

# **Secretariat of the Extractive Industries Transparency Initiative Germany – D-EITI, Berlin**

Report on the nature and scope of the work of the Independent Administrator in the context of the pilot on payment reconciliation for the 6th D-EITI report



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## Annexes

- Annex 1 Representation of the processes and controls relevant for collecting corporation tax on the part of the government agencies
- Annex 2 Representation of the processes and controls relevant for collecting mine site and extraction royalties, based on information from the Landesamt für Bergbau, Energie und Geologie (LBEG) (State Office for Mining, Energy and Geology) in Hanover.
- Annex 3 Representation for the higher-order controls for collecting mine site and extraction royalties for the Landesamt für Bergbau, Energie und Geologie (LBEG) (State Office for Mining, Energy and Geology) in Hanover.
- Annex 4 Representation of the pilot's systematic approach
- Annex 5 Representation of the process for the MSG's overall assessment for mine site and extraction royalties



# 1. Instruction

Under an agreement signed on 16 August 2023, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH engaged us, Grant Thornton AG auditing firm of Düsseldorf (referred to below as: GT), to support GIZ in the implementation of the Extractive Industries Transparency Initiative (EITI) in Germany.

GT takes on the role of the Independent Administrator (referred to below as: IA) as defined by the EITI standard within the framework of the German EITI process. The purpose of our engagement is to contribute to the production of the German EITI report for the calendar year 2021. The IA's duties include the following aspects:

- Identification of extractive companies that make material payments to government bodies in accordance with requirement 4.1 (d) of the EITI standard
- Collection of payments made by these companies to government agencies for 2021, the year under review
- Utilisation of the alternative procedure developed with the 3rd, 4th and 5th German EITI report to ensure the quality of the payment data collected ("payment reconciliation pilot")
- Representation of findings and results from the pilot as a contribution to the wider national and international discussion about the development of an alternative procedure for payment reconciliation

The purpose of this report is to summarise and document the work carried out and present information. The report continues our work reports dated 16 February 2022 and 28 March 2023, which were produced during the preparation of the 4th and 5th German EITI report, respectively.

To avoid repetition compared to the work reports of the two previous years, general explanations or more detailed information in this work report are not repeated in full but replaced by suitable references to the two previous work reports.

## 2. Concept and vision of the pilot regarding payment reconciliation

### 2.1. Classification of this work report

The EITI Standard 2019 demands comprehensive publication of all material payment flows from the national extractive sector to government agencies. This information on payment flows must satisfy requirements in respect of reliability, understandability and public availability (cf. EITI requirements 4.1 and 4.9).

In the 1st and 2nd German EITI reports, the reliability of the published payment flows was, among other processes, ensured by the "standard procedure" of a direct reconciliation of the payment flows reported by the participating companies with the payments received by the government agencies ("payment reconciliation"). This standard procedure did not – as is known – show any noteworthy differences between payments made and payments received between companies and government agencies.

During the preparation of the 3rd German EITI report for the 2018 reporting period, it was agreed with the international EITI secretariat to start the development of an alternative quality assurance procedure for the payment flows to the government agencies reported by the extractive industry ("Part 1" of the pilot) This work was continued by the Multi-Stakeholder Group ("MSG") and the Independent Administrator ("IA") as part of the current 4th and 5th German EITI report. This work report thus follows on from the IA's work reports for the 2018 to 2020 reporting periods. It summarises the systematic considerations underlying the pilot procedure and the findings and results from its implementation. The pilot procedure is hereinafter referred to as the "system-based approach" as opposed to "payment reconciliation".

### 2.2. System-based approach and vision of the pilot

From a theoretical audit perspective, the payment reconciliation as a standard procedure to assure the quality of the payment flows reported by companies is a test of details for the information provided by the participating companies. While the information provided by a test of details is highly accurate, this type of test only provides limited information because the information is always selective and limited to the relevant specific payment transaction. Inclusion and assessment of the processes and controls associated with the payment flows were not undertaken, meaning that the knowledge gained from the standard procedure was always limited to the payment flows that had actually been examined.

In view of these observations the test of details for payment flows was replaced with a multi-level system-based approach of obtaining information and the analysis of processes and controls relevant for EITI. The objective is to enable the MSG to make an informed judgement on the likelihood that resource-related payment flows to government agencies are not being properly processed. Afterwards,

depending on the result of this risk assessment, the process for making a specific analysis of the companies' reported payments will be carried out. If there are sufficient signs to indicate that (payment) processes or controls relevant for EITI are not entirely compliant, further investigations of the payment flows concerned will initially be carried out and a return to payment reconciliation will be considered. Otherwise, the actual analysis of payment flows can be limited to plausibility assessments and thus the overall effort in terms of time and money can also be reduced.

From a theoretical audit perspective, the systematic approach of the pilot corresponds to the basic procedure within the framework of a risk-oriented audit procedure. According to this, system-based audit procedures such as the analysis of the business model, the key business processes and control processes as well as the control environment are combined with tests of details in order to obtain sufficient audit assurance to submit the audit opinion.

Therefore, the results of the previous payment reconciliation have been explicitly considered in our work on the pilot. To the extent it can be assumed that the (internal and external) control system is appropriate and effective, and taking account of the positive results of the payment reconciliation it is permissible to reduce the scope of the substantive audit procedures (= payment reconciliation processes) without this having a detrimental effect on the quality of the audit opinion. As a result, it is possible to reach a more detailed opinion more quickly and cost-effectively by using this combination of methods.

### **2.3. Procedure and knowledge gained from implementing the pilot**

The pilot procedure for payment flows builds on a comprehensive analysis of the system of processes and controls, which may be relevant for the different reported payment flows on the part of companies and state agencies. It is about gaining an understanding of the existing internal and external control mechanisms as an integral part and starting point for the risk assessment.

Sections 2.3 and 2.4 of our work report dated 16 February 2022 (prepared in the course of the 4th German EITI Report) and section 2.3 of our work report dated 28 March 2023 (prepared in the course of the 5th German EITI Report) summarize the approach developed as part of the pilot procedure as well as the findings from its implementation.

## 3. Ensuring payment flows are correct

### 3.1. General understanding of internal control systems

#### 3.1.1. Basic considerations

An internal control system is understood to mean a system comprising technical and organisational rules that is used to steer process workflows and control the results of the processes. The aims of an internal control system are to safeguard ownership, ensure the reliability of process workflows and, in this context, achieve the aims associated with these process workflows. Among other things, these aims include compliance with relevant laws and regulations.

Internal control system is a term and concept that does not offer legal certainty. Different framework concepts provide guidance for the specific design of internal control systems. During the development of the system-based approach, the IA has used the framework concept COSO 1 as a basis, because strategies, risk management and company success are of secondary importance for the issues to be examined here. Besides, COSO 1 is comparable to the new version of the rules of the auditing standard 261 (as amended) "Feststellung und Beurteilung von Fehlerrisiken und Reaktionen des Abschlussprüfers auf die beurteilten Fehlerrisiken" (Determination and assessment of error risks and responses of the auditor to the evaluated error risks) issued by the Institute of Independent Auditors in Germany (IDW), as it has been routinely applied in Germany for statutory audit reviews in the respective reporting periods. The switch to the International Standards on Auditing (ISA), which have been translated into German by the Institute of Public Auditors in Germany and were previously adopted by the International Auditing and Assurance Standards Board (IAASB), will not fundamentally change this.

#### 3.1.2. Elements of the internal control system

According to COSO 1, the components of an internal control system include the control environment, risk assessments, control activities, information and communication, and monitoring of the internal control system. For general explanations of the respective components, we refer to our (unchanged) explanations contained in the same sections of our work report of 16 February 2022, which was prepared in the course of the 4th German EITI Report.

## **3.2. Process of multi-stakeholder groups assessing the risk that payment flows are not correct**

### **3.2.1. Identification of government agencies relevant for D-EITI**

The total number of government agencies that generate revenues from the extractive industry in Germany stem directly from the payment flows that were defined for this 6th D-EITI report. Due to the federal structure of the administration in Germany, there is no central recording of the relevant payment flows. The following individual government agencies are responsible for:

- Mine site and extraction royalties:  
the responsible mining authorities of the Federal States in which the approved/licensed site is located
- Corporation tax:  
the responsible tax offices at the respective headquarters of the companies
- Trade tax:  
the municipalities in the territory of which the taxable operating facilities of the relevant companies are located
- Lease payments and payments to improve the infrastructure:  
government agencies at Federal State or municipal level, depending on the type of payment (without further consideration)

The federal structure of administration in Germany means that the internal control systems of the respective relevant government agencies and/or (administrative) units are not identical: they reflect the respective special features of the federal structure of the Federal Republic of Germany and the statutory regulations that arise from this, on the one hand, and the efforts of efficient administrative activity, on the other. Independently of this, however, it can be ascertained that the components of an internal control system (see section 3.1.2 including further references) can be found in the relevant government agencies. These will be presented below.

### **3.2.2. Control environment relevant for risk assessment**

#### **3.2.2.1. German civil service law**

The control environment of the relevant government agencies, which is significant for the process of risk assessment by the MSG, is initially largely shaped by German civil service law, a separate field of law which governs the particular rights and obligations of civil servants. On the one hand, civil servants have an obligation to be neutral when carrying out their work, they are banned from striking and they are required to uphold the constitution: on the other, they have the right to life-long employment with appropriate pay and retirement benefits within an explicitly defined career structure. Furthermore, the general principle applies within the relevant government agencies that the criteria according to which civil servants are selected to fill vacant positions are exclusively based on their suitability, expertise and professional performance.

For further details, we refer to our (unchanged) explanations contained in the same sections of our work report of 16 February 2022, which was prepared in the course of the 4th German EITI Report.

### **3.2.2.2. Parliamentary public budget law and financial control**

Furthermore, the control environment significant for the MSG's risk assessment process is shaped by the current budgetary law and the associated primacy of parliament. The following presentation applies in principle equally to the Federal Government, the states, the local authorities and local authority associations and thus covers all government agencies that generate revenues from the extractive industry in Germany.

A fundamental distinction must be made between the budget on the one hand and the budget legislation or the budget statutes at municipal level on the other. Apart from the budget expenditure, the budget produced by the relevant executive also includes the planned or expected revenues that are planned in detail for the budget of the year in question. The budget then needs to be passed by parliament as a budget law. For this purpose, the budget is first intensively examined by the relevant committee of the parliament (usually called the budget committee); at the end of this process, the committee submits resolution recommendations to the plenum of the parliament. Parliament passes a resolution on the budget law and so the budget in question is approved and gains its democratic legitimacy. At the same time, the executive is empowered and also under an obligation to implement the budget thus legitimised in the relevant budget year, which corresponds to the calendar year.

An example of the primacy of parliament was explained in connection with the amendment to the Lower Saxony ordinance on the mine site and extraction royalties in our work report of 28 March 2023, which was prepared as part of the 5th German EITI report.

After the end of the budget year, the executive accounts to parliament to ensure control over implementation of the budget – via the "budget submission". This involves listing the actual revenues and the actual expenditure according to the classification in the budget and indicating the specified level of detail and comparing these with the planned values. This budget submission is not only examined by the appropriate committee of the parliament concerned – for example, by the Auditing Committee at Federal Government level and at the sub-committee for examining budget submissions at the level of the State of Lower Saxony – but it is also examined beforehand at Federal Government and state level by the responsible Audit Offices in each case (for greater detail here, see section 3.2.6.2.). Based on the audit results, the committee concerned prepares for the plenary session of parliament to approve the actions of the executive. This resolution by parliament confirms to the respective executive that the budgetary and economic administration has been conducted in an efficient and correct manner.

The MSG's assessment of a possible risk relating to the correctness of payment flows – in other words, the receipt of payment by the relevant government agencies in each case – assigns central importance to the control environment of parliamentary budgetary law with the budget and budget legislation and financial

control of parliament via the budget submission and approval resolution, as this ultimately reflects all the respective actions by the relevant government agencies.

### **3.2.3. Risk assessment in relation to mine site and extraction royalties**

#### **3.2.3.1. Upstream assessment process**

For the MSG to assess the risk that payment flows may or may not be correct, a basic understanding of the upstream assessment process is required, even if this has to be differentiated from the collection process under administrative law or in an administrative capacity and even if the relevant EITI standard does not apply to these. For further details, we refer to our (unchanged) explanations contained in the same sections of our work report of 16 February 2022, which was prepared in the course of the 4th German EITI Report.

#### **3.2.3.2. The collection process and the controls embedded in it**

The organisational precautions taken ensure strict segregation between the administrative function (assessment/setting the target) and processing payments. The Chief Cashier's Office of the State of Lower Saxony, as an organisational unit of the State's Ministry of Finance, is responsible for the technical side of processing of payment flows. According to the information provided, the Chief Cashier's Office of the State is not responsible for clarifying the facts in relation to mine site and extraction royalties and is not involved in this.

The companies that owe the royalties record the data required for the extraction royalties via self-assessment using a web client system (VAS = Veranlagungssystem Feldes- und Förderabgabe/Assessment system for mine site and extraction royalties). Self-assessment is made in accordance with § 2 of the Lower Saxony ordinance on mine site and extraction royalties (NFördAVO) in the form of pre-payment notices for each quarter of the calendar year. A declaration on extraction royalties for the previous collection period is to be submitted to the LBEG by 30 September each year.

All master data relating to the accounts are managed for each company in the VAS system (e.g. special regulations) and the amount of extraction royalties to be paid is calculated by the system from the information provided by the companies. VAS is not used for the mine site royalties but instead the amount is fixed using LBEG's electronic records system.

The administrator role (at the Clausthal-Zellerfeld office) has the technical responsibility for the correctness and completeness in respect of fixing the mine site and extraction royalties ("target position"). The principle of dual control is safeguarded as the section leader co-signs any decision. Because of the system of self-assessment, the process of fixing often takes place at a later point in time in relation to the (instalment) payments by the companies that owe the royalties. The administrative department issues the payment notices to companies and creates the cash desk instructions (receipt/disbursement orders) that are transferred via the electronic records system to the responsible section at the head office in Hanover for checking and approval.

The check of cash desk instructions is based on the documents from the section responsible for the administration that justify the payment. Once checking and approval are complete, the cash desk instructions are posted in the budget implementation system. Payments made by the companies that owe the royalties are recorded in a suspense account in the State's Chief Cashier's Office, as no transaction numbers are used for the company when the amount is fixed. The amount in the suspense account is permanently monitored, the payments are allocated as appropriate and the differences between the target position and the payment amount are clarified by consulting the administrative function.

In Lower Saxony payments in connection with the mine site and extraction royalties are also shown with the relevant budget item in the budget implementation system, next to the "transaction number" classification criterion. As a result, the corresponding receipts within the budget implementation system are allocated to the corresponding budget item and allow the administrative unit responsible for the budget to reconcile the receipts planned in the budget with the amounts actually received.

### 3.2.3.3. Controls above the collection process

An overview of the processes for assessing and collecting mine site and extraction royalties is provided in the chart in Annex 2. The controls overriding the collection process are shown and explained in more detail in the chart in Annex 3.

The section in the Lower Saxony Ministry of Economic Affairs, Employment, Transport and Digitalisation responsible for overseeing the State Office for Mining, Energy and Geology (LBEG) receives quarterly reports from LBEG on the movement in revenues from extraction royalties. These reports are based on the extraction royalty pre-payment notices from the individual companies and contain the following information for each company that pays the royalties:

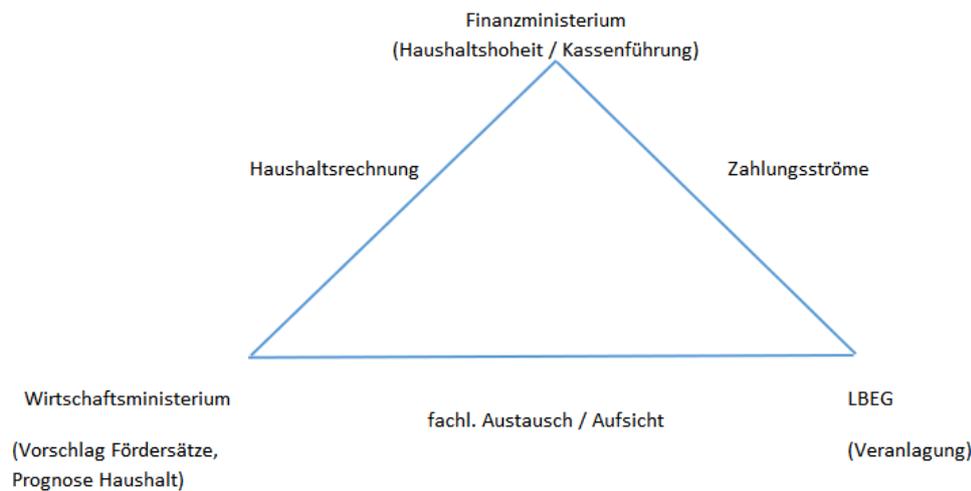
- The current assessment rate
- The amount extracted and subject to royalties
- The amount of the extraction royalty to be paid

These reports also contain information on the changes compared to the previous quarter and the same quarter of the previous year. This information allows the Ministry of Economic Affairs to make a continuous analysis of differences compared to the previous reports and compared with their own forecasts of revenues as part of budget-related reporting. In addition to this, the Ministry of Economic Affairs receives quarterly reports from LBEG on the development of the cross-border value (for natural gas). In October, LBEG consolidates the quarterly reports to create an annual report on the basis of the companies' annual declarations which shows corresponding additional amounts due and overpayments.

The Ministry of Finance provides the Ministry of Economic Affairs with a monthly overview of revenues and expenditure for the extraction royalties based on the Cashier Office's data and this is subsequently also passed on to LBEG. In May and November, the Ministry of Economic Affairs produces a forecast of extraction royalties for the Ministry of Finance's tax estimate and explains excess amounts/shortfalls to the Ministry of Finance. In addition to this, the Ministry of

Economic Affairs gives an annual report to the Ministry of Finance on the situation of the oil and gas industry in Lower Saxony, which also contains information on the amount and development of extraction royalties.

Below we have summarised in a chart the structure of the process workflows and controls between those involved:



The change in the budget sovereignty for mine site and extraction royalties from the Ministry of Economic Affairs to the Ministry of Finance resulted in a distribution in the areas of responsibility and must be viewed as a positive move from the point of view of control. At the suggestion of Lower Saxony's Ministry of Economic Affairs, the government of Lower Saxony passes resolutions to amend the Lower Saxony ordinance on mine site and extraction royalties (NFördAVO) (incl. the amount of the levy rates). Lower Saxony's Ministry of Economic Affairs produces forecasts on how much revenue the extraction royalties will generate for the State's budget. With regard to the payment flows (as already explained), the focus is on the strict segregation between assessment (LBEG) and collection (cash account management/state cashier's office). The Ministry of Economic Affairs has technical oversight over LBEG and, among other tasks, engages in clarifying different opinions on the application of NFördAVO.

Section 43 of the Ministry of Finance is responsible for Internal Audits for the automated budget implementation system for the Ministry of Finance itself but also for all State authorities (and therefore for LBEG as well). It has oversight of the appropriateness and effectiveness of the control systems, including the bookkeeping and accounting system and the business processes managed by this system. Rules of procedure describe the work of the budget implementation system's Internal Audit unit. The section of Lower Saxony's Ministry of Economic Affairs responsible for supervising LBEG is not aware of any findings of this Internal Audit unit that are relevant for the correctness of the payment flows during the period under review.

#### **3.2.3.4. Assessment of the risk level by the IA**

We have described the existing elements of the control environment that are important for mine site and extraction royalties. Furthermore, we have described the controls embedded in the collection process and the higher-level controls above the collection process and examined as an example via the relevant agencies for the State of Lower Saxony in cooperation with a member of the Multi-Stakeholder Group whether any weaknesses in the controls of the payment process for mine site and extraction royalties were identified or suspected during the year under review. This was not the case.

We have taken into account the effects of the retroactive adjustment of the field and production levies for 2020 - we refer to our comments in section 3.2.2.2 of our work report dated 28 March 2023, which was prepared as part of the 5th German EITI report - for the quality assurance of the actual payments in the 2021 reporting year.

In addition to this, we have inspected the reports from the Federal Audit Office and the State Audit Office of Lower Saxony for the period under review to ascertain if there are any appropriate reports or indications (also see section 3.2.6.2.); here, too, we could not find any relevant weak control points in relation to the relevant payment processes. We are also not aware of the relevant parliaments not having approved the actions of the respective responsible executives for the budget year during the period under review.

On the basis of our understanding of the processes and controls as well as the information available to us and the information provided, as the IA we assess that the risk of breaches in the correctness of the payment flows in relation to the mine site and extraction royalties can be assessed as being minimal for the period under review. The MSG's risk assessment was not different from the IA's assessment so that the MSG agreed with the IA in their meeting on 6 December 2023 that the risk was low.

#### **3.2.4. Risk assessment in relation to corporation tax**

##### **3.2.4.1. Basic principles of the corporation tax system**

The corporation tax as such has the character of a personal tax for the corporations, associations of individuals and assets stated in § 1 (1) of the corporation income tax act (KStG). As a direct assessment tax, it is attached to the growth in income of a legal entity. The recognition of corporations as independent tax subjects with their own capabilities and thus as attributive subjects of economic activity is reflected in the procedural segregation between taxation of the distributing corporation on the one hand and their members on the other. Therefore, with the payment of corporation tax (KStG) a corporation settles its own tax debt and is not making a pre-payment towards the tax debt of its members.

According to Art. 105 (2) in conjunction with Art. 106 (3) sentence 1 of the German Basic Law (GG), competing legislative competence for regulating corporation tax is the domain of the German Federal State. According to Art. 105 (3) in conjunction with Art. 106 (3) sentence 1 of the German Basic Law (GG) corresponding

Federal laws are subject to the approval of the German Federal Council (Bundesrat). Under constitutional law corporation tax is a shared tax and the amounts received are shared, half each, by the German Federal Government and the Federal State (without any provision for a share to the municipalities). It is administered by the authorities of the Federal States, who act on behalf of the German Federal Government.

In view of the character of corporation tax as an assessment tax, when considering the procedural workflow, it must be distinguished from self-assessments as defined by § 150 (1) sentence 3 of the German Tax Code (hereinafter referred to as Tax Code) and from mine site and extraction royalties described under section 3.2.4.2.

#### **3.2.4.2. Upstream assessment process**

The assessment process prior to the payment flow was analysed in detail in our report dated 16 February 2022, which was prepared as part of the 4th German EITI report, and in our work report of 28 March 2023, which was prepared as part of the 5th German EITI report. For details of the upstream assessment process, we refer to our (unchanged and still valid) explanations given in the relevant sections of our previous reports.

The distinction between the assessment process and the subsequent collection process described in section 3.2.3.2 also applies to corporation tax.

#### **3.2.4.3. Controls embedded in the collection process**

The purpose of the collection office within the tax determination office is to process payment flows and other issues relating to tax collection legislation. As a rule, the collection process is automated.

The administrators in the collection office can intervene manually in the collection process. However, such interventions do not have any implications for the corporation tax notice issued by the assessment unit, as the collection office cannot access the assessment unit's programme for technical reasons. Thus, it can be ruled out that the collection office can make any change to the target position. The same applies analogously in the opposite direction. Therefore, the segregation of the assessment unit from the collection office is not only organisational: procedural segregation, is also ensured through appropriate design of the IT systems used for implementing the administrative processes (separate access rights).

Should a taxpayer file an objection against the contents of a corporation tax notice within the framework of an out-of-court remedial procedure or submit a simple change application, responsibility for checking lies with the relevant assessment unit and not the collection office.

In the event of objections by the taxpayer concerning the tax collection process (for example, incorrect offsetting of a tax debt against a claim for reimbursement of another type of tax), the collection office shall have subject matter authority. In collection offices of a tax determination office, the collection administrators are always responsible for the final approval of a decision.

If certain amount thresholds are exceeded or if there are special legal factors relating to the collection, the definitive approval is reserved for the competent senior tax inspectors or, in cases where higher-order interests are involved, for the senior manager in charge of a tax determination office. In order to guarantee organisational segregation between the collection office and the assessment unit, the senior tax inspectors in the two units must not under any circumstances be the same person.

Where the company that owes the corporation tax does not meet its payment obligations correctly, the collection office regularly sends automatic reminders about the payment arrears. If the payment is not received even after a notice of enforcement has subsequently been served, the collection office (i.e. its department dealing with enforcement) starts to implement recovery measures in accordance with the current provisions for execution and enforcement instructions.

We would like to point out by way of a precaution that the details of procedural workflows, in particular in a tax determination office, can definitely vary between the different German Federal States. However, in our opinion, there are no impacts on what appears, and the conclusions drawn.

#### 3.2.4.4. Controls above the collection process

The **regional tax directorates** (also called State Offices for Tax in some Federal States) are in charge of the tax offices in their district. They have technical and administrative oversight over the tax offices and therefore do not have authority to conduct the administrative functions of the tax offices. In Federal States with no intermediate authority, the State Finance Ministries (being the highest financial authority in the Federal State) carry out this task.

The regional tax directorates conduct controls on an annual basis in the form of business audits. These audits relate to both the areas of fixing and collection. As part of these controls, the regional tax directorates select cases for auditing, and these are then audited to ensure that they have been processed correctly. Apart from "general control", the purpose of business audits is to ensure that taxation is applied uniformly (all tax offices are supposed to treat the same facts in the same way), identify technical or organisational shortcomings, explore training requirements, prevent errors in the future and improve workflows. The results of these audits are only available internally within the administration, i.e. they are not published.

In other respects, the sections at the regional tax directorates also function as an expert point of contact for tax offices in order to provide support for difficult legal questions and ensure that the taxation is applied uniformly.

The **State Ministries of Finance** (being the highest authorities in the Federal State responsible for financial administration) are in charge of financial administration at Federal State level. In Hesse, for instance, this includes the establishment of a separate "Internal Audit" unit, which reports directly to the most senior manager. The work undertaken by the Internal Audit unit is based on the recommendations on standards for internal audits in the administration of the Federal State of Hesse ("Empfehlungen über Standards für Interne Revisionen in der Hessischen Landesverwaltung"). These standards form a uniform and cross-departmental

work and legal basis for the administration's work and are based on the auditing standards of the German Institute of Internal Auditing (Deutsches Institut für Interne Revision e.V., DIIR) and the recommendations of the German Federal Ministry of the Interior for internal audits ("Empfehlungen des Bundesministeriums des Innern für Interne Revisionen"). The Internal Audit unit performs independent auditing and control functions by examining the administrative actions for discrepancies and irregularities. It also makes suggestions on how to rectify these as well as how to avoid these in the future and assists the efficiency and effectiveness of administrative actions. The reports of the internal audit are not publicly available (just as the internal audit reports of listed companies) but are exclusively addressed to a group of recipients within the public administration. Please see our explanations in section 3.2.6.1. for more details about the work of internal audit units.

§ 19 of the Tax Administration Act (FVG) states that the **Federal Ministry of Finance** can take part in the external tax audits of the Federal States' tax authorities via the Federal Central Tax Office (Federal Tax Inspection). In this way the Federal Ministry of Finance is made aware of matters such as tax developments that may be significant for legislative measures or administrative regulations.

#### 3.2.4.5. Assessment of the risk level by the IA

We have described the existing elements of the control environment that are important for corporate tax. We have also shown the controls embedded in the collection process and the controls above the collection process. On the basis of the sources of information available to us, including the MSG, we have not found any indications that there were identified or suspected weak control points concerning the relevant payment flows from corporate tax during the period under review.

In addition, for the existing process-independent controls under budgetary or financial legislation (for this, see section 3.2.2.2.) we have inspected the reports from the Federal Audit Office and the State Audit Office for Lower Saxony and Hesse to ascertain if there are any appropriate reports or indications; here, too, we could not find any relevant weak control points in relation to the relevant payment processes. We are also not aware of the relevant parliaments not having approved the actions of the respective responsible executives for the budget year during the period under review.

On the basis of our understanding of the processes and controls as well as the information available to us, as the IA, we assess that the risk of breaches in the correctness of the payment flows in relation to the corporate tax can be assessed as being minimal for the period under review.

The MSG's risk assessment was not different from the IA's assessment so that the MSG agreed with the IA in their meeting on 6 December 2023 that the risk was low.

### 3.2.5. Risk assessment in relation to trade tax

#### 3.2.5.1. Information on the assessment and collection process

Commercial enterprises in Germany are subject to trade tax. The trade tax assessment procedure has two stages. Trade tax is levied on the trade income. The municipalities in which the respective company has permanent establishments are entitled to the trade tax. A permanent establishment can also extend over several municipalities. Accordingly, the recipients of trade tax payments are the individual municipalities and not, for example, the Federal Government or the Federal States.

From an administrative point of view, the tax authorities determine (based on the assessment basis determined for corporate income tax) an amount for tax assessment considering the provisions of the Trade Tax Act. The trade tax assessment amount is 3.5% of the trade income for all companies nationwide. The tax administration sends the tax assessment amount to the respective local authority in which the company has its permanent establishment. If the company has several permanent establishments or if a permanent establishment extends over several municipalities, the tax administration also divides the tax assessment amount among the municipalities according to a legally determined distribution key. The statements made in this chapter for the tax administration apply accordingly to trade tax for these sections of the administrative procedure.

Building on the upstream administrative procedure at the level of the tax offices, the respective municipality determines the amount of trade tax to be assessed and paid by the company to the municipality by multiplying the tax assessment amount notified by the tax authorities by the municipality-specific tax factor. The elected members of the municipal council determine the tax factor. The assessment process, which is divided between two administrative units as described above, is followed by the collection process (the actual payment process) which takes place exclusively at the level of the municipalities.

With regard to the assessment of trade tax, the procedural workflows between tax determination offices and municipal tax offices interact when it comes to fixing the uniform base amount of trade tax that forms the basis for calculating trade tax. The statements made on the assessment process for corporation tax can be transferred to trade tax as far as the tax offices are competent for this process.

The local bylaws as fundamental elements of local governance law provide a comparable legal framework for the organisation at local authority level. Local bylaws form the basis for work of everyone employed in local government and local politics and contain, among other things, fundamental regulations for the organisation of financial accounting and the processing of payments at the municipalities (see, for example, § 93 of the NRW local bylaws or § 126 of the Lower Saxony local governance law).

During the 5th D-EITI report, the trade tax collection process was analysed in more detail using a questionnaire developed by the IA. This questionnaire was sent to 20 municipalities that reported the highest cumulative payments for trade taxes in the 2020 reporting year according to data reports from the participating companies.

The responses resulting from the questionnaires provide insight into the processes and controls put in place by municipalities of many sizes to ensure the regularity of the collection of trade tax. For further details on the implementation of the survey and statistical information with regard to the responses, please refer to Annex 8 to our work report dated 28 March 2023; the questions submitted to the municipalities are presented in Annex 7.

The feedback from the municipalities indicated that the trade tax assessment notices were issued by the office or department responsible for finances in the municipality, while the cash office collected the payments. The recording of payments and the reconciliation with the respective receivables due from the companies was automated, although in the case of discrepancies between payments and receivables or incomplete or incorrect information, manual corrections had to be made. The number of employees in the respective municipalities who are responsible for issuing the trade tax assessment notices and collecting the payments varied significantly with the size of the respective municipality. The number of employees in the area of the cash office was always higher than the number of employees responsible for issuing trade tax notices, regardless of the size of the respective municipality. The fact that the assessment processes were intricately linked (as described above) had a direct effect on the design of the processes in the municipalities and the issuing of basic notices by the tax offices.

In all cases, the two administrative steps of assessment and collection were strictly separated in terms of personnel so that the basic principle of separation of functions was always guaranteed, regardless of the size of the municipality. Unclear payments were always managed by the cash office. In individual cases, coordination with the office responsible for issuing the trade tax assessment notice was necessary.

With one exception, all municipalities had written regulations to ensure the timely enforcement of trade tax claims by the municipality. In exceptional cases, without written regulations, this was the responsibility of the municipality's cash office. In principle, the cash office was responsible for the implementation of these regulations.

In the context of taxation, so-called equity measures may exceptionally occur. This is understood to mean both the temporary deferral of payments and the final remission of trade tax claims in compliance with the respective regulations on these equity measures. In principle, decisions on this were made within the administration of the municipality. Only in individual cases did the municipality follow the corresponding decisions of the tax administration for corporate income tax. The respective decisions were not made by the cash office and, depending on the importance of the equity measure for the municipal budget, required the involvement of higher-level decision-makers up to the mayor or main or administrative committee (a permanent, representative committee of the municipal parliament or municipal council).

According to information from the Federal Ministry of Finance, the proportion of trade tax made up around 44.6% (previous period: 38.2%) of municipalities' tax receipts during the reporting period (2021). If one ignores the municipalities' share of income tax and VAT not administered by the municipalities themselves, the share

even increases to around 79% (previous period: 72%). It should be noted that the economic effects of the COVID-19 pandemic had a significant impact in 2020 and the increase in trade tax appears plausible in this respect due to the increase in trade income.

Because of the great importance of trade tax for the municipalities' finances and the clear assignment of responsibility to the municipalities for collection, the results of the survey of the 20 municipalities listed above for the previous reporting year suggest that every single municipality has established appropriate processes and controls for ensuring that the payment flows generated by trade tax are correct. The changes in the 20 municipalities with the highest trade tax revenue in the reporting year compared to the previous year are due to a company participating in D-EITI. Considering our plausibility check based on the published annual financial statements of the participating company, these changes are due to the change in the assessment basis for trade tax. In the opinion of the IA, the results of the survey of the 20 municipalities from the previous year remain valid despite these changes.

Furthermore, all processes for collecting taxes are subject to the control processes associated with the budget legislation of the local territorial authority and the process-independent audit offices represented in section 3.2.5.3.

### **3.2.5.2. Local auditing of accounts**

On the basis of the democratic legitimacy of the council, the local auditing unit takes control of the financial practices of the administrations led by the mayor within the framework of the right of municipalities to self-government guaranteed under constitutional law. The local audit is conducted by the municipality's own office as a form of in-house control of their own performance so that certain dependencies necessarily exist in the context of regulations governing public services because of the organisational integration in the local authorities. Local auditing of accounts is based on regulations in the local byelaws and the tasks are performed by persons/offices who vary in different cases, depending on the relevant municipal regulations (see, as an example, §§ 102-104 of the NRW local byelaws):

- Municipal council
- Audit committee
- Audit office
- Suitable members of staff appointed by the municipality as auditors
- Other municipal auditors

Local auditing of accounts is firmly integrated in the process of accountability to local representative bodies and is thus part of the annual auditing routine. One of the mandatory tasks of local auditing is to audit the annual and consolidated accounts of the local authority in question and to continually monitor payment activities. In addition to this, the council can assign additional tasks to the local auditors, e.g. to audit the suitability and cost-effectiveness of the administration.

Audit reports by local auditors are always subject to their right to access information on the basis of the Freedom of Information Acts of the respective Federal

States, because the local auditing work (in contrast to State audit offices and government offices for auditing accounts) is an administrative activity (see, for example § 2 (1) sentence 1 of the Freedom of Information Law (IFG) of NRW).

### 3.2.5.3. Supra-local auditing of accounts

Financial control at the level of the Federal Government and States through the institutional guarantee of the audit offices has its equivalent at municipal level in the form of a two-stage control system made up of local and supra-local auditing. Supra-local auditing of accounts is conducted by a state or association-based audit office and in relation to the municipalities to be audited is an independent, supra-municipal state external audit. Implementation lies with its own municipal audit offices (e.g. NRW's municipal audit office) or the Audit Offices of the Federal States or the offices for auditing accounts at district level.

As a rule, they are conducted at intervals of several years. Apart from compliance audits, the audit focuses primarily on examining efficiency and organisation and providing advice with the aim of strengthening local self-government. In terms of the method, the work of the supra-local audit unit is based on comparable inter-municipality studies using key indicators and benchmarks. The aim is to take this as a basis to make differences in the use of resources transparent and identify potential for improvement.

In our work report dated 28 March 2023 prepared for the 5th D-EITI report we presented the responsible supra-local audit body (audit agency / State audit office) for the 20 government agencies listed in section 3.2.5.1. with the highest cumulative trade tax payments for the 2020 reporting year. For further details, please refer to our - unchanged - comments in the relevant section.

In all municipalities surveyed in the previous year, local or supra-local audits of cash management or payment processing were carried out by the government offices for auditing accounts or municipal audit offices or Federal State Audit Offices. The majority of the municipalities reported that the last audits took place in 2022 or 2021. Written reports were submitted by the auditing bodies in each case. However, these audit reports are not always available on the internet for the general public. Rather, the audit reports are only available within the respective administration or are brought to the attention of a committee of the municipal parliament or municipal council. In North-Rhine Westphalia, the results of the supra-local audit of accounts are published in annual municipal reports or by the responsible audit agencies (e.g. NRW's municipal audit office).

### 3.2.5.4. Assessment of the risk level by the IA

For the 2020 reporting year, we have presented the main elements of the control environment for trade tax and surveyed the 20 municipalities with the highest reported trade tax payments (taken together) with regard to their established processes and controls and evaluated the results. Furthermore, we have presented the local and supra-local audit control mechanisms and asked the 20 municipalities whether these controls have been implemented. Despite the changes in the group of 20 municipalities with the highest reported trade tax payments for the 2021 reporting year, the IA believes that the results of the survey for the 2020

reporting year remain valid for the current 2021 reporting year, given the reasons identified for this change and the different sizes of the municipalities surveyed in the previous year.

We have analysed the reports of State audit offices in Lower Saxony and Hesse and individual supra-local audit offices for any reports or indications regarding the existing process-independent controls. The municipal reports of the State audit office of Lower Saxony for 2022 and 2023 show, among other things, that the audited municipalities did not adequately implement requirements for carrying out cash audits and that service instructions did not fully comply with the requirements for ensuring cash security. According to the reports, the Lower Saxony State audit office already supported the municipalities during the audit by means of a checklist to help them rectify the deficiencies identified. In contrast, no findings were made that were relevant to the assessment of the regularity of the collection process itself and the associated payment flows. The current findings of the audit units have shown that their control function also includes the (sub-)areas of internal organisational structure and processes relevant to the D-EITI. Therefore, the results of the audit units appear to be fundamentally suitable and usable for a risk-based alternative quality assurance procedure. We therefore came to the conclusion that there were no findings of control weaknesses regarding the relevant payment processes.

We are also not aware of the relevant local representative bodies not having approved the actions of the respective local administration, in whose local authority a company that takes part in EITI reports has its registered office, for the budget year of the period under review.

On the basis of our understanding of the processes and controls as well as the information available to us, as the IA we assess that the risk of breaches in the correctness of the payment flows in relation to the trade tax can be assessed as being minimal for the period under review. The MSG's risk assessment was not different from the IA's assessment so that the MSG agreed with the IA in their meeting on 6 December 2023 that the risk was low.

### **3.2.6. Process-independent controls of internal audits, audit offices and the role of the representatives for efficiency in public administration**

#### **3.2.6.1. Internal audits**

As an element of internal control systems, the internal audit function is part of the process-independent monitoring measures within companies and authorities. The internal audit assists the management to perform their control and monitoring tasks and ensure the efficiency and effectiveness of the (administration's) actions and compliance with requirements and regulations currently in force. Besides "conventional" control and monitoring tasks, precautions also play a preventative role. The purpose is to assist specialist departments by providing advice and making recommendations so that undesirable developments, fraud or corruption can be identified at an early stage and prevented.

For further details, we refer to our (unchanged) explanations contained in the same sections of our work report of 16 February 2022, which was prepared in the course of the 4th German EITI Report.

### **3.2.6.2. Federal Audit Office (Bundesrechnungshof) and States' audit offices**

Audit offices examine the entire budgetary and financial management of the Federal Government and the States, including their special funds and businesses. This task is carried out by the Federal Audit Office for the Federal Government and it is handled by the States' audit offices for the Federal States.

Audit offices are in part designated as "sui generis" institutions and are not affiliated to either the legislature, the judiciary or the executive. They therefore set themselves apart from internal audits which are integrated in the respective authority. The work of audit offices is therefore designated as an external financial control of the Federal Government or the Federal States. As an independent institution of financial control, audit offices are only answerable to the law. The members benefit from the protection of judicial independence which is anchored in constitutional law.

The core task of the audit offices is to audit the budgetary and financial management of the Federal Government and/or the Federal States and to check their administrations for correctness and legality and ensure that funds are used efficiently. The legal basis is essentially the regulations in the budgetary code at Federal or State level and audit regulations of the audit offices. The purpose of audits is, firstly, to ensure the legality of administrative actions and, secondly, to improve the performance of administrations as regards efficiency and prevention. Rights to carry out audits also extend to agencies outside public administration at Federal and State level, if these agencies receive funds from the national government or Federal States.

In November 2012 the Federal Constitutional Court decided in the last instance with regard to the Federal Audit Office that this body is subject to the Federal government's Freedom of Information Act. As a result of this, comprehensive new arrangements regarding information access to the Federal Audit Office's audit findings have been made in §§ 96 (4), 97 (5) and 99 sentence 3 of the German Federal Budget Code (BHO) in the law to amend the Fiscal Equalisation Law and the Federal Budget Code. As a result, the change to § 96 (4) of the German Federal Budget Code implements a two-track system to divide access to information to the Federal Audit Office's audit results into a not public and – if applicable – a public section: There is no access to information for the public ("third parties") until parliamentary deliberations are complete. If audit results are subsequently approved or subsequently discussed by parliament, an application can be made to pass on the audit results to a third party, at the discretion of the Federal Audit Office.

In order to protect the audit and deliberations of the Federal Audit Office and the financial control of parliament, third parties are not allowed to consult the audit and consultation files and corresponding files for the audited organisations, even after the end of the process. The consultation and decision-making process of the

Federal Audit Office and its auditing files therefore cannot be accessed by the public. Every request for information in relation to the audit results are decided by the Federal Audit Office on a case-by-case basis.

At a Federal State level, budgetary regulations contain some regulations that are similar to § 96 (4) of the German Federal Budget Code (BHO) so that the comments on the transparency of audit results apply in this respect to the audit offices of the respective State in a similar way (see as an example § 94 (4) of the Lower Saxony State Budget Code). It is currently possible to assert the right to access information in 13 Federal States on the basis of the regulations in the respective State Freedom of Information Acts.

For further details, we refer to our (unchanged) explanations contained in the same sections of our work report of 16 February 2022, which was prepared in the course of the 4th German EITI Report.

### **3.2.6.3. Representatives for efficiency in public administration at Federal and State level**

The post of the Federal Commissioner for Efficiency in Public Administration is traditionally filled by the President of the Federal Audit Office. On the same basis as the practice at Federal level, at state level the Presidents of the State audit offices can be appointed by the relevant State governments to the post of State Commissioner for Efficiency in Public Administration. The Commissioners provide suggestions, expert appraisals and statements to work towards satisfying the economic tasks of the Federal or State governments and organising the administrations, accordingly, thus contributing their experience from the audit offices' auditing activities.

Publications by the Commissioners require agreement with the relevant ministries, if previously unpublished information or results of collections are used which can be identified from their business area. The regulations of the Freedom of Information Act remain unaffected.

### **3.2.7. The process of MSG's assessing the overall risk of incorrect payment processes**

In §§ 3.2.3., 3.2.4. and 3.2.5., the IA explained his findings on existing processes and controls of relevant government agencies to ensure the correctness of the payment process and presented a possible assessment of the risk of non-compliance.

In view of the fact that the MSG alone is responsible for making the overall assessment of the risk that the payment processes are not be correct, the MSG members appraise the findings obtained from the IA, they scrutinise these for plausibility and possible contradictions regarding the other information of which they are aware on the basis of their own knowledge within the context of their relevant professional backgrounds. On the basis of the resulting overall picture, they finally define the risk assessed in the reporting period regarding the possibility that the payment processes are not correct, if applicable separated according to the respective payment flows.

We have illustrated the process of the overall assessment by the MSG in Annex 5 as an example for mine site and extraction royalties. We recommend transferring the work of obtaining information to a "standard process" that can be used to ensure that information can be exchanged as part of an ongoing process between the sources of information considered as relevant by the MSG or individual MSG members with access to these sources of information and the MSG overall.

Depending on the result of MSG's overall assessment, further quality assurance measures continue in the next step depending on the payment flow (cf. Annex 4).

- Where there are no sufficient indications of risks that payments are not being properly processed for a specific payment flow, a plausibility check is undertaken for the payments reported by the company for the year under review in order to come to a conclusive assessment as to whether or not they are correct.
- If there are indications for individual payment flows being incorrectly processed, initially further investigations are commenced. Where the existing doubts about whether or not the payments are properly processed also cannot be resolved after this, the MSG can decide to return to the payment reconciliation for the payments in question (also see section 3.4).

### 3.3. Plausibility check of reported payment flows

#### 3.3.1. Minesite and extraction royalties

As stated in section 3.2.7, the plausibility of the payments reported by the companies is assessed, replacing the standard procedure used to date of an (extensive) reconciliation of payments made and payments received, if there are no sufficient signs to indicate that payment collection for the respective payment flow is not entirely correct. From a theoretical audit perspective, the procedure for checking plausibility is an analytical assessment of the item being considered via suitable key indicators and trends. Here the analytical assessment does not consist of a positively formulated statement in respect of the absolute amount of the mine site and extraction royalties but rather whether the amount of the payments can be viewed as being plausible under the statutory framework conditions and the other information available.

For the natural resource "natural gas", the total value was chosen as the reference value for the plausibility check. This is the product of

- the amounts extracted in the year under review (2021) for Lower Saxony,
- the standard rate of the extraction royalties for each natural resource and
- the cross-border value.

The extraction royalties actually paid for natural gas per company for the years under review (2017 to 2021) have each been set in relation and the movement of this key indicator analysed over this period. A consideration of other Federal States could be dispensed with, as by far the greatest proportion of extraction royalties are due to Lower Saxony.

A reference value was selected for each Federal State for the natural resource of "oil". This is the product of:

- the amounts extracted in the year under review (2021) for each Federal State,
- the market value of oil calculated by the German Federal Office of Economics and Export Control (BAFA) per calendar year and
- the standard rate for extraction royalties

The extraction royalties actually paid for oil per company for the years under review (2017 to 2021) were then each set in relation and the development of this key indicator analysed over this period.

The following annual reports are essentially used to calculate the stated key indicators:

- LBEG / oil and natural gas in the Federal Republic of Germany
- Bundesverband Erdgas, Erdöl und Geoenergie e. V. / statistical report

The reports are on each website and freely available for the public to download.

Based on the selected key indicators and using the data from the above publicly available documents, the development of extraction royalties for oil and natural gas appear plausible for the period under review.

The fact that the Ministry of Economic Affairs is directly involved in the plausibility checking process at a professional level proved to be very helpful for clarifying factual queries and for exchanging information at a technical level. In our opinion, it may be necessary in the course of future plausibility checks to involve the companies themselves in the clarification process if there are queries.

We point out that the database reported by companies was not suitable for calculating the key indicators in all cases, as it did not apportion the total amounts reported for mine site and extraction royalties between oil and natural gas. The data reporting should therefore be adapted for future reporting periods and questions asked about the corresponding apportionment. Nevertheless, we believe that the existing database is an adequate basis for our assessment.

### 3.3.2. Income taxes

In contrast to the mine site and extraction royalties, the income tax payments reported by the companies are, for various reasons, only of limited use for the plausibility considerations.

Income taxes relate to a payment flow that is not specifically derived from natural resources. They are actually calculated on the basis of an individual tax assessment basis calculated according to tax assessment regulations on the basis of a uniform (corporate tax) or a local authority (trade tax) rate of tax. Activities other than natural resources extraction are included in the tax assessment basis. This is particularly true if other value creation processes follow the actual extraction of natural resources. Furthermore, it is possible that a company reporting data does not have an obligation to pay tax itself on the basis of an existing company agreement (called a "profit transfer agreement" in accordance with § 291 of the Joint Stock Corporation Act (AktG), applied analogously if necessary) but instead

combines its individual tax assessment basis with other companies from a higher-order company (= parent company); in such cases, the company reporting data routinely reports no payment streams derived from income taxes ("zero report"). Due to tax secrecy and the exceptional possibilities to publish the annual financial statements – please refer to § 264 (3) of the German Commercial Code (HGB) – it is possible that no source of data is available that would allow for a sufficiently accurate estimate of the individual tax assessment basis to be made.

However, it appears – also taking account of the existing state controls in this connection (see section 3.2.4.3.) – that it is possible in principle to carry out a plausibility check of income taxes as part of a time series. Due to the sector-specific framework conditions, it appears to be reasonable to assume that in the case of a clearly positive economic development, data reports can be expected to increase and in the case of a clearly negative economic development, data reports can be expected to decrease and, incidentally, in a time series analysis, data reports can be expected to remain constant. High fluctuations that are independent of this, which indicate special factors in the individual tax assessment basis, can be checked for plausibility by questioning the company concerned. A plausibility check of zero reports attributable to company agreements can also be carried out by inspecting the Commercial Register, as these company agreements must be registered both when they are first concluded and when they are finally terminated ("constitutive").

### 3.3.3. Overall assessment of plausibility

Based on the plausibility check we have carried out for the extraction royalties during the period under review (2021), we are coming to the conclusion that, taking account of the low risk assessment that we consider to be acceptable, the results of the plausibility check provide an adequate basis for the MSG to be able to close with a positive result the required quality assurance in accordance with Requirement 4.9 of the EITI standard.

The same also applies to the reported income tax payments, even if the degree of reliability of plausibility check for the payment flows actually reported does not reach the standard of the plausibility check for extraction royalties because of the restrictions in the method described. In spite of this, we consider this plausibility check also to be suitable, taking account of the low risk assessment that we consider to be acceptable, for the MSG to be able to close with a positive result the required quality assurance in accordance with Requirement 4.9 of the EITI standard.

Besides the basis for carrying out the quality assurance, the work on the plausibility check has shown that the use of further data sources that are independent of the companies can provide a wider understanding in respect of the content and influencing factors of the payment flows than would be possible via a pure payment reconciliation.

### **3.4. Payment reconciliation in exceptional cases**

Regarding possible procedures in exceptional cases, i.e. significant risks assessed by the MSG that make a full payment reconciliation appear necessary for quality assurance, remaining implausibilities due to the implementation of a partial payment reconciliation and a possible random payment reconciliation, we refer to our - still valid - explanations in sections 3.4.1, 3.4.2 and 3.4.3 in our work report dated 28 March 2023, which was prepared as part of the 5th D-EITI report.

## 4. Obtaining information from the transparency register

As part of the assignment given to us in connection with the 6th German EITI report, we were also requested to determine for the companies invited to report whether they have an entry in the transparency register and whether this entry is to be regarded as plausible on the basis of the information available to us and to be obtained. The information available to and obtained by us seemed plausible.

On the basis of the information available to and to be obtained by the IA and to the extent natural persons had been identified as beneficial owners in the transparency register, we assessed whether these persons are to be classified as politically exposed persons (PEP for short) in accordance with the country-specific categories for PEPs published by the EU . There was nothing to report in this context.

As a precautionary measure, the IA points to the fact that, as a result of the ruling of the European Court of Justice (ECJ) of 22 November 2022 in joined cases C-37/20 and C-601/20, the transparency register has restricted the public access for any interested party that existed up to that point in time; this restriction continues to apply at the time of publication of this report. However, the transparency register granted the IA access so that the information for the participating companies could be obtained and analysed by the IA; the consent of the participating companies was not required for this.

## 5. Final comments

The continued pilot procedure for the payment reconciliation will replace the payment reconciliation procedure used until the 2017 reporting period and based on tests of details by a procedure that is based on a system-supported analysis of the processes and controls used by the relevant government agencies to ensure the quality of assessment and collection of the payment flows relevant to D-EITI.

We believe that, for the payment flows of corporation tax, trade tax and mine site and extraction royalties, we have been able to gain a sufficient insight into the structure, the legal framework and the processes and/or controls on the part of government agencies on the basis of the documents made available to us and the work carried out.

The continued system-based approach did not result in any findings for the reporting year 2021 that differed from those of the previous year. In addition, we have not found any indications of weaknesses in relevant controls to ensure the correctness of payment flows relevant to EITI from the sources of information available to us and the information provided by MSG members. The work we have carried out to make plausibility checks of the data reports of participating companies have led us to assess that, on the basis of the continued pilot, the MSG can close the required quality assurance in accordance with Requirement 4.9 of the EITI standard.

In addition to this, we are of the opinion that this work report documents an approach for which the method has been fully described, which provides the required quality assurance on the basis of a risk-oriented approach, also without a full payment reconciliation by the MSG or a payment reconciliation on a random basis.

Düsseldorf, 4. January 2024

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