

Diagnosing Corruption in the Extractives Sector: Mongolia Case Study

September 2023

NRGI launched the first version of Diagnosing Corruption in the Extractive Sector: A Tool for Research and Action in September 2021, with the support of GIZ. This project sought to create an interactive and adaptable tool that anti-corruption actors could use to structure research, engage key stakeholders, and ultimately develop an evidence-based action plan to improve integrity in their country.

NRGI envisioned multi-stakeholder groups (MSGs) in the Extractives Industries Transparency Initiative (EITI) as initial users for the tool, and EITI Mongolia put themselves forward to pilot its use. With a number of scandals in the country's mining sector, many EITI recommendations requiring further action, and engaged civil society actors, participants hoped that the corruption diagnostic tool could breathe new life into efforts to hold corrupt actors to account.

How was the process carried out in Mongolia?

The process was led by EITI-Mongolia MSG. NRGI's Mongolia team worked closely with the EITI-Mongolia stakeholders throughout the diagnostic process, which involved six steps:





Step 1: Choose sector and set goals

The EITI-Mongolia MSG chose to focus on the **mining sector** given its current and future economic importance and its impact on other sectors, society and the environment. Additionally, the sector has been identified by the public as being particularly susceptible to corruption.

To lead the diagnostic process, the EITI-Mongolia MSG created a sub-working group representing various perspectives, including civil society, industry bodies and government agencies, such as the mining ministry and the Independent Authority Against Corruption (IAAC).

The sub-working group established that the goals of the assessment were to:

- Identify the most corruption prone areas of the mining sector and pressing priorities for action;
- Identify opportunities to strengthen governance and oversight of the sector; and
- Eliminate conflicts of interest in the sector.

To support the implementation of these goals, an independent team of experts was selected to assist in carrying out the following steps outlined in the diagnostic tool.



Step 2: Review existing data

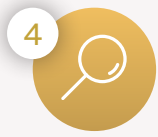
The independent experts led a review of existing data using the guidance provided by NNGI as part of the diagnostic tool. The review, which took about one month, involved analyzing 66 country-specific reports and assessments, eight Mongolian laws (and four draft laws), information on corruption cases, media reports, and statistical data from the sector on key issues such as production, revenues, transactions and processes.

The review identified seven key areas of concern, three of which were selected for discussion in Step 3 because of their importance and timeliness, the level of harm corruption entails in this area and the potential for change. These three issues were: the decision to extract; licensing and contracting; operations; and state-owned enterprises (SOEs).



Step 3: Select area of focus

This review and its findings were presented at a MSG meeting in June 2021, which unfortunately, like other meetings and consultations, was conducted online due to coronavirus restrictions in Mongolia at the time—where the operations of extractive companies was selected as the issue/topic for in-depth analysis in Step 4. The group felt that there had not been a specific study on this topic before and that it had received less attention than other issues such as licensing or SOEs, therefore it would be a worthwhile focus for the tool.



Step 4: Diagnose corruption

After selecting operations as the area of focus, the independent team of experts, overseen by the EITI-Mongolia MSG, conducted further in-depth research into the nature of corruption in this area of extractives.

Seven key areas of concern were identified:

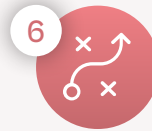
- Issuance of licenses and acceptance of documentation
- State-owned enterprise procurement and contracting
- Monitoring and accountability systems for public servants
- Tax evasion and evasion of legal obligations
- Extractive companies seeking to undermine competition
- Officials and local government authorities
- Corrupt acts intended to speed up various operation processes.



Step 5: Prioritize for action

In September 2021, the sub-working group reviewed the findings from Step 4 presented by the independent experts and identified priority issues for action based on the likelihood, impact, and feasibility of reform. This included a review of the drivers for corruption in Mongolia's mining sector, which were identified as cheap labour costs and low public sector pay, the desire of private interests to pay low taxes and fees, low levels of digitization, weak rule of law and outdated regulations, and the extent of undue influence and its consequences for corruption.

During this process, participants decided to prioritize addressing corruption in the areas of monitoring and accountability systems for public servants, the ways in which extractive companies seek to undermine competition and the role of officials and local government authorities.



Step 6: Develop an action plan

To develop an action plan for the three selected priority areas, the sub-working group referred to the corruption diagnostic tool to try to identify the most effective measures for reducing corruption, which best aligned with the underlying causes identified in Step 5. In addition to identifying key actions, participants outlined key decision-makers with the power to bring these changes to fruition such as lawmakers, politicians, public officials and large companies. Participants also recognized secondary players who can seek to influence these decision-makers, such as the public, NGOs and the media. By doing so, the group created a list of proposed actions for Mongolia's 2022 EITI action plan and for the Independent Authority Against Corruption (IAAC), Mongolia's anti-corruption agency.

For the EITI Action Plan, these included:

1. Addressing corruption risks related to monitoring and accountability for public servants.
 - **Digitization measures for licensing.** This involved actions to conduct detailed assessments of decision-making steps related to mineral licenses, contracts, mining plans, and reports, including provisions in draft minerals legislation to reduce bureaucracy and introduce open data approaches. In addition, the participants recommended submitting proposals to make the regulations around license tendering more digitized and increase civil society and third-party participation in key decision-making bodies. Public, digital measures make it easier to access information and limit the spaces where corrupt actors can hide.

2. Addressing corruption caused by extractive companies seeking to undermine companies.

- **Disclosure of selection criteria and recruitment processes for political elites entering senior positions in the extractives sector.** This involved actions to propose draft amendments to relevant legislation to strengthen the processes for gathering, disclosing, and verifying information on politically exposed persons (PEPs) and beneficial owners. The group recommended the introduction of procedures to review and verify beneficial ownership information through random sampling, creating a disclosure template for recruiting former and current PEPs for extractive companies and developing a procedure for verifying declarations of assets and income of senior SOE officials. The disclosure of verified information on beneficial owners and PEPs makes it easier to identify conflicts of interest, which are a key corruption risk area.

3. Addressing corruption risks caused by officials and authorities in local government.

- **Monitoring the accuracy and completeness of disclosures about extractive companies' support to local communities.** This involved taking steps to disclose extractive companies' monetary and non-monetary support to local communities in a way that is more accessible to those communities, raising awareness among local communities and conducting training on this issue, and collaborating with the EITI Sub-Committee, NGOs and the media in providing information on this type of support and reporting the outcomes in EITI reports. Communities and the media are key actors in the anticorruption ecosystem; communities are often key witnesses to wrongdoing, while the media plays a critical role in both investigating allegations of corruption and bringing these allegations to a wider audience.

- **Training and awareness-raising activities with local communities and media outlets.** This involved actions to scope the objectives and needs for training, to develop a training module in line with this and to organize training courses with local communities. The focus of these trainings would be to build understanding among local communities and the media of the ways in which communities and extractives companies interact. Depending on the needs of the community, the trainings could cover issues around legal and economic relations, environmental relations, rehabilitation, cooperation, and donations, as well as corruption risks, public interest, local participation and public oversight.
- **Media and local NGO collaboration.** The proposed actions included regular updates from the EITI MSG on its activities to NGOs that are involved in implementing activities aimed at local communities and relevant media, the development of information by EITI for these communities and the establishment of an online platform for feedback. In addition, the group recommended to prepare and publish a list of local NGOs and media outlets engaged in the extractive sector who implement activities aimed at local communities.

For the IAAC, the actions focused on issues of asset declarations, investigative capacity and public awareness and prevention programs.

- **Linking up different data sources.** The IAAC receives declarations of assets and income from over 43,000 annually, however the form is not connected to the tax payments. By adding tax declarations, this could help identify discrepancies between income declarations and spending above these levels, including on luxury items. These revised Asset, Income and Tax Declarations could potentially be requested from the beneficial owners of large private companies operating in Mongolia's extractives sector.

- **Pooling investigative capacity.** By collaborating with the Mongolian Tax Authorities, the IAAC can benefit from the support of specialist tax officials to aid its investigations. This would follow the approach used by, for example, the US Internal Revenue Service.
- **Designing new approaches to awareness and prevention programs.** The diagnostic process led to three recommendations to strengthen the activities of the IAAC's Prevention and Public Awareness Department. Firstly, the IAAC should develop a new corruption risk matrix system to be used for all positions with authorities over procurement, tender, and other monetary decisions in extractives SOEs. Secondly, the IAAC should ensure that educational and awareness materials draw on real events, the experiences of victims of corruption, and highlight convicted individuals. Lastly, the IAAC should develop an online training program, including the legal and procedural aspects of corruption, interviews with corruption case investigators and footage of corruption court trials, to be delivered at least twice a year.