

## QUESTIONNAIRE TO COUNTRY AUTHORITIES

### FISCAL TRANSPARENCY IN RESOURCE REVENUE MANAGEMENT

This questionnaire has been designed to provide information on the management of natural resources, with a focus on natural resource revenues. It is based on the IMF's Code of Good Practices on Fiscal Transparency, the supporting Manual on Fiscal Transparency, and the Guide on Resource Revenue Transparency (all available on the IMF external website).

#### **Part A: Basic Fiscal Management Documents and Laws**

**For each sector covered (e.g., oil, gas, minerals, diamonds) please provide actual documents or links to the relevant web site for:**

- Laws and other relevant documents specifying fiscal management authority over natural resources and natural resource companies (state-owned enterprises and private).
- Laws and other relevant documents specifying payment obligations to the central or subnational governments (i.e., state, provincial, local) or to other state entities.
- Laws and other relevant documents specifying the tax powers of central and local governments and revenue sharing arrangements between central and state/provincial or local governments.
- Laws relating to disclosure of revenue payments to the central or subnational governments or to other state entities.
- Formal agreements and public statements on the participation in the Extractive Industries Transparency Initiative (EITI) and observance of company and government disclosure requirements.
- Model contracts and key actual production sharing agreements or contracts between companies and governments as well as reports or analyses related to these.
- Laws and regulations governing the operation, accounting, reporting, and auditing of any funds that hold and manage revenues originally obtained from natural resources (e.g., oil savings fund).
- Other important laws and documents relevant for analyzing natural resource revenue management.
- Key websites providing relevant information and laws.

## **Part B: Detailed Questions on Fiscal Institutions and Requirements**

### **Legal framework**

1. Please describe the legal framework that governs ownership over natural resources, and describe who owns the natural resources.
2. Please describe the activities of natural resource companies (state-owned or private).

### **Authority over revenues and expenditure, including resource-related funds**

3. Which organization (e.g., finance ministry, energy ministry, state-owned enterprise) has the legal authority over natural resource producing companies? In which laws and regulations is this authority stipulated?
4. Please describe the relative roles of the government, the regulatory body (if it exists) and natural resource companies in policy making, monitoring compliance with the regulatory framework, and commercial operations in resource sectors (including energy price setting), indicating in which laws these roles are determined.
5. What is the process by which tax/royalty laws that apply to natural resource production and producers are established? Are all changes incorporated into the annual budgetary process or can they be changed on a more frequent basis?
6. Are natural resource-sector laws consistent with the systemic budget law or other government budget provisions as well as tax laws?
7. For revenues that do not accrue to the budget, on what legal basis is this money spent?
8. Can separate resource-related funds spend directly, i.e., without government approval? If so, how is their spending appropriated by the legislature?
9. What disclosure policies exist on revenue accruing to separate resource-related funds and expenditure financed from them?

### **Authority over asset and liability management and resource-related funds**

10. Who has the right to borrow domestically and externally on behalf of the government for resource-sector specific purposes? Does the legislature have to approve such borrowing? How are such borrowing operations disclosed to the public?
11. Which part of government has authority over decisions on investments in financial or other assets obtained with proceeds from resource revenues? If there is a

separate natural resource fund(e.g., an oil savings fund), please explain the policies of the fund in this regard.

12. How is the management strategy for assets obtained with proceeds from resource revenues determined and disclosed? What mechanisms are used to ensure accountability over the management of assets? What is the disclosure policy for financial and other assets held?

13. Are all such assets (or liabilities) reported as part of a comprehensive government or public sector balance sheet? If not, where are these assets (or liabilities) reported?

14. If there are separate resource-related funds, please describe the legal and institutional framework governing their operations. In particular, how are revenue flows into the fund and spending from funds held within the fund integrated into the government budget framework?

15. Can assets of separate resource-related funds be used as guarantees for borrowing by the government or other state-owned enterprises?

#### **Equity participation**

16. Please describe the form and extent of government equity participation (directly and through state-owned enterprises) in natural resource producers.

17. How is equity participation of the government in resource sectors disclosed?

#### **Licensing procedures**

18. Please describe the licensing procedures for natural resources that have been used predominantly in the past and characterize them as either (i) open bids with fixed terms, (ii) open bids with variable terms, or (iii) negotiated deals.

19. If licensing procedures have evolved over time, and have varied for different projects, please describe licensing procedures on a project-by-project basis.

20. Please explain how interested bidders are informed about tenders.

21. What information about successful bids is disclosed to (i) the executive branch; (ii) the legislature; and (iii) the general public?

#### **Fiscal regime**

22. Are payments to the government for natural resources primarily based on taxes/royalties or production sharing contracts?

23. If the fiscal regime makes use of production sharing contracts, are there model contracts that are published?
24. Please describe the main features regarding fiscal payments that are determined in actual contracts. Are actual contracts published in their entirety or partially? If partially, which parts are published, and which parts are not. If actual contracts are not published, who has access to them? If not published, how is accountability ensured vis-à-vis the public?
25. Are financing arrangements included in production sharing contracts? If so, are these published? Does legislation and other documents contain specific regulations covering financing arrangements? If so, please describe.
26. If fiscal regime requires payment of taxes and/or royalties, please describe the key financial obligations. If the regime varies from project to project, please note the differences for key projects.
27. Please describe for each major tax, the tax base, the tax rate, and other major features of the following:
- Corporate income tax.
  - Dividend, interest, and any other withholding taxes applicable to natural resource revenues paid domestically and paid to foreign owners.
  - Any other taxes that apply.
28. Please describe the requirements for payment of royalties.
29. Please explain any differences between resource revenue taxation and the standard tax system that applies to other sectors or activities (e.g., corporate profit tax, taxation of dividends or interest, capital gains tax, personal income tax).
30. Describe main tax incentives that exist for companies or individuals in the natural resource sector.
31. Please describe any other tax or nontax instruments applicable to natural resources (e.g., special oil fee, dividends from equity participation, or other payments, including bonuses).
32. Please describe indirect taxes (value added tax, excises, and customs duties on imports or exports) applicable to natural resources. Are there any differences between the indirect tax treatment of natural resources or products made predominantly from natural resources (such as gasoline) and other activities (e.g., rate of import duties or excises)?

33. Do government agreements with natural resource producers include “fiscal stability clauses” (to protect investors against unforeseen changes to the financial assumptions underlying the project)? If so, please describe them? Are these publicly known? How prevalent are these?

34. Please explain if ring-fencing is used to limit the ability of natural resource companies to consolidate income or deductions for tax purposes across different activities, projects, or license areas.

35. How is transfer pricing dealt with in general and specifically with regard to production sharing contracts and in the corporate income tax?

### **National resource companies**

36. Please describe the activities of natural resource companies in both commercial operations (e.g., sale of petroleum products) and non-commercial operations (e.g., provision of social and other services)..

37. Please describe rules and mechanisms of internal controls and internal audit for natural resource companies.

38. Please indicate the following features of accounting and audit regulation for natural resource companies:

- Are they subject to the same standards of accounting and audit as the rest of the private sector?
- Are accounting standards for national resource companies in law consistent with international accounting standards (IAS), and are these standards complied with in fact?
- Is a consolidated financial report covering all subsidiaries prepared and audited?
- Have audited annual accounts been completed within six months after the end of the financial year?
- Are financial accounts provided to the public annually (if more frequently, please specify), and within six months of year-end?

If the answer is “no” to any of the above questions, please describe the current system of accounting and audit and give reasons for the answer.

### **Price regulation**

39. Are domestic wholesale and retail prices of resource products administered by government or a regulatory body? What formulae are used to determine these prices, and

are these known to the public? How do domestic prices relate to international market or reference prices? What is the frequency with which domestic prices are adjusted?

### **Quasi-fiscal activities**

40. What noncommercial/quasi-fiscal activities are carried out by natural resource companies and other resource-sector companies, including international companies? (Such activities include health and education services, employment, housing, infrastructure, domestic sales of energy products at below market price, borrowing on behalf of the state.) Please describe major activities and indicate, where possible, the estimated annual cost, noting also the source of such information and data.

41. Are there any payment arrears of government organizations to natural resource companies or other resource companies? If so, are these regularly updated, publicly disclosed, and considered in the government budget?

42. Are there any tax or payment arrears of natural resource companies or other resource companies to the government? If so, are these monitored regularly and publicly disclosed?

### **Relations with subnational government**

43. Please explain how tax powers and resource revenues are shared between central and state/provincial or local governments (e.g., regions, districts), and provide copies of relevant laws and regulations.

44. For how long have the existing revenue-sharing formulae been in existence? In what form are these formulae disclosed to the public? How frequently are resource revenue transfers to state/provincial or local governments made, and how does the government report on such transfers?

### **Budget documentation**

45. Are all resource revenue payments clearly identified, described and reported in budget documents? Do these revenues include those transferred to extrabudgetary fund(s) (e.g., oil savings funds)?

46. Are reports of company payments as well as government receipts of such payments publicly available (separately or as part of the budget and accounting process)? Do these reports meet accepted international standards such as the EITI reporting templates?

47. Do government budget reports identify resource-related debt (collateralized and other) as part of total debt? If not, are such debts otherwise disclosed to public? If disclosed, please describe what aspects of specific loans are disclosed. Are all important aspects of resource-related borrowing disclosed?

48. Are all government-owned financial and physical assets obtained with resource revenues disclosed as part of government financial statements?
49. Does the government prepare regularly estimates of resource asset worth based on proven production, with clear assumptions, as a basis for fiscal policy? Are these estimates disclosed to the public?
50. Are foreign financial assets obtained by the government through resource revenues accounted for separately from, or included in, official foreign exchange reserves of the central bank?
51. Are the investment policies for assets accumulated through resource revenues clearly stated and disclosed in the annual budget documents?
52. Are the nature and costs of activities conducted on behalf of the government but not directly through the government (so called quasi-fiscal activities) disclosed through budget documents or otherwise? If so, please describe details and provide sources.
53. Please explain which current and capital transfers from central and local governments to national resource companies are made regularly from the government budgets and how these are shown explicitly in the government budget documents and reports.

#### **Fiscal policy**

54. Do fiscal policy statements include a clear statement on the rate of exploitation of natural resources and the management of resource revenues and assets, referring to overall fiscal and economic objectives, including long-term sustainability?
55. Does the overall fiscal policy framework clearly state the rules used for the management of extrabudgetary fund(s) (e.g., oil savings fund)?
56. Is investment income reinvested or transferred to government budget as revenue?

#### **Fiscal balance**

57. Is the (primary) non-resource fiscal balance presented in budget documents and used as an indicator of fiscal policy?
58. If not, indicate the key fiscal balances that are targeted and used for policy making.

#### **Fiscal risks**

59. Are fiscal risks, particularly risks related to uncertainty in the price of natural resource and contingent liabilities, explicitly considered in annual budget documents?

60. Are measures taken to address risks explained in budget documents or otherwise disclosed? Is the performance of these measures monitored?

### **Accounting and internal audit**

61. Does the accounting system clearly identify all resource revenue receipts and enable issuance of timely, comprehensive, and regular reports to the public as part of a comprehensive budget execution report?

62. Please describe the accounting basis used (cash or accrual). Is a clear statement on the accounting basis included in budget execution reports?

63. Are the same internal control and audit procedures used for handling resource revenue receipts in government organizations and extrabudgetary fund(s) (e.g., oil fund) as elsewhere in the public sector?

64. Are internal control and audit procedures used for handling resource revenue receipts in government organizations and extrabudgetary fund(s) (e.g., oil fund) clearly described and disclosed to the public?

### **Tax administration**

65. Please describe the tax administration framework for companies in the resource sectors. In what ways does this framework differ from the one used for companies in other sectors? Are large resource companies administered by special units in a large taxpayer office or department?

66. How are discretionary powers by tax officials governed in relevant laws and regulations?

67. Please describe the existing dispute resolution process that taxpayers and the tax administration can use.

68. Are resource companies subject to the same taxpayers rights and services as other taxpayers?

69. Please describe the existing tax information system used for taxpayers from resource sectors. How do the various government organizations ensure a regular flow of relevant data and information?

### **Company oversight**

70. Do all international resource companies and national resource companies comply fully with internationally accepted standards for accounting, auditing, and publication of accounts? If not, please describe key shortcomings.



71. Does the national audit office or any other independent organization report publicly and regularly on the revenue flows between companies and the government?

72. If not yet, what are the government's plan regarding the establishment of an independent aggregating body as recommended by the EITI guidelines?

73. Please describe the evolution and current status of the government's participation in the EITI.

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