of the permit, license or authorization.

Article 18

Sublegal acts and transitory dispositions

1. The Council of Ministers shall, within 6 months from the entry into force of this law, issue sublegal acts pursuant to article 7 point 1, article 10 point 3 and article 12 point 4, of this law.

2. Secondary legislation acts, which regulate the reporting activity of EITI in extractive industry , approved before entry into power of this law, shall be applied insofar they are applicable and do not contradict this law, until their revision and emission of new acts in compliance with the requests and time-lines defined by this law.

Article 19

Abrogation of the legal acts

Article 36, paragraph 25 , Article 50 point 5, of Law 10304, date15.07.2010 "On the mining sector in the Republic of Albania", as amended, and Article 9, point 3, of the Law 7746, dated 28.07.1993 “On Hydrocarbons” (exploration and production), amended, as well as any other legal disposition which is not in compliance with this law is abrogated.

Article 20

Entry into force

This law enters into force 15 days after publication in the Official Journal.

Adopted on _____

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