

## MONGOLIA EITI MSWG MEETING MINUTES

**August 30, 2018**

MSWG 47<sup>th</sup> meeting started at 10 am in the conference hall of Puma Hotel on August 30, 2018.

Members attended: B. Enkh-Amgalan (Senior advisor to Prime Minister, Chairman of MSWG); N. Baljinnyam (as substitute for E. Sumiya, Referent of Cabinet Secretariat of Government); Ch. Chimedsuren (Head of Accounting Department, Ministry of Finance); J. Iveelen (Officer, Ministry of Finance); T. Zuunnast (Senior Officer of Mining Policy, Ministry of Mining and Heavy Industry); Ch. Battsengel (Tax Officer of General Taxation Authority); M. Enkhjargal (Deputy of Mineral Resources and Petroleum Authority); G. Oyuntuya (Officer of Mineral Resources and Petroleum Authority); D. Narantsatsral (Officer of General Authority of Inspection); N. Bayarsaikhan (Head of “The Steps without Border” NGO); B. Narantsetseg (Head of NGO “Mongolian Mother Nature’s Saving Fund”); D. Tserenjav (CEO of “Transparency Foundation” NGO); B. Bayarmaa (Head of “Khuvsgul Dalain Ezed” NGO); O. Otgonsaikhan (CEO of Movement “Minii Mongoliin Gazar Shoroo”); D. Sukhbaatar (Board chairman of “Responsible Mining Initiative” NGO); L. Tur-Od (president of Transparency International Mongolia); D. Enkhbold (CEO of Mongolian National Mining Association); B. Batbold (Member of Mongolian Environmental Citizen’s Council); P. RENCHINPAGMA (Officer of Oyu Tolgoi LLC); B. Mendbayar (Representative of Erdenes Tavan Tolgoi JSC and Baganuur JSC); and Sh. Tsolmon (Coordinator of EITI Secretariat and Secretary of MSWG). 19 out of 33 members were present, the attendance is 57.6%.

Also present: N. Osorgarav (Director of Ulaanbaatar Audit Corporation); B. Erdenetsog (Senior Auditor); B. Gandul (Referent of Cabinet Secretariat of Government); B. Delgermaa (Communication Officer of EITI Secretariat); A. Otgontungalag (Finance Officer of EITI Secretariat); G. Ganbat (IT Consultant of EITI Secretariat) and B. Badmaarag (Legal specialist of EITI Secretariat).

Because Mr. B. Enkh-Amgalan (Senior advisor to Prime Minister, Chairman of MSWG) has other duties assigned by the Prime Minister, he could not open the meeting and tasked Sh. Tsolmon (Coordinator of EITI Secretariat and Secretary of MSWG) to chair the meeting. Members were asked and there was no objection. Sh. Tsolmon opened the 47<sup>th</sup> meeting and presented the topics, agenda and rules.

Sh. Tsolmon: Firstly, I would like to read a summary of the opening words of B. Enkh-Amgalan (Senior advisor): “The meetings topics were distributed ahead. Please participate in the meeting

actively. We need to intensify the work of EITI 2017 Reconciliation report. The representatives of the Ulaanbaatar Audit Corporation need to heed. If there is any issue that needs attention from the Prime Minister's Secretariat we will attend to it. On account of World Bank cannot fund any new projects in the future, we should talk seriously what to do next. The Prime Minister's Secretariat could speak to the related Ministries and Organizations regarding the funding. Together with G. Zandanshatar, Head of the Cabinet Secretariat of Government, I participated in the international conference of OGP, which took place in Tbilisi, Georgia. During this meeting, there was an important presentation about 2016-2018 NAP, EITI implementation process and workplan for 2019-2020. Regarding the EITI, we will focus our work on beneficial ownership, mainstreaming, implementation of project-level reporting. Although Mongolia became the second country which met the requirements of the EITI, it will require hard work to stay on this level. Due to it we should pay more attention to the recommendations of the international site and should focus on the most important recommendations and building a base of related legal environment. Wish you all a success". Now, we look forward to hearing a presentation of Ulaanbaatar Audit Corporation.

## **1.TOPIC DISCUSSED: EITI MONGOLIA 2017 RECONCILIATION REPORT PROCESS, INCEPTION REPORT**

B. Erdenetsog: Good morning. A draft inception report was sent to the working group and asked for suggestions. As for reconciliation report, we have decided that approximately 230 companies will participate in it. Materiality thresholds are state and local tax. Every mining license holder company that pays more than 300 million tugriks in tax must be included. Additional 8 companies were selected by sampling method. We reviewed the companies which paid over 100 million MNT according to the Government report and discovered 23 non-mining companies. The Secretariat proposed also eight companies and they are included. Based on the Government report we decided on the materiality threshold. These companies account for 98.47 percent of total payments. About the materiality threshold of the payment, we have presented it in details at the Inception seminar. Chapter 4.1 and 4.2 is about the quality of data information. It includes information such as audit validation of governmental organizations and companies that are participating in the EITI reporting, progress study, and which information should be given to the independent administrator. There will be some changes in additional information templates related to beneficial ownership, water usage, waste, workers, SOE's. The governmental organizations will give information in written form additionally. Also, SOE's and petroleum companies have to fill out a modernized template of additional information. Main approach for

systematic information disclosure (mainstreaming) is that already online available information will never again be uploaded, if it is needed, it shall be uploaded as an infographic, or short summary. On July 6, we organized an inception discussion and on August 20 a draft of inception report was distributed. And today we are here to introduce our draft and if possible its approval. Our plan is that we will present to the Secretariat a reconciliation progress report on September 30, and a draft reconciliation report on November 15. At long last, we will present to the Secretariat a final report on November 30. /Presentation is attached/.

Sh. Tsolmon: Thank you very much for the presentation. Are there any questions or suggestions regarding the presentation?

O. Otgonsaikhan: Thank you. Suggestions made earlier are inserted. It would be nice if you could make terms and descriptions of tables in the appendix clearer. No other suggestion.

B. Erdenetsog: We have distributed the list of the selected 230 companies. Due to the suggestion of the Secretariat we added 8 companies and the updated list was distributed again.

N. Bayarsaikhan: Thank you to the Ulaanbaatar Audit Corporation. I think that the selection process and method are adequate. And I have questions: (1) Are the changes in the additional information template finished now? (2) It states that 40 companies from the 230 have not reported. Does it mean they did not file the report? Also, it says that you got information from the Secretariat on August 14. Does it mean you are collecting information now? Can you make it within 1 month? Is deadline of October 30 necessary? Moreover, TAN coalition offers suggestions every year. There was an answer that it is not possible because of no listing in the assignment. How many suggestions are going to be included in this year's report? Thank you.

B. Erdenetsog: These 12 templates were made 2,3 years ago. And we made amendments based on the suggestions from the members. Regarding this year's templates, there are some changes. We are presenting today these new templates. It was distributed ahead to the working group members. For example, templates for used water information and waste information are brand new. Templates for workers and beneficial ownership information have been amended. Because some companies on the list did not submit the initial report there is no numbers. The selection of these 230 companies is based on the government report. In general, companies submitted their report in April or May. We waited because three provinces did not submit the report in time and only after their submission we selected the companies finally. We considered suggestions of TAN coalition closely and they are included in the initial report. The suggestions were exhaustive and

practical. Possible suggestions will be used in report and for impossible ones we will give explanation.

N.Bayarsaikhan: The fact that these 40 companies did not submit the report in the 1<sup>st</sup> quarter of the year means they did not fulfill their responsibilities. In the meeting draft resolution this should be included. If bigger companies did not submit their report, why should we expect it from 1800 smaller companies. It means that the law implementation is not sufficient enough.

B. Bayarmaa: As I see, information about water usage is being added. Water payment is already in the EITI template. Information about waste bill is not included in the waste information template. Not only waste but also sewer bill should be included.

B. Erdenetsog: It is possible.

B. Batbold: Questions about SOE's will be detailed. You said that this information will be submitted in written form. Will they give information in written form? Is it possible to get it through e-reporting system?

B. Erdenetsog: If we include this template in the e-reporting system, all companies will fill out it. We are planning to give the template to 19 SOE's out and get information. It is feasible to include it into e-reporting system but we have to make sure that this template is only for the SOE's. Information such as who are the independent board members, how they were selected, will be included in the template and this cannot be answered through the e-reporting system.

B. Batbold: Although Government agency for policy coordination on state property organizes the tender and collects documents for the selection of SOE's independent board member, there are many issues in the process. There was a case in which the agency organized a seminar for 20 NGO's people and collected their documents but none of them was elected. When we asked the reason, they said that they are not required to give an explanation. Because of it I am for making the selection process publicly open. This will be interesting, how this information will be included in the letter, how the answer of the SOE's will look like and how it will be added in the report.

B. Erdenetsog: Because there are only 11 SOE's, I think that it will be manageable. Also, it will be good for the validation and accuracy of the report if we get information in the written form.

B. Bayarmaa: According to the law, if the number of the foreign workers is higher than allowed, the company should pay a compensation of 10 amounts of the minimal monthly salary. How much did the company pay according to this regulation? Also, Ministry of Labor publishes a list of

specialists which does not exist here and these specialists are excluded from the foreign workers quote. Is any information about it included in the template? We have to inform about it.

Sh. Tsolmon: There is a question about the compensation for outstepping the foreign worker quote. But nothing about the exemption.

B. Bayarmaa: I would like to include this information. Specially, this is an issue in Erdenetsagaan.

B. Erdenetsog: This information is included in the report from the Ministry of Labor. It could be added.

B. Bayarmaa: An officer of Ministry of Finance said that mining companies should deposit a fund in advance for mining decommissioning. Is it possible to include? It is very important. The mining companies have money while they operate but when it is time for mining decommissioning there is no money. If it is required and added to the report, they would rehabilitate the mining site instead of desertion.

B. Erdenetsog: As validation or confirmation of the quality of data, we collect management responsibility letter and audit report. We analyze all the audit report. If the audit report is made in accordance with the accounting international standards and there was no audit error, that means that particular mining company has a mining rehabilitation fund. We should not require this information, when there is such report. If there is no rehabilitation fund, auditor's final verdict will sound like it should deposit a fund for rehabilitation. We think that it is better to use the audit report as validation. Earlier, we conducted a study in paper form whether important requirements of the standard have been implemented or not. Information about this fund was requested but the information was not sufficient.

B. Osorgarav: Why is it important to re-enter this information? You should discuss and vote whether should this information be included or not, and if yes, we can add it.

B. Bayarmaa: It is important that this fund is included in the report. How difficult is it to get this information as an additional information template and publish it? It is crucial for the civil societies.

G. Oyuntuya: It is the deposit located at the Ministry of Environment and Tourism, is not it?

B. Bayarmaa: No, it is not the same.

Ch. Chimedsuren: Good morning every one. It is my first meeting. Our officer will answer this question and then I will comment.

J. Iweelen: Nowadays, some companies have this kind of fund. In accordance with the law on Minerals, the companies should begin to deposit a fund a few year's earlier before mining closure. Not at the begin of extraction. This is different for each company. It does not mean that all companies should have a fund of the same size. According to the standard, they shall begin to deposit a fund 2 or 3 years before the mining closure.

Ch. Chimedsuren: I think that this information is important for the report. But in the practice, there are questions regarding how to build this fund, where to deposit, and how to use it. It will be good if you could send your suggestions directly to the Ministry. Instead of pressuring the Ulaanbaatar audit company you should think about the legal possibility. It is important to talk about this issue. This issue could be decided after our department has a solution for how to include it into the accounting.

N. Bayarsakhan: Are the companies reporting any beneficial ownership information? Are they going to disclose it? Have you seen the companies report? Ministry of Environment and Tourism is very sluggish when it reports about the rehabilitation pledge.

B. Erdenetsog: No, I haven't. The companies will fill out the beneficial ownership information after the working group approves the template. When the template is approved, we will send templates to the companies and organize a seminar about how to fill the template. After that, received templates will be summarized and included in the report.

Sh. Tsolmon: Ministry of Environment and Tourism sent the report for each company.

Ch. Battengel: In the last few years, after the reconciliation report, the difference in the tax, payments decreased often. This year, there are going to be a lot of additional information, in other words, it will show the effects on the economy clearly. Foreign organizations desire this. Good luck for everyone. I will support.

Sh. Tsolmon: Any suggestions regarding first topic?

B. Batbold: Today we are going to approve the template. When I see the questions, some are not really appropriate. For example, home address of beneficial owner. It is possible to find from the State registration where Dorj lives. There are security issues like breaking the windows because of some small concern. Due to it, it is not appropriate to disclose home address. I would like to delete it.

B. Erdenetsog: It is in the requirements.

G. Oyuntuya: We are not required to follow the requirement's every word. We shall make it suitable to our country's specific characteristic and implement.

Sh. Tsolmon: Yes.

D, Narantsatsral: The legal entities are reporting in accordance with the paragraph 48.10 of the Law on Minerals. The law states: "to report quantity of product and the amount of the tax paid to the state- and local budget". In order to take some measures, we have to go to the prosecutor. And he says, the law states only to report. Because of it we do not have authority to take measures. If the legal entities publish on their websites, it looks like possible. It is not required to report to the Secretariat. I think that legal entities are not required to give you information about rehabilitation fund or any other additional data. We are asking too much information from the legal entities than it is allowed per law. We must ensure that it is within law.

N. Bayarsaikhan: The officer of General Authority of Inspection said her opinion. However, the aim of this Initiative is to disclose all this restricted information. My suggestion is, no changes in 1 and 2 resolutions of the meeting draft. And as 3<sup>rd</sup> resolution I suggest that the Secretariat makes a list of companies which did not fulfill their responsibilities in accordance of paragraph 48.10 of Minerals Law and publish it. I think that a black list of companies will raise their consciousness of reputation and responsibility. It matters little, whether the General Authority of Inspection (GAI) does its work or not.

G. Oyuntuya: I wanted to say only that the GAI cannot do their work with only this regulation.

D. Narantsatsral: Yes, we fine the companies with 10 million tugriks because of the regulations in the Law of Misdemeanors. And mining exploration plans are approved by us. During the approval process we control whether a company submitted a disclosure report or not. If it did not submit a report, we fine it. By the exploitation companies, it is impossible to control. For exploration companies, this fine is really hard. Although we work within the regulation and take measures, it is a difficult situation for all parties.

Sh. Tsolmon: This is an issue. They call almost every day.

D. Sukhbaatar: We should not see the beneficial owners as a criminal. For example, information about the shareholders of a bank has been collected without public disclosure and attack on their reputation. The Chairman of the Citizens' Representative's Khural of Selenge aimag has disclosed information about his son. What will he do next? We should not make a show from the information.

Sh. Tsolmon: Shall we delete home address from the template?

Members: yes.

M. Enkhjargal: It says registered address in the state registration and actual home address. I am suggesting to delete both. If we want we can find anyone. Even through the office address.

Decisions made on the 1<sup>st</sup> TOPIC:

1. Approvals of the initial report and related payment
2. Present the reconciliation progress report on September 30, the draft reconciliation report on November 15 to the Working group.
3. Regarding the implementation of paragraph 48.10 of Minerals Law to disclose the list of companies that did not submit a report.

## **2. TOPIC: INTRODUCTION OF EITI PROJECT-LEVEL REPORTING**

Sh. Tsolmon: Instead of reconciliation report, EITI implementing countries will disaggregate financial disclosures by company, government organization, revenue stream and publish it. Project-level reporting is required for all EITI disclosures covering fiscal years ending on or after 31 December 2018 to 31 December 2020. The definition “project level” is consistent with the United States Securities and Exchange Commission rules and the forthcoming European Union requirements. Article 41(4) of the European Union Accounting Directive defines a project as: “the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities with a government”. This is a requirement in the Standard but few countries are implementing it. There are 3 countries in the world which report fully and some countries including Mongolia report partially by project. The aims are prevention of money-laundering and embezzlement of assets, introduction of the projects to the public, disclosure of benefits, to create a common understanding and to build trust. If there is a legal definition of the project, it should be followed. If there is no legal definition, Working Group should formulate a definition, document that definition in MSWG meeting minutes and decide on the term. In order to make project-level reports efficient in terms of time, saving papers and prompt delivery, it should be done electronically by one-country and one project. All revenue and expenditure of the project should be included. Reported once a year. For implementation of international standard requirement in Mongolia beginning on January 1, 2019 we should prepare and lay the groundworks such as preparation and presentation of the reporting templates to the MSWG, International Secretariat of EITI, and National Council, submission of



additional information template to the companies selected for the 2017 reconciliation report, and the implementation of the pilot test in cooperation with the Ulaanbaatar Audit Corporation. In general, we talked with Ulaanbaatar audit corporation about this. In addition, the International Secretariat of EITI proposed to call the Ulaanbaatar audit corporation and discuss this issue. Please vote on this. If Ulaanbaatar audit could do it this year, it is great. And if it is not possible, we shall add this to 2019-2020 report. Based on our past data we will include this as additional information.

B. Batbold: Did you get suggestions from the companies? Even if we approve it, companies might not.

Sh. Tsolmon: Not yet. It is possible to get suggestions after the revising. For instance, look at Oyu Tolgoi. Their disclosed information is exhaustive. Due to it we think that it is doable. At the moment, revenue and expenditures are written in the report in total amount. So, with the project-level reporting we are going to disaggregate all generated revenues and incurred expenses and inform public about the profitability and benefits of the mining project.

G. Oyuntuya: Does it mean that companies operating in many branches should submit project-level reporting? If the company has only one project should not report like this.

B. Erdenetsog: Yes. Only companies holding many licenses and operating in different provinces or soums such as Mongolroostsvetmet should submit it. We will include in the 2017 report only certain questions. For example, what means a project, which payments and revenues will be included, who will report and make some changes in e-reporting. You have to decide on the term, approve a template and make some changes in the e-reporting system within 2018 so that everything is prepared for the 2019 report. In the base information we will add a new question whether the company has more than one project. If yes, the report should be changed so that revenue and expenses will be disaggregated project by project and companies could put in the data. This will be the most suitable way to change the report.

Sh. Tsolmon: Thank you. Are there any suggestions to change draft decision?

B. Batbold: The draft decision states: "...finalize the revision of related template and approve the final version". We should have a common understanding at first.

Sh. Tsolmon: Shall we change the draft decision to "revise the related templates and get suggestions and opinions from the companies".

Decision made on the 2<sup>nd</sup> Topic:

"The Secretariat will be instructed to revise the related terms and templates, present it to the representatives of companies and get their opinions".

### **3.TOPIC: SYSTEMATIC DISCLOSURE OF EITI INFORMATION**

T. Zuunnast: During the MSWG meeting on 1 May 2018 was decided to build a working group for systematic disclosure of EITI information. Usually, in the first two quarters of the year we are selecting independent administrator. And then we do initial report and collect information. The reconciliation report will be finalized and approved in the 4 quarter. According to the EITI standard requirements following information shall be disclosed: legal framework of extractive industry, budgetary revenue policy, mining industry, largest exploration projects, state participation in mining industry, revenue partition, beneficial ownership, management, expenditure, license awarding process, license registration, license grant and contract. The International Secretariat of EITI conducted a study in March 2018 whether Mongolia was ready to mainstreaming. The result of this study was that 70% of information is publicly open and 30% needs to be disclosed. The International Secretariat of EITI gave concrete recommendations regarding this. In order to fulfill these recommendations, we need a Government resolution or National council's decree. Moreover, in the 2018 Government program is written that there will be draft law on transparency of minerals sector. In the draft law on Mining, the Ministry of Mining and Heavy industry inserted a whole chapter about transparency in the mining. But this draft law has been stopped. Owing to it the draft law on minerals sector transparency will be continued. I would like to vote on what will be included in the law and suggest that old legal working group should work together again. This draft law was drafted and submitted by the last Government to the Parliament. And it was discussed by the Economic Standing committee. At the time, the Parliaments plenary power ended. We should assess the current situation, add anything what you think are important and make better draft law. I would like to ask your opinion regarding a Government resolution regarding mainstreaming.

G. Ganbat: Contract information is one of this information that needs to be disclosed. Based on the contract information, we build a unitary data base. Information about beneficial ownership and registration of license at the MRPAM are not complete. Cadastral information needs to be updated. Information about tender process of license awarding was given to us in written form. This needs to be also disclosed. Furthermore, information regarding SOE's, human resources given by Ministry of Labor, economic benefits of mining sectors, money distributed by the Ministry of Finance to the local development fund (what kind of equation is used to divide the money) shall be disclosed and shall be uploaded to the websites of respective organizations. Norway is the

only country which disclosed information fully. The International Secretariat gave a recommendation regarding collecting information from 200 companies. Around 20 companies pay 80% of state revenues and we collect information for the reconciliation report from too many small companies which pay less to the government. Is it necessary? Also, the International Secretariat recommended that we should transfer information receiving part of the e-reporting system to the Ministry of the Mining, Heavy Industry and review the reporting timeframe. If we fulfill these requirements, we do not need to report every year and independent administrator is no more required. In general, it means that independent administrator is no longer needed within 1-2 year. Also, we cease to print the report in paper form.

D. Sukhbaatar: What responsibilities have the parties in the systematic information disclosure? In other words, how will the ministries participate? For example, for what are the Ministry of Mining and Heavy Industry and the Minerals Resources and Petroleum Authority responsible?

T. Zuunnast: We discussed about what needs to be done to implement these recommendations. A government resolution or amendment of a law? If it is a government resolution, the responsibilities of the participants shall be clear. The responsibility of the companies is a disclosure of information with minimal differences.

G. Ganbat: Through the government resolution #222 the responsibility of the Government to disclose information is warranted. In this resolution the responsibilities of the government agencies are clear defined. As for the companies, they are responsible for submitting a report in accordance with paragraph 48.10 of Minerals Law. It is better if it could be added into a law.

Sh. Tsolmon: Have you done any studies regarding what problem arises when certain Ministry submits a report?

G. Ganbat: Yes. Some have problems with a computer software. Cadastral information system needs an improvement. The members shall decide whether the information receiving part of the e-reporting system will be transferred to the Ministry of Mining and Heavy Industry or the Minerals Resources and Petroleum Authority.

B. Batbold: If it is transferred to the Ministry, there is a possibility that it might vanish is not it?

G. Ganbat: For the stability of the e-reporting system in the future, we are transferring it to the government agency. If the funding of the Secretariat stops, a question will arise, who will continue the work on the e-reporting system.

B. Delgermaa: Mr. Alex Gordy from the International Secretariat was here. He studied the situation, met some officials and spoke about the problems the Ministries have. Before a government resolution is issued, there should be a discussion about the human resources or organizational possibilities of that certain agency in regards of submitting report. The government resolution shall be issued based on this discussion. If not, that agency fails the implementation. I think that there should be a working group with including the representatives.

B. Batbold: If it is transferred to another ministry, the initiative might disappear.

T. Zuunnast: I think that to ensure a stability of the Secretariat, we shall submit our draft law and include the expenses of the Secretariat in the Prime Minister's package. It would be good if we could legitimize that the Secretariat is responsible for the e-reporting system.

D. Sukhbaatar: That is good idea. If not, it could be abandoned.

B. Batbold: If we transfer this large initiative to the Ministry, one officer will be responsible for it. And that officer will not be responsible only for this project. It will have other responsibilities.

T. Zuunnast: We will meet the Minister next week and talk about the current challenges and specially submission of the draft law on transparency in minerals sector. If the Minister approves we should organize a meeting and start to work. I suggest that we add some people to the working group of information disclosure. In 2015, the concept of the draft law was accepted and submitted to the Parliament. There was a working group chaired by Uyanga, member of Parliament.

Sh. Tsolmon: In the decision of the 3<sup>rd</sup> topic, we shall add following: to edit and finalize, present to the working group, and expand the sub-working group. Is there any volunteer who wants enter sub-working group? Well, Sukhbaatar and Oyuntuya will be added. Chairman T. Zuunnast and the Secretary G. Ganbat are getting new members. We need one company's representative. That was productive idea. Thank you for your participation. Today's meeting ends here.

Decision made on the third topic:

"D. Sukhbaatar, coordinator of the NGO " Responsible Mining Initiative", and D. Enkhbold, Executive Director of Mongolian National Mining Association, were added to the sub-working group. The sub-working group shall write a draft Government resolution and present it in the next Working Group meeting".

The meeting ended at 12.00.

Meeting minutes reviewed by:

Senior Advisor to the Prime Minister,

EITI National Council

secretary and head of working group

B.Enkh-Amgalan

Secretary of the Working Group

Sh.Tsolmon

Meeting minutes was taken by:

Financial officer of the Secretariat

A.Otgontungalag