

**Minutes of meeting of National Council of Mongolian Extractive Industry
Transparency
3 March 2010**

The 6th meeting of the EITI National Council opened at 12.45 pm, 5 March 2010, in the Government House “G” hall.

Members present: D. Zorigt (Mineral Resources and Energy Minister and National Council Deputy Chairman); S. Bayartsogt (Minister of Finance); S. Mendsaihan (National Statistics Office Chair); Ch. Sangaragchaa (Independent Agency Against Corruption Chair); N. Alгаа (Mongolian National Mining Association CEO); I. Idesh (Erdenet LLC General Manager); U. Bayarhuu (Ivanhoe Mines Mongolia Inc Officer); D. Luuzan (Areva Mongolia LLC Officer); P. Erdenejargal (Open Society Forum CEO); N. Dorjdari (Open Society Forum Manager); D. Tserenjav (Transparency Foundation Coordinator); L. Nyamsambuu (Confederation of Mongolian Employers President); N. Bayarsaihan (Steps Without Boundaries NGO CEO); and B. Dolgor (National Council Secretary and Senior Prime Ministerial Advisor).

Also present: E. Sumiya (Cabinet Secretariat Senior Officer and MSWG Secretary); D. Battur (Ministry of Finance State Secretary); D. Myagmardash (Ministry of Finance Accounting Policy Department Chair); B. Bathuu (Ministry of Mineral Resources and Energy, Mining and Heavy Industry Policy Department Chair); Ya. Purvee (General Taxation Department Specialized Inspection Division Chair); Sh. Tsolmon (EITI Secretariat Coordinator); T. Hurelchimeg (EITI Secretariat Officer); Ts. Jigden (Dalaivan Audit LLC Director-General).

National Council Member and Minister of Finance S. Bayartsogt opened the meeting and presented the agenda.

S. Bayartsogt: Good day to all. Today, the following topics are on the agenda.

1. Mongolia EITI Validation Report, produced by the joint validation team of Coffey International Development Ltd (UK) and Dalaivan Audit LLC (Mongolia), presented by Dalaivan Audit LLC CEO Ts. Jigden.
2. Ministry of Finance report on clarification of reasons for discrepancies of MNT 775 million identified by EITI Mongolia 2007 audit reconciliation, with proposed action, presented by Minister of Finance S. Bayartsogt.
3. Mongolia EITI Draft Action Plan for 2010, presented by National Council Secretary and Senior Prime Ministerial Advisor B. Dolgor.
4. Presentation on proposed draft amendment to Mongolia 2010 Budget Law to include costs of EITI Mongolia 2009 audit reconciliation and the same costs in the 2010 Budget Law, presented by Mineral Resources and Energy Minister and National Council Deputy Chair D. Zorigt.
5. Report on progress of EITI Mongolia 2008 audit reconciliation process, presented by EITI Secretariat Coordinator Sh. Tsolmon.

Let's open with the first item on the agenda.

I. **TOPIC:** Mongolia EITI Validation Report, produced by the joint validation team of Coffey International Development Ltd (UK) and Dalaivan Audit LLC (Mongolia), presented by Dalaivan Audit LLC CEO Ts. Jigden.

Minister D. Zorigt arrived at the meeting.

Ts. Jigden: Good day, ladies and gentlemen. Coffey International Development Ltd (UK) and our Dalaivan Audit LLC (Mongolia) produced the Mongolia EITI validation report; I was assigned to present the findings of the validation to this meeting (presentation attached).

Minister S. Bayartsogt asked for leave from the chair; Finance Ministry State Secretary D. Battur replaced him.

D. Zorigt: Thank you Mr Jigden for your presentation. Any questions?

P. Erdenejargal: I have one question for Mr Jigden. The first report was pretty good and positive; but the final report, modified with the incorporation of comments from the International Secretariat and assessing that Mongolia does not qualify on 5 criteria, did not seek comments and opinions of Mongolian stakeholders. In general, I agree with the findings, but think that validators modified their report within the framework of what they have seen and studied. Do validators have such a right? What do you think of it?

Ts. Jigden: There was no one who could respond to our queries on discrepancies, so we understood that there was no ownership on the issue; no one is responsible. The validators had no time for further investigation.

D. Zorigt: Any more questions? No. Comments?

P. Erdenejargal: I have a comment on the translation. The translation of "close to compliant" could be misunderstood by the public. Actually, we are implementing the initiative. The translation should be more like "close to meeting requirements for implementation."

D. Zorigt: What does it say in English?

P. Erdenejargal: Close to complaint.

D. Zorigt: Yes, it should be translated more like "close to meeting requirements." Unless we rephrase the translation, it may be wrongly understood by the public. Mongolia is definitely an implementing country. We have spent funds and produced 2-3 reports, established the National Council and the MSWG, and all our activities are well established.

Unless you have any other comments, let's move to the draft resolution. It was circulated to you earlier; any comments?

P. Erdenejargal: I have a question: are we going to publicize the validation report and our future plans?

N. Dorjdari: I have one comment. The validators have offered several recommendations. So what about making our plans in compliance with the recommendations and planning how to implement?

D. Zorigt: You say that our decision must involve action to be taken; so we need to include action for each recommendation.

L. Nyamsambu: The Validation Report is a really good report. So the recommendations should be included and implemented in the 2010 Action Plan; it seems that almost everything has been included in the draft plan, while some recommendations have been included in bulk.

D. Zorigt: OK, let's include these comments in our final decision.

RESOLVED TO:

1. Approve the EITI Validation Report from the joint validation team of Coffey International Development Ltd (UK) and Dalaivan Audit LLC (Mongolia) to be discussed at the National Council meeting.
2. Assign EITI Secretariat Coordinator Sh. Tsolmon to report approval of the validation report by the Mongolia EITI National Council to the EITI International Board and submit the final report to the international board.
3. Assign EITI Secretariat Coordinator Sh. Tsolmon to publicize the validation report, and assign Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor to oversee disclosure and publicizing of the process.
4. Assign the EITI Secretariat to publicize report findings and future goals, with the Government Press Office.
5. Assign Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor and EITI Secretariat Coordinator Sh. Tsolmon to include the recommendations in the Mongolia EITI Validation Report in the Mongolia EITI 2010 Action Plan and oversee implementation.

Passed unanimously.

N. Dorjdari: I have one piece of info for members. We are required to finish the validation no later than 19 March 2010. To get the certificate of completed validation, we must satisfy three requirements: first, discussion and approval of the report at a National Council meeting; second, publicize the discussion and approval; and third, fully pay the validators. So we have met and will so inform the media. What about the payment? Has it been made?

Sh. Tsolmon: As agreed, the final 20% of the payment is to be paid after approval by the National Council of the validation report. We have the money in our bank account. After this meeting, we will start processing; a payment slip will be signed and payment made. The payment cannot be made before 9 March, due to technical difficulties, but we have notified and agreed this with the International Secretariat.

P. Erdenejargal: These must be notified to International Secretariat.

D. Zorigt: Now, let's conclude this topic and move to next.

II. **TOPIC:** Ministry of Finance report on clarification for reasons for discrepancies of MNT 775 million as identified by the EITI Mongolia 2007 audit reconciliations, and proposed action (Finance Minister S. Bayartsogt was to make the presentation, but he left the meeting, so it was presented by Finance Ministry State Secretary D. Battur).

Finance Ministry State Secretary D. Battur spoke on the clarification of reasons for discrepancies of MNT 775 million as identified by the EITI Mongolia 2007 audit reconciliations, and proposed action (presentation attached).

B. Dolgor: Thanks you, Mr Battur. Any questions?

L. Nyamsambuu: Companies should submit tax reports based on audited financial reporting. They must be using data from this report for the EIT report. So, where is the discrepancy? Which party is misreporting?

D. Myagmardash: It is not exactly a financial report; it is a different report produced in accordance with different templates.

E. Sumiya: One clarification: The Ministry of Finance reports its receipt of material payment revenues such as taxes and fees from extractive companies, while the companies report material payments such as taxes and fees, but both report independently, with reconciliation by international auditors.

L. Nyamsambuu: Exactly. So which side do we suspect of wrongdoing? I believe we must first improve our methodology and introduce clear standards to the reporting process. Otherwise, the reports contain different data and don't match.

Ts. Jigden: On this issue, I comment as a professional auditor. Companies must submit their EITI report on a completed Template 1, no later than 30 March. Regular company financial reports must be submitted to the tax agency before 15 February. The EITI report is a statistics report. Financial reports are audited, while EITI reports not; as a result, these two reports don't integrate or link: that is the issue. The EITI set a threshold of MNT 200 million. If company revenue exceeds MNT 50 million, audit is a must. If it is lower, an audit is voluntary. Reporting agencies may be making mistakes, both intentionally and unintentionally. Audit is a process that collects evidence.

D. Zorigt: Can a regular financial report be used to reconcile this report? Companies with revenue exceeding MNT 50 million are audited anyway. So, isn't it all done if the financial report includes the EITI report? If reporting is found to be incorrect or insufficient, companies must have penalties imposed in accordance with the Audit Law.

D. Myagmardash: The EITI principle is different. Can the EITI report be produced by the time the government agency financial reports are audited?

Sh. Tsolmon: Actually, the reporting templates require that submitted data must match with data from audited financial reports. Actually, material payments and relevant reports are cash-based, while some are accrual-based, resulting in discrepancies due to payables and receivables.

Minister D. Zorigt left the meeting, called by the Prime Minister.

Ts. Jigden: Extractive industry companies must submit their EITI report to the General Taxation Department by 1 March. The reports are consolidated and sent to the Finance Ministry in April. This is just a statistics report. Financial reports are submitted on 10 February, much earlier than the statistics report. Financial reports are audited, while the statistics report is submitted much later, so, the two agencies that approve templates must re-visit them.

N. Bayarsaihan: It is said that there is a regulation for recording and registering donations; please explain.

D. Battur: The Regulation On Recording Donations and Aid was approved by Minister of Finance Resolution 45 (4 March 2010). As this must be complied with by all, it has been submitted to the Ministry of Justice for registration. All government ministries, agencies and local government administrations must comply with this regulation.

B. Dolgor: I ask Secretariat staff, is it possible to line up these reports in terms of timing?

Sh. Tsolmon: It is. Since January we have been working with the Ministry of Finance to improve reporting templates. We have so far developed several draft templates. It is widely said that the Budget Law will soon be amended, for which we are waiting.

L. Nyamsambuu: If we merge EITI reporting and financial reporting, as Minister Zorigt said earlier, the EITI principle will be lost. The EITI report must be separate, but some standards must be generally applied. We identify discrepancies, and are achieving our goals to some extent.

B. Dolgor: We don't mean to merge them, but we need to coordinate the timing of the different reports.

P. Erdenejargal: We are running late in terms of audit reconciliation; this is the biggest drawback. Our reports are produced after almost two years. Auditors therefore must check the retrospective date of two years earlier, and the data is often found to be outdated; as such the importance of our report is lost. We are now working on the 2008 report, and the 2009 report is waiting. Shall we produce both at the same time or how can we reduce this time difference to one year?

Sh. Tsolmon: EITI 2008 reporting is starting now. For the 2009 report, the government report will be completed by April, says the General Taxation Department. When financing issues are resolved, these reports can be completed this year. Here, we are discussing financing.

Ts. Jigden: We are told Mongolia is not meeting 5 of the 18 requirements. We are evaluated as only close to compliance because of the discrepancies and lack of verification of data meeting standards. I met the Ernst and Young auditors. Reconciliation of financial reports is a very troublesome work. They have had to fight for data for a long time, and finally got some figures. The legal regulation must be improved. Auditing should be highly valued, and financing must also be resolved.

B. Dolgor: OK, we have heard your comments on the issue. Any more comments?

RESOLVED TO: advise National Audit Agency Chair and National Council member Ch. Radnaa and assign State Specialized Inspection Agency Chair Ya. Sodbaatar to carry out a joint inspection of the National Audit Agency and State Specialized Inspection Agency on the discrepancies of MNT 775 million, verified by the EITI Mongolia 2007 reconciliation report and Finance Ministry conclusions, and report findings and conclusions to the National Council in the first half of 2010.

B. Dolgor: Now let's discuss the next topic, the EITI draft plan for 2010.

III. **TOPIC:** Draft Mongolia EITI Action Plan for 2010.

Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor presented the draft Action Plan (presentation attached).

N. Bayarsaihan: I have a question. What is the level of 2009 Action Plan implementation? If there are any unachieved targets, what were the reasons?

Sh. Tsolmon: We did not specifically make a 2009 Action Plan. The financing period was extended, but we implemented one plan from starting the EITI until validation. There are no unimplemented activities. The last planned work was the validation. The MSWG meeting concluded that the plan was sufficiently implemented.

P. Erdenejargal: I have a question on Point 1.8 of the draft Action Plan. Do we understand from this point that audit reconciliation will be financed by the government while the Secretariat will be funded by international donors, as planned?

B. Dolgor: Yes, you may understand that. The current project will finish in October, but we plan to keep at the current level and expand our operations. We need to raise funds for the plan. As to government financing, we are working on it.

E. Sumiya: EITI is being implemented with World Bank funding. The validator recommendation required more Mongolian ownership of the process, so we plan to finance 2009 audit reconciliation from the government budget. This will also be discussed next. The Secretariat aims at balanced participation of the three stakeholders, and it is appropriate to have international rather than government funding. We have requested financing from the EBRD and submitted a draft budget. We are also planning to ask the World Bank to continue current financing.

N. Dorjdari: One thing about training. We have run three regional courses with poor results. I do not think we should run training in the regions, but in individual aimags with large mining industries. It seems that we need to work harder with the extractive companies.

B. Bayarsaihan: I agree with Dorjdari. The EITI branch councils and companies attend regional workshops, but citizens don't, so training should be run in the aimags. As to action on communication and public events, we must work to build the capacity of local administrations, including aimag and soum governor administrations, and need EITI reports on aimags and soums. We also need to outsource civil society organizations for training, advertising and publishing activities.

Sh. Tsolmon: Actually, we have planned to run regional workshops differently.

P. Erdenejargal: Anything we run must be tied to other mining-related initiatives such as the responsible mining initiative and the PWYP coalition; the Secretariat must focus on integrating these activities in the Draft Plan.

L. Nyamsambu: Check the validation report and the breakdown bulk action in Provision 1.3 of the Draft Plan and correct one minor mistake: one activity was planned for both March and May.

B. Dolgor: OK, we have heard important ideas. Let's give training courses and workshops a more flexible style, aimag-based and region-based, and incorporate recent ideas. I think the plan must be flexible. Shall we approve the plan?

RESOLVED TO:

1. Approve the draft 2010 EITI Action Plan by incorporating comments from the National Council.
2. Assign Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor to oversee implementation of the 2010 Action Plan.

B. Dolgor: Do we agree?

All: Agreed

B. Dolgor: Now let's move to the next agenda topic. Minister D. Zorigt was to present issues on including necessary EITI-related expenditure in the government budget, but had to leave the meeting. So, we will skip to topic 5.

IV. TOPIC: Mongolia EITI 2008 audit reconciliation.

Sh. Tsolmon gave a presentation on progress of EITI 2008 audit reconciliation (presentation attached).

E. Sumiya: One comment. At the MSWG we agreed to include companies with reports of payments only. That means there is no receipts report from the other side. When we notified by formal letter that the company would be subject to audit reconciliation, 3 companies

submitted additional reports. The discrepancy might therefore be larger than in the previous report, but there will be proper explanations of why.

N. Dorjdari: Was only Petro China selected of the oil companies? Wasn't it possible to cover the other oil companies?

Sh. Tsolmon: The company selection was based on a government report. If we talk to auditors about increasing coverage, it will probably cost more.

B. Dolgor: I understood that the amount couldn't be increased.

P. Erdenejargal: It seems wrong to select a reconciler every year. Couldn't we come to a two-year contract?

Sh. Tsolmon: Our selection process complies with World Bank Procurement regulations; that is why we selection auditors only for a year.

D. Battur: Under the Public Procurement Law, bid selection can only be made if the financing has been resolved or made available. It is however possible to include funds for a two-year audit reconciliation in the government budget.

B. Dolgor: So, we have heard all your comments.

RESOLVED TO: 1. Agree the MSWG activities for audit reconciliation after discussing progress of the EITI Mongolia 2008 audit reconciliation.

2. Assign Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor and Secretariat Coordinator Sh. Tsolmon to oversee the EITI Mongolia 2008 audit reconciliation and present the results to the National Council no later than 31 May 2010.

B. Dolgor: Unless you have any other comments, let's move to the next topic.

V. TOPIC: Proposed draft amendment to the Mongolia 2010 Budget Law to include the cost of the 2009 EITI Mongolia audit reconciliation and the same costs in the 2010 Budget Law

Cabinet Secretariat Senior Officer and MSWG Secretary E. Sumiya gave a presentation on the draft amendment to the Mongolia 2010 Budget Law to include the cost of the 2009 EITI Mongolia audit reconciliation and the same costs in the 2010 Budget Law (presentation attached).

B. Dolgor: Any questions on the presentation?

S. Mendsaihan: The proposal for inclusion in the 2011 government budget is clear. But I have a question on the draft amendment to the 2010 Budget Law. Has it already been decided to amend the existing budget? What about the National Council requesting the government for finance from its reserve fund?

B. Dolgor: Actually, we expect that the existing government budget will be amended. To request funds from the reserve would be against the law prohibiting the financing of recurrent costs from the reserve.

D. Battur: I agree with Mr Mendsaihan. Without specifically requesting an amendment to the government budget, we could perhaps ask for financing from Cabinet.

B. Dolgor: OK, let's change this to a request to Cabinet for financing. Any other comments?

P. Erdenejargal: I propose to take out the part on bonuses for National Council members. The MSWG and bid evaluation committee work hard, so bonuses should be paid to members of those committees.

B. Dolgor: There is no need to take it out, as we don't know if it will be endorsed. So unless you have any more comments, that concludes today's meeting.

N. Dorjdari: What about future financing for audit reconciliation from the government and companies in rotation? Such a practice exists in countries such as Azerbaijan.

B. Dolgor: Let's put it that we study the possibility. Any more comments?

RESOLVED to: 1. Assign Finance Minister and National Council member S. Bayartsogt and Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor to ask Cabinet to finance the EITI Mongolia 2009 audit reconciliation from the 2010 government budget.

2. Agree to request the General Budget Administrator and Ministry of Finance for finance for EITI 2011 activities from the 2011 government budget.

B. Dolgor: Any more ideas or comments on these decisions? If no, let me sum up. We have discussed 5 topics. The Secretariat must work hard to implement the decisions of the National Council. Participation by MSWG and National Council members is also important in enforcement of our decisions. That concludes today's meeting; thank you all for your time. Happy Women's Day.

Meeting ended at 14.30 pm.

Meeting minutes reviewed by:

B. DOLGOR
Senior Prime Ministerial Advisor,
National Council Secretary,
Mongolia Extractive Industries Transparency Initiative

Minutes taken by:

T. HURELCHIMEG
EITI Secretariat Finance Officer