

**Extractive Industries Transparency Initiative's Working Group
Meeting Minute /2017-11-15/**

The 45th working group meeting of the Extractive Industries Transparency Initiative (EITI) was held at 10:00 am on 15 November 2017 at the L2 conference hall of Puma Imperial hotel.

In the Working Group meeting were, B. Enkh-Amgalan (Senior Advisor to the Prime Minister and Head of the Working group), B. Baatarsogt (Director of Mineral Resources and Petroleum Authority (MRPA)), G. Oyuntuya (specialist of MRPA), A. Sumya (Senior referent of Cabinet Secretariat of the Government), G. Zulai (Specialist of Accounting Department of Ministry of Finance), B. Saran (Senior specialist of Ministry of Environment and Tourism), J. Battengel (General Tax Office Inspector in charge of EITI), N. Batbayar (Director of Environment, Geology and Mining Control Department of General Inspection Agency), T. Bayarkhuu (Prevention and Public Awareness Department of Authority Against Corruption), D. Erdenechimeg (Head of Public What You Receive Coalition), B. Narantsetseg (Head of Mongolian Natural Saving Foundation), D. Tserenjvav (Executive Director of Transparency Foundation NGO), B. Bayarmaa (Head of Khuvsgul Lake Owners), N. Baasankhuu (Officer of Human Rights Development Center), N. Otgonsaikhan (Director of My Mongolia Land Movement), L. Tur-Od (President of Transparency International Mongolia), D. Enkhbold (CEO of Mongolian Mining National Association), N. Naranzaya (Executive Director of Gold Producers Association), J. Enkhtuul (Officer in charge of community funding and administration of Boroo Gold LLC), G. Munkhbat (Senior manager of Oyu Tolgoi LLC), T. Amartzul (CEO of Metromatad LLC), N. Bolormaa (Accountant of Petro China Dachin Tamsag LLC), Sh. Tzolmon (Secretary of the Working Group and Coordinator of Mongolia EITI Secretariat). Out of 33 Working Group members, 23 members (66.7%) attended the meeting.

Other attendees were, Mark Eberst (KPMG France Partnership), Sh. Nomindari (Manager of Consulting Service), Soyolmaa (Director of Consulting Service), Gandol (referent of Cabinet Secretariat), Tserenjvav (Inspector), N. Enkhjargal (CEO of Interconsulting LLC), Mendbayar (Officer of Erdenes Mongol LLC), B. Delgermaa (Communication Officer of Mongolia EITI Secretariat), A. Otgontungalag (Finance Officer of Mongolia EITI Secretariat), and G. Ganbat (IT Consultant of Mongolia EITI Secretariat).

B. Enkh-Amgalan, Senior Advisor to the Prime Minister, opened the meeting and introduced the agenda.

B. Enkh-Amgalan: Greetings. It is my pleasure to meet with the participants. The new government has been established and the newly appointed Prime Minister U. Khurelsuh is leading the cabinet. There are over 20 ongoing programs, units and councils within the authority of the Prime Minister. EITI Mongolia is the one actively operating. This is a routine meeting of the Working Group and I wish good luck to the meeting. The cabinet has principle to fairly distribute the mineral resources revenue, which is personal principle of the Prime Minister and policy of the new cabinet. Extractive industry will be the driving force of our economy for a good while. Mining has to be developed and the people want environment not to be damaged by the sector, while wanting the revenue from the sector to be dedicated to development and society, and fair allocation of mining revenue. To realize this state, foreign-funded EITI plays critical role in this. Our responsibility is being increased, while the objectives are getting more determined. During the cabinet meeting today, EITI international membership

fee is being settled. I am confident that our work cooperation will not be narrowed, but it will rather be more transparent. This is to officially open the meeting. Should there be suggestions on issues beyond the scope of this meeting, please contact me. I wish good luck to your cooperation. I would like to introduce again referent Gandul and inspector Tserenjumed of the Cabinet Secretariat. They are to be involved in the EITI works. According to the agenda, first item will be presented by Nomindari, consultant of KPMG Consulting.

I. DISCUSSED: Draft EITI Reconciliation Report 2016

Mark Eberst: Greetings. First of all, I would like to express my appreciation for putting faith in us and supporting us during the reconciliation process. This is our second time to work as the independent administrator. The reconciliation report was developed as a result of working on comparing and validation information for the last 3 months. As per the standard, Mongolia will go through Global EITI Validation in January 2018. Therefore, special focus was placed for Mongolia's upcoming validation review by the International EITI Secretariat and we included a section regarding this issue in the report. It is advised to implement the recommendations. Now Nomindari will take it from here and present the reconciliation report.

Sh. Nomindari: Within the scope of progress report, we will present three major issues, such as (1) key findings from the reconciliation process, (2) global EITI validation and (3) recommendations.

Upon discussing with the Working Group, we determined the materiality threshold. As per the working group's request, we established separate threshold for national and sub-national levels. The reconciliation scope included companies which generated revenue streams of 50 million MNT at national level and 30 million MNT at local level respectively. Government registered to have received revenue streams from total 2079 companies in 2016. Applying a risk-based approach and taking into consideration the amounts of key revenue reported by the government, 213 of these companies were selected for the reconciliation, of which all passed the materiality threshold and are of high risk. In the Inception Report, government reported to have received revenue of 1.16 trillion MNT from the companies. Payments and receipt discrepancy were 105 billion MNT. After comparing and reconciliation, such variance was resolved down to 74 million MNT.

As a consequence of several companies not submitting reconciliation templates or necessary information for reconciliation, there was a discrepancy of 2 billion MNT. As for government authority, General Customs Office and Ministry of Environment and Tourism did not provide statement and information. This resulted in reconciliation difference of 12 billion MNT. There are several factors that resulted in greater reconciliation discrepancies, namely: companies did not provide e-reporting, over-reported payments, reported irrelevant payments, company statements did not adjust the reimbursed receivables, payments were stated in net amount, duplicating last year's payment into this year's payment, and including payment irrelevant to extractive operations. General Customs Office provided information in e-reporting system, though failed to provide detailed statements. Therefore, their information were not able to be included in the reconciliation. Ministry of Environment and Tourism claimed that they cannot disclose information on 50% contribution to environmental protection special account, however the Ministry did not provide any written statement on the issue. There are 8 companies that either could not be reached or unable to provide any information. 5 companies

refused to provide additional information and could not be reached. Total revenue of the government was reported to be 5.8 trillion MNT, of which 18.6% were generated from fee for exploitation of mineral resources (royalties).

Mongolia went through Global EITI Validation in 2016 and Mongolia was evaluated to have made progress, while being advised to make further corrections and improvement. In this respect, we included several measures and recommendations. We submitted the draft report to the Global EITI Secretariat. As far as validation is concerned, information on special licence issuance and registration were supposed to be mentioned in the report. The required corrections recommended by the Global EITI Secretariat was for Mongolia to state how many licences were issued and transferred in 2016. Also recommended was to include misconducts that violated laws and regulations. Additionally, the report was supposed to include licence date and swapping dates in EITI e-reporting system. We were able to include all information regarding licencing in 2016 and was told that it was not clear what legal approach was used. Global EITI Secretariat advised us to review and re-examine the list of licences of risk. Therefore we would like to request the Working Group to discuss and provide the list of licences of risk, and we could include this in the report. In 2016, 37 companies participated the licence selection process. Information of these companies should be disclosed. Information about the selected companies are so far available. However, information on unselected companies ought to be disclosed as well. Although we requested Mineral Resources and Petroleum Authority to provide us this information, we received no response. Therefore, we would appreciate the Working Group's support to obtain the information. 2 Production Sharing Agreements (PSAs) were established in 2016, which are done through direct negotiation. We will include this information in the report. We tried to disclose the application dates of over 600 licences of 2013 companies. Mineral Resources and Petroleum Authority disclosed the application date of over 200 companies and said that they are not able to disclose that of the remaining licences. We could include this in the report if they provide official response explaining why they are not able to provide the information. We approached the companies and requested for the respective information. As a result, 40 companies provided the requested information. Out of 213 companies included in the reconciliation coverage, 110 companies' information is now available. Global EITI Secretariat requested the report to explain why could not obtain the unprovided information. Next information is on State Owned Entities (SOEs). We clarified from and organized meeting with SOEs regarding information on regulations and practices of SOE's cumulative profit and investments on SOE-related transactions, budget spending, which are requirement 2.6a, 4.5 and 6.2. We are told to have approaches to assure the credibility of information. During the Inception Workshop with the Working Group, it is decided to reduce the number of poorly credible companies to 16%. As per revenue streams, poorly-credible companies contributed 1% and well-credible companies contributed 40% to revenue streams respectively. Global EITI Secretariat suggested us to provide conclusion, and we can include this in the report. Other adjustments, correction and explanation are included in the report. Following recommendations are included in the 2016 Reconciliation Report, namely: co-organize with National Audit Office to adopt and implement procedures to assure credibility of data provided by government; have National Council to approve work plan to emphasize importance of either EITI and cooperation between government entities that report EITI data; build capacity of the SOEs on the SOE specific requirements of the EITI through workshops and handouts; update the EITI e-reporting system to have two different fields for VAT revenue stream- one for VAT payable to the Mongolian Tax Authority and the other for Customs Office. Also allow companies to submit separate reports the VAT paid to either the Mongolian Tax Authority or to the Customs Office; formulate a system at the government level to enable companies to distinguish extractive industry businesses and revenue streams from their other

operations and revenue streams; improve the cadastre data of special licences to be available for public access in order to comply with minimum requirements of EITI Standard; National Council to raise the matter with the Ministry of Mining and Heavy Industry to disclose currently active PSAs; and examine how to distinguish revenue streams in order to show revenue streams at every company individually. /Presentation attached/.

B. Enkh-Amgalan: Thank you for your presentation. I would like to invite the attendees to express your views on the report.

B. Baatartsogt: You mentioned that we [Mineral Resources and Petroleum Authority] did not provide some information. I think it should be clear whether it is the list you want or other information.

Sh. Nomindari: As per Global EITI Secretariat, the list of the companies that participated the selection is sufficient.

B. Baatartsogt: It is entirely possible to provide the list of companies entered the selection process. As for date of applications for special licence, Cadastre Archive has this information and that of many previous year, and release of this past information is not possible. Our cadastre information is becoming relatively transparent. Date of licence application and its selection is available as of 2016, however information from previous years are recorded to the archive and thus difficult to obtain. Cadastre information of PSAs is recorded at mineral resources cadastre office. This information will be disclosed and accessed from the system. There is duplication on swapping from 10 years ago, and we are fixing this. We are working on to disclose PSA template and also discussing to revise PSAs already established. We can provide information that is with us.

T. Amarzul: In the presentation, Ministry of Finance confirmed that transactions to locals are carried to state, aimag and soum manner. In our case, our petroleum site is vast and co-located on aimag and soum. We payed land use fee either to the accounts of Ministry of Finance or Mineral Resources Authority. However the local community claims not to have received this fee, saying that this fee should be added to the budget allocated to them, not baked in the budget. If there is explanation how this fee is handled or transferred, we will be able to explain it local community.

G. Zulai: This is coordinated by budget policy department. I am from different department. I could provide response either during the next meeting or through email upon clarifying from the responsible authority.

Sh. Nomindari: The above information [on land use fee] is available in the appendices of our report. Information such as what amount of money is transferred to which province is disclosed in tugrug amount. The data is shown not only in tax form, but also consists of different categories of revenue. In the Ministry of Finance's website, click on "province" tab, and you can find what type of money is transferred to where. The link to this information is included in the report. More information is available in that report.

N. Erdenechimeg: The report, in page 25, says materiality threshold of reconciliation sample is 100 million MNT. Is it a typo? Should we correct this?

Sh. Nomindari: Yes, the correct materiality threshold is 50 million MNT.

N. Erdenechimeg: 63 companies of the reconciliation coverage said not to have provided audited statements. It is not clear whether this 76 companies had audit. If they did not have audit, it means they violated National Audit Law. If this is the case, what measure should be taken for them? Global EITI Secretariat said to include recommendation on this issue in the report.

Sh. Nomindari: From 63 companies that did not provide audited statements, 47 of them provided management letter. The letter confirmed the accuracy of data provided to EITI. Therefore, such companies were moved from poor-credible companies to medium-credible companies. From all companies that did not provide statements, we were not able to find out how many did not actually prepare the statement and how many did not provide though may have prepared one. The remaining 20 companies contributed 1% to total revenue streams, therefore we did not view them as of risk, rather viewed that small companies might not have prepared statements or audit. Global EITI Secretariat advised us to include this in the report. In this regard, we recommend Ministry of Finance to have a list of companies that needs auditing. This way, we can find out whether the companies need auditing or not.

B. Baatarsogt: Fee for exploitation of mineral resources (royalties) and air pollution fee are not distributed to the local level. The pollution is in the local area, while its fee is not given to the local level. We have attended a conference in South Gobi, the locals raised this concern as well. Therefore, I suggest to include this in the recommendation.

B. Saran: I have a question from the person doing the reconciliation. Ever since the inception of EITI, I have been working in cooperation. EITI report does not require many items. The report requires how much land was used by extractive companies and how much of it is rehabilitated. We [Ministry of Environment and Tourism] provided information on environment rehabilitation. You requested information on 50% contribution to environmental protection special account. This is a collateral, and we are responsible to reimburse this whenever requested. This 50% liability placed in the special account is not a revenue to the Ministry of Environment and Tourism. We did not release this information, as it is confidential according to the Mongolian Bank Law. I don't understand why our ministry is now said to be "not providing information". Our ministry has been respecting the works and procedures of EITI and cooperating with it accordingly. In previous years, we provided the total amount of rehabilitation liability placed in the special account.

Sh. Nomindari: We ought to reconcile 40-50 kinds of revenue streams. The 50% rehabilitation liability is one of those revenue streams, and we are required to compare and reconcile it. It is not feasible to do reconciliation using a total amount. That is why we requested for additional [detailed] information. If it is not disclosable and illegal to provide this information, official response should have been provided explaining the case. We have not received any official response from you to our request. If indeed it is against law to provide this information, the Working Group should discuss and settle this once and for all. It is not about one independent administrator trying to obtain this information. There should be a decision made whether or not to keep this information in the revenue stream. This information is a matter of reconciliation.

B. Saran: I repeat, this 50% liability is not a revenue to the ministry.

Sh. Nomindari: Revenue streams are approved by Statistics Office and then by Ministry of Finance. Therefore, we can't simply exclude this stream/information from the approved revenue streams.

Ts. Battengel: First of all, I would like to thank for the audit company prepared this reconciliation report. The initial variance is resolved upon reconciliation and property streams are now organized. The reconciliation is done on every company individually. We [General Tax Office] too have company information that belongs to confidential list. Even so, we provide necessary information. Revenue stream and reconciliation will be disrupted if necessary information is not provided in the name of confidentiality. This is my second time to hear the reconciliation report. The discrepancy is possibly caused by licence information. There is said to be over 5000 licences given including that for extracting common minerals. Yet, the EITI report says there is only over 2200 licence holders. Roughly speaking, there are issues such as not operating even holding licence and obtained licences under individual person's name then becoming a company. Things will be better if such is organized. Most importantly, we need to think about how to deal with the of-risk and unreachable licencees.

N. Otgonsaikhan: Reconciliation is a challenging work. After all, information transparency is about refining national policy and providing information. 90% of revenues in the extractive sector is generated from handful of companies. I think it will be better if you could show this at individual company level. Anticorruption Authority should pay attention to the so-called donations, contributions and loans. Recently, there is a case that Landcruiser-70 vehicle is donated at cost of 170 million MNT. Yet such vehicle's market price is 70-80 million MNT. The Working Group has a member from Anticorruption Authority. Us sitting here and producing report will have point if Anticorruption Authority pay attention and do something about this.

L. Tur-Od: We have to be proactive in the case of confidential information and need to clarify legal basis. If necessary, we need to refer this issue upto the Parliament for further reviewing the list of state confidentiality. We need to refine and improve laws in compliance with international requirement. What action should be taken for non-reporting 13 companies? Also 20 out of 37 government entities provided management letter. What about the others? What measure should be taken to those did not provide the management letter? Why beneficial owner issue is not included in the recommendation? I would like answer from the audit company on these concerns. 50 companies disclosed the beneficial owners in 2016, and 47 companies disclosed beneficial owners in 2017. The appendix 24 of the report shows the legal investor or shareholder, but it does not show the real or beneficial owner. How can we find out? 7 out of 17 SOEs did not provide information about their board members, I would like to know what was done in this concern?

Sh. Nomindari: Our work is carried in accordance with international standard. In our country's case, Mongolia is making progress in terms of disclosing beneficial owners and doing it in accordance with standards. There is a road map 2020 regarding this issue. The report's recommendation is more on improvement. Therefore, it might be early to say x and y need to be improved regarding beneficial owners. However, if the Working Group would like this to be included, we could include this in the recommendation.

N. Batbayar: The EITI Secretariat made a list of companies failed to fulfil responsibilities stated in clause 48.10 of Mineral Resources Law. The government issued decree No.263 to enhance works to implement EITI, and our agency [General Inspection Agency] is responsible to take actions for companies failed to fulfil responsibilities set out in 48.10. This is complicated as there are numerous incompliances. The law inquires licencees to report income and tax within the first quarter of the following year. The decree is made general and includes licencee's contractors, which is making it complicated. Since the decree, 13 companies are penalized with overall 48 million MNT. Furthermore, inspection agencies in provinces and Ulaanbaatar are assigned to work to implement the decree. The result of implementation will be available by the beginning of December. We will also be able to provide implementation on overall country.

D. Erdenechimeg: First of all, it would like to thank to the KPMG audit. The report is improving year by year, while working in close cooperation with stakeholders and providing feedbacks. KPMG reflects feedbacks, but nothing is perfect. This year's report too needs many improvements. KPMG first develops the report in English and then translates it into Mongolian. But we need to always think why we are having this report. It says English report will prevail if there discrepancy between Mongolian and English versions. Yet, the Mongolian version is very poorly translated and thus difficult to understand. Therefore, Mongolian version should be the master version that prevails, because the translation is entirely unnatural (strange). I carefully read the report, and it is so very difficult to understand. When using data from EITI e-reporting system, it claims that it may not be credible as the information is not audit proof. So reconciliation reports are deemed to be accurate and reliable, thus widely used by other civil society organizations. Yet, the report begins with a disclaimer saying that the information is not reliable and that any reliance placed on it by another party is that party's sole responsibility. Now, what then is reliable? Why are we preparing this report anyways? I understand the independant administrator is working within the scope agreed, but we Working Group need to discuss this issue. There are many comments on the report, especially ones related to recommendations. Also, I don't understand that why we are urged to be quick due to no time. Why do have to cover this important issue in only 2 hours. Why can't we dedicate a full day. We need to make more time for this, since Working Group meets only 2-3 times a year. There are many suggestions and many alterations needed in this report.

B. Enkh-Amgalan: Thank you. Please provide your comment in written form, to save time.

D. Erdenechimeg: If ought to give my comment in written form, then we might have to meeting again to confirm whether my comment is reflected in the report.

B. Enkh-Amgalan: We can do that. We hired the audit to prepare the report for us. We are paying for this service, which is currently funded under external source. There is no point if the report is written like a book and read and used by few people. Since we are paying to develop this report, it should be easy to understand and used like a manual by government entities and civil society organizations. So let us resolve in today's meeting that attendees to provide their comments and inputs in written form, of which could be consolidated by EITI Secretariat to include them in the report. Mining companies are doing no evil, there should be sophisticated approach of obtaining their information. We need to edify the compaies that people's suspicion and perception will change when companies provide information

accordingly. We further need to make information and reports accurate and practical, making them more simple using picture and infographic.

Unless the information is not of individual privacy, better provide the information. Also information obtaining procedure should be in respectful and sophisticated manner. We shall prepare official letter for government entities requesting to provide necessary information and fulfil duty accordingly. The report result and recommendation could be endorsed by Cabinet Secretariat, so that it will be our guiding manual. Should we consider paying the contract fee of 60% of the independent administrator?

D. Erdenechimeg: By when should we provide the written comments? There should be deadline. Also I suggest to establish a sub-working group to examine the legal framework and necessity and validity for confidentiality of the information currently regarded as confidential. This work is not the independent administrator's job, yet we raise this issue every year. The administrator is requested to review certain issue and prepare recommendation on that issue. And administrators usually respond saying they can't review contradictions between laws and regulations. If this can't be done by administrators, then the Working Group should examine it and come up with a solution. Should the environment liability be confidential? We did not ask for bank account information of companies, we simply asked for amount recorded in the special bank account of Ministry of Environment and Tourism. This does not apply to customer confidentiality, thus we need to form a sub-working group.

B. Enkh-Amgalan: The information may not be released if it affects the company's confidentiality. However, it may not necessarily affect company's confidentiality if we put requested number under the company's name. Let's be over with this issue. Also let's have the written comments and inputs next week.

Sh. Nomundari: Every year, Public What You Receive Coalition develops recommendations and we include them in the report as much as possible. So we suggest you to send combined feedbacks upon agreed by all three stakeholders. The comments and recommendations should be made jointly by the Working Group. Meaning, civil society organizations should submit comments and recommendations endorsed by the other stakeholders. This is the standard.

D. Erdenechimeg: Does that mean we have to vote on comments raised in the Working Group's meeting. Then I would like to present my views to know whether or not they will be endorsed.

T. Amarzul: I would like to clarify the contract payment. Is this 60% payment agreed in the contract? Is it payment considering the report is approved?

Sh. Tsolmon: This work has a contract cost of total 190 million MNT, which is paid from the state budget. 30% is paid in advance when establishing the contract, 60% when Working Group approves the report and remaining 10% should be paid when National Council approves the report.

Sh. Nomindari: Preparing report brief is not included in the scope of our work. Publish What You Receive Coalition make this request every year. Preparing a report takes much time and human work. Therefore, we cannot prepare it this time as it is not included in our scope of

work. However, we can do it next year if added to the contact scope. I would like to mention here that we have over 70 staff and we are a Mongolian company operating in Mongolia, as a branch of international company.

B. Enkh-Amgalan: We are paying for your service. We see you as a Mongolian company. So we ask for quality and reliable product.

2. DISCUSSED: Presentation on legal definition and perception on disclosing beneficial owners

B. Delgermaa: I worked as the secretary for sub-working group to disclose beneficial owners. Open Society Forum's Erdenechimeg provided support as well. Road Map 2020 is set out to disclose beneficial owners by 2020.

Within this work, we organized 9 discussion meetings for over 260 participants from government entities, civil society organizations and companies. I will introduce the definitions generated from these 9 meetings. Beneficiaries include concept of beneficial owners and now finally includes real beneficial owner was endorsed. This final definition refers to ultimate beneficial owner. When using a word "real", it implies as if there is "unreal or fake" owner. Therefore, people suggested to use "ultimate" or "beneficial" and also to suggest ingrain "controller" in the definition. However, term "ultimate" was not supported as there cases where ultimate owners end up being not the beneficial owner. Also it is suggested that the term "owner" is to be used without twisting the meaning as it has meanings of owning and holding things. "Ultimate beneficial owner" includes special extractive licence holders, investors, tender bidders, contracted legal managements, and individuals that directly and indirectly controls and owns. I am presenting the consolidated recommendations from the discussions.

The Road Map to disclose beneficial owners should be revised and approved in today's meeting. I will talk about the changes (highlighted in red) in the Road Map. EBRD will fund the facilitation work for Parliament and government to have roundtable discussion on the road map.

EBRD will also fund activities related to developing and approving draft laws to amend related laws. Ministry of Finance is said to be implementing a project to change certain terminologies and definitions in several laws. Perhaps we should coordinate and adjust our works. All works included in objective 3 are implemented. We will organize workshops and discussions, funded by EBRD, within the work scope of promoting beneficial ownership disclosure through raising awareness in public. Also highlighted in red are supports to implement several activities within objectives 6 and 7 and other changes in the Road Map.
/Presentation attached/

B. Enkh-Amgalan: Thank you. This road map will go through many filters such as legal council of Ministry of Justice, legal unit of Cabinet Secretariat, and Parliament. We shall do what we should as agreed before the international agreement. Actually, I worked in Kyrgyzstan and it is not a very promising country to take example from. I appreciate what you did, thank you. I suggest we send the draft law to the Ministry of Justice.

D. Erdenechimeg: Ministry of Justice will never receive definition from us and provide recommendation or review. We should have road map, have the terminologies discussed and approved by the Working Group, and finally decide to which draft law should we include the terminologies. Only then we can submit it to Ministry of Justice for further comment and recommendation. Therefore, the Working Group should decide whether or not to approve these definitions.

T. Naranzaya: Let's assume the law is passed. However, Mongolian people's mindset and perception about extractive sector is challenging. People attack extractive sector and accuse us of exploiting all resources and solely getting rich. So how do we improve this mindset? And how do we inform people that extractive industry is necessary and that x and y improvements will happen upon extracting minerals?

B. Enkh-Amgalan: Thank you. So generally she is talking about whether civil servants and government officials can be owners of mining.

D. Erdenechimeg: They can be. But do it with transparency. By the way, we are meeting only once or twice a year. I don't understand why we are urged and hurried to wrap the meeting.

B. Enkh-Amgalan: We have developed this as part of our commitment before the international organization.

B. Delgermaa: The working group did not develop this. This was developed as a result of inputs and filtering of over 260 government entities, companies and civil societies. We would like this to be further disseminated to government entities as final definition as Ministry of Finance and Ministry of Mining and Heavy Industries were present during its approval. Also added is several works to be funded by EBRD. Needs voting and approval in this meeting, because many works are waiting to be implemented. We need your decision on these two matters.

B. Enkh-Amgalan: Thank you. Please raise your hand if you are supporting this?

D. Erdenechimeg: We need all members to take part in the voting, this is a major responsibility.

D. Enkhbold: Should we exclude "others"? or can we define more specific?

B. Delgermaa: Should we make "others" more clear by saying "directly appoints or discharges board, not through shares or voting right"?

D. Erdenechimeg: "Other" influencing approach can be in the form of contracts, shares and representation. Also, there are secret approaches and methods of influence. Since we are not able to disclose owners that cannot be disclosed, we used general term "others".

3.DISCUSSED: Ammending work procedure and rule of Working Group

Sh. Tsolmon: Ammendments are recommended, as per the EITI Steering Committee. Work rule of Mongolia EITI Working Group was first approved in 2006 and ammended in 2012, which is now being used. As per EITI Steering Committee standard, Mongolia implemented 7 more additional works to be done as result of external evaluation under “validation” in 2016 and we are told to go through validation again in January 2018. As part of the additional works and changes, we need to revise work procedures on turnout, voting, stakeholders’ selection of their representation, which are related to Working Group and National Council. Government representers are appointed under the order of Prime Minister and it was recently renewed as per Prime Minister’s order No.142 dated 20 September 2017. Companies and civil society organizations select their representers to EITI. So they revised their rules and carried selection as per their new rule, and further selected their new representers before new year.

As recommended, following changes are suggested to be made in the rule:

1. Working group members to be 33, meaning each stakeholder will have 11 participants. The meeting will be considered valid when minimum 6 members are present from each stakeholder. In other words, 6 members from each stakeholder or total 18 members should be present to carry the meeting. This is to replace the former rule of requiring near majority of 17 people in the meeting.
2. As recommended, should there be discrepancies when making decision, voting should take place. A valid decision should collect 2/3 of members of each stakeholder present in the vote.

We request for your decision and approval on the above two ammendments. As per above changes, there will be change in representation of National Council. Many organizations working in the Working Group are also members of National Council. So it is better to change it entirely.

N. Narantsetseg: Does that mean the meeting can only take place if there are 6 members from each stakeholder?

Sh. Tsolmon: Yes, at least 6 members from each stakeholder or total 18 members should be present to carry the meeting.

N. Narantsetseg: In terms of attendance, civil society members attend meetings with nearly full attendance. However, government entities have an issue of attendance and turnout. Some government authority members show up and register for attendance and leave after opening. They don’t patiently attend the meeting. When it comes to discussion and decision making, only present members are those from civil society organizations. There is small representation from companies and only few companies attend meetings. Government entities and authorities should comply with the rule and attendance. Civil society organization have no problem with the suggested ammendments.

N. Mendbayar: Members representing companies are not given opportunity to speak. SOEs provided incomplete reporting. This happened last year. We ogranized two workshops this year, yet such happens. Perhaps will repeat again next year. However, if there is penalty

arrangement or mechanism, things might change. When organizing workshops, the intended invitees or attendees don't come.

B. Enkh-Amgalan: There will be change when at least 6 members from each stakeholder are required to attend the meeting. Shall we vote and support this idea?

N. Narantsetseg: What if people will start relying on others. We have that problem. I am afraid we may not be able to make decision even after meeting.

B. Enkh-Amgalan: We are not Parliament nor government meeting. We won't affect social matter. Our decisions are mostly of policy feature. So please raise your hands if supporting this recommended amendments?

4.DISCUSSED: EITI Work Plan 2017 implementation progress and introduction of draft EITI Work Plan 2018

Sh. Tzolmon: Thank you. 39 out of 76 planned works were implemented in 2017. 2017 is yet to finish, and we will work in time remained. This is the 3rd meeting of the working group and sub-working group organized meeting for 2 times. We have discussed today the reconciliation report of 2016 and there is much to be done in the future. To mention major works and activities, this year 1167 companies, 11 government entities, 7 agencies, 9 districts, and 15 province authorities provided reports and statements. Ministry of Finance confirmed the revenue of extractive sector as 1.2 trillion MNT. Decree No.222 was amended upon decisions from February and June in 2017, which includes issues such as EITI International Standard is to be approved and implemented and to propose the draft law to disclose beneficial owners to Parliament. Also starting from 2019, operation cost of sub-working group is to be funded from state and local budgets. We reprinted the brochure on laws and procedures. SOE workshops were co-organized with Erdenes Mongol LLC and organized 9 discussion meetings. Currently, we are successfully implementing a EBRD-funded project to establish model soums in Eruu, Zaamar, Bor-Undur, Gurvan Tes and Delgereh soums. We are working at local level in order to deliver accurate information and right understanding across local community, and implementing government policy on extractive sector and Decree No.222. We organized Community planning workshop with National Development Authority. Established e-portal or database for contract transparency, in which Open Society Forum supported. Memorandum of Partnership is established between Ministry of Mining and Tourism, Open Society Forum and EITI Secretariat.

We will organize National Council Meeting before new year. As per the decisions from today's meeting, we will organize and implement numerous activities and works. We will undergo international validation and evaluation in January, 2018. Therefore, we request for your active participation.

We have 4 objectives for works planned in 2018, which are to implement recommendations given from international validation and 2016 reconciliation report, improve process of 2017 reconciliation, and to discuss and approve the 2017 reconciliation, promote importance of implementing EITI at national and subnational levels across stakeholders and improve cooperation across stakeholders. Further more to establish legal framework to disclose

beneficial owners of extractive sectors- within this work, following activities will be taken. For instance: organize and broadcast TV series and live talks to activate national level media coverage and relationship, which is to be co-organized with Media Unit of Cabinet Secretariat of the Government. This work will be directed towards making current reports and data to be useful and practical. The Work Plan 2018 is distributed to you. I hope for your professional and practical comments.

B. Enkh-Amgalan: We shall hear on works 4 and 5 and members could express their views and comments.

Sh. Tsolmon: The work 5 is the presentation on progress.

B. Delgermaa: The next presenter is not here yet.

B. Enkh-Amgalan: Alright then, then members should express their views and commenets. Each member is given 3 minutes to talk.

B. Saran: I have suggestion on Work Plan 2018. There is government decree on the issue and our Ministry [of Environment and Tourism] has been making this recommdation since 2006. So please improve this issue by adding it to Work Plan 2018. We would like the National Audit Office workshop to be organized together with our Ministry. The report is said to be of poor quality, yet it is developed with fundings provided from tax payers. So we need to have reporting standard that meets the need of government entities and companies. There should be a standard for the report, and this should be included in the work plan as well. Many workshops tak place, however there should be target workshops in order to improve the performance and effect of the workshop. I understand our Ministry should be the top participant in terms of involvement in EITI works, we would like the statement “failed to provide information or statements” to be corrected.

N. Batbayar: Reporting from companies are not sufficient. There are over 4000 licences on hard mineral resources. Also there are about 30 petrolium SPAs and 1000 licences on common mineral resources. They are all adding up to total 5000 licences. No public awareness works are done in this regard, thus needs to be included in the work plan. We are planning to take actions on 4000 companies in accordance with Government decree No. 263. Penalty amount is 3 million MNT at minimum, and 10 million MNT at maximum.

We would like to spend the collection of these penalties for the good of the society. It is not nice for General Inspection Agency to be known always as penalizer or punisher others. Therefore, more works should be done to promote the law.

J. Battengel: I agree with Batbayar’s opinion and want this to be included in the work plan. Also need to purchase the software that we have been trying to buy many years. Software and system plays critical role globally. So if money allows, this should be settled.

B. Enkh-Amgalan: There is 243 million MNT allocated from 2018 State budget, while having 284 million MNT from World Bank. Meaning there are total 530 million MNT available, so works should be planned within this.

Sh. Otgonsaikhan: There is an opportunity to save money if we can make the sub-councils to work at local level.

B. Enkh-Amgalan: Will there be selection next year? How much is needed? It is better if we can have a good consultant do it.

T. Munkhbat: It may be hard to obtain information from entities and companies. Companies work in accordance with law. If must obtain information, better explain it well. As for Oyu Tolgoi, we provide information promptly. However, the request should not violate the law of confidentiality. Many companies don't report or disclose information. There is so called "shadow economy" of our sector, which are small scale miners and partnerships- where are they in terms of reporting? They extensively extract. Information and reports should be obtained from them too. If they don't ensure safety and requirements, their operation should be ceased. They are the ones who extract and submit gold, while damaging environment the most. Please clarify whether these 70 thousand individuals and artisanal miners pay tax.

B. Enkh-Amgalan: Thank you, this is an absolutely important comment.

T. Amartzul: 2017 Work Plan implementation looks as if it saved budget. Is there a way to show this saved amount in a simple way? Also there is there no representation from companies in the working group to disclose PSAs mentioned in objective 5 of the 2018 Work Plan? EITI reports are a major source of information for foreign investors. Therefore, it is better to keep developing the report in English, while improving its translation. Did you consider the potential risks or consequences of disclosing information, such as misinterpreting information and misusing it for different purpose such as blackmailing or manipulating others.

Sh. Tzolmon: As for representing stakeholders, there should be members from companies. There might have been technical mistake. Regarding risks, anything could come up. In any case, not taking any stakeholder's side reduces negative view. This is a Global initiative, and war-going Iran and Afghanistan joined the 53 countries adopting this initiative. Comparitavely, Mongolia is rather in good condition. It is recommended to be responsible for risks when agreed to take this track. If can't do this, it is not required to adopt this initiative. We need to work towards creating accurate understanding.

L. Tur-Od: A work on presenting Mineral Resources Transparency Law to the Parliament was planned in 2017 Work Plan. I think it is wrong to include this law as a chapter to the Mining Law draft. Taking measure is missing EITI implementation. Through seperate law on Mineral Resources Transparancy, EITI could be strengthened in terms of structure and legal basis, to further allow measures against misconducts- so this issue should not be missed. As a result of presenting this law to the parliament, there will be changes in laws of State Confidentiality, Company Confidentiality, Bank Confidentiality and other related laws and regulations. This way, it will be possible to take measures against non-reporting authorities and SOEs. Additionally, sub-national councils should be activated and utilized. These sub-councils should be reinforced to implement the EITI. The Ministry of Justtice has the budget for it. Also need to coordinate closer with donors when implementing EITI. Neet to coodinate this with the help of German International Cooperatoin, World Bank, Adam Smith International and European Bank for Recunstruction and Development. We need to be more thoughtful when dealing with funding provided by international donors.

B. Baatartsogt: Mineral Resources Law and Petroleum Law requires certain amount of revenue to the local community. If it is not done, they are violating the laws. This should be openly discussed and raised. Capital builders, the companies are working hard behind this. When they go to the local area to conduct work, the community does not support or accept them. The result cannot be seen at local level. As the regulation is in place, fees paid by the companies operating in local areas should be redistributed to the local authority as well. The local community and the extractive companies have been requesting this issue to be solved. So this should be raised open and included in the recommendation. These fees and revenues are collected and held at the community development fund of Ministry of Finance. We are able to disclose petroleum PSAs, licence information and swapping information. We will update our cadastre system. We would like our budget to be increased as we need to train staff and do preparation. 24 billion MNT was allocated to us in 2018 budget, which is a very small amount compared to other ministries. Yet, we collect and handover over 200 billion MNT to state budget. We need budget to update our cadastre system. We are working to disclose special licences. We are operating information and technology center, and we need to add a information component requested by EITI into this system. This will play key role in making information disclosed and transparent.

B. Delgermaa: Our members suggested to activate the sub-national council. Model soum project is being implemented. Sub-national council in Gurvan Tes soum works well and active, and reports about extractive companies operating in the soum. The sub-national council officially requested to report that Baatarvan LLC operating in the area is very poorly operating.

5.DISCUSSED: Progress report on pilot projects implemented in local communities

N. Enkhjargal: Greetings. We have been working on the project to establish 5 model soums since March 2017. Each selected soums have different strengths and challenges. Bayarsaikhan, Bayarmaa and Tserenjav worked together with us from civil society. As for Eruu soum, soum authority is hard to be found and people hardly gather. They do not understand that their soum was selected out of 330 soums in the country, and they do not support us. We even discussed about what to do on this soum. As for Zaamar soum, we had open day for the community and organized reception in the evening. The citizens told us that companies never did this before. As for Delgereh soum, the soum did not have extractive activity, so we aimed to provide accurate information from the beginning. In order to be institutionally strong, we planned and taken activities to form information hall, organize workshops and other activities through sub-national councils. In March 2017, an international consultant came to Mongolia and conducted studies. We visited the 5 soums together and developed needs assessment based on the study. We developed strategy and work plan for each soum. As we are working on pilot soums, we paid special attention to documentation. If this pilot project is successful on the 5 soums, it may positively influence extension to 10 more soums. We have information staff at each soum, who are all remunerated. We established information center at each soum. Governor of Gurlantus soum appreciated and gave ranking to companies that actively participated. We are working in cooperation with professional association. Naranzaya has been a great source of help. No council is established in Eruu and Delgereh soums, while other soums have sub-national councils. We have plans to sustainably employ and pay for the information staff at soums, which are to be carried accordingly. We will further study ways in which we could utilize social media with low cost. Also we need to train our staff on communications.

B. Enkh-Amgalan: This initiative has a purpose of facilitating tripartite engagement. At local level, community and authority is on one side, while company is taking another side. Mining will develop, but we wish responsible mining to develop. Our priority should support industries to develop national prosperity through mining. Certainly, measures should be taken for operations violating laws, while not burdening those operating in accordance with laws. Better exclude workshops for SOEs in 2018. This is not our concern and each company has marketing team. What is the cost of your project?

N. Enkhjargal: 36,000 euro.

B. Enkh-Amgalan: If funding allows, please work on to increase project implementing units and search for ways and funding source to support the operation. The state cannot provide funding, so try to find external funding source. /Presentation attached/

Next year, we should enrich the cadastre database and raise public awareness on it. Let's make and use the report as manual. Since EITI is on voluntary basis, nothing can be done if companies refuse to join the initiative. It is better to have certain balance since EITI is carried on the basis of morale and ethic. In this respect, more attention and work should be done to raise public awareness. Let's include my ideas in the plan. Thank you for coming to the meeting. Next meeting date should be further decided.

The meeting was adjourned at 13:45.

Reviewed by:

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