

**29<sup>th</sup> meeting of Mongolia EITI MSWG  
(14 December 2012)**

The Mongolia EITI MSWG meeting opened at 11am, 14 December 2012, in the Conference Hall of the Open Society Forum.

Members attending: N. Bayarsaihan (Steps Without Boundaries NGO head); E. Sumiya (of Government of Mongolia Secretariat Senior Officer); D. Bathuu (Mining Ministry Policy Implementation Regulation Department Chair); B. Hulan (Mining Ministry Officer); J. Iveelen (Finance Ministry Accounting Policy Department Officer); G. Zulai (Finance Ministry Officer); D. Enhtuya (General Taxation Administration Officer); B. Byambadagva (Mineral Resource Authority Division Chairman); D. Munhsaihan (Mineral Resource Authority Officer); A. Delgerbayar (Independent Agency Against Corruption Officer); N. Alгаа (Mongolian National Mining Association CEO); D. Sanchir (Erdenes Tavan Tolgoi LLC representative); D. Sanchir (Oyu Tolgoi LLC Officer); N. Dorjdari (Open Society Forum Manager); B. Bayarmaa (Huvsgul Dalain Ezed Movement NGO Head); D. Tserenjav (Transparency Foundation CEO); S. Otgonsaihan (My Mongolia-Motherland Movement NGO Head); D. Sengelmaa (Mongolian Environmental Protection Association Board Member); N. Narantsetseg (Baigal Ehyn Avral NGO Head); B. Batbold (Mongolian Environmental Civil Council NGO Board Member); B. Baigalmaa (Human Rights and Development Center Officer); Sh. Tsolmon (EITI Secretariat Coordinator and MSWG Secretary); present were 19 (57%) of the 33 EITI members.

Also present: Paul Moffat (EBRD Senior Economist); Jonathan Pell (Adam Smith International CEO) and meeting organizer B. Delgermaa (Secretariat Finance Officer).

I. **TOPIC:** Updated plan for Mongolia EITI Support Project by EBRD

N. Bayarsaihan: Thank you all for attending. The EBRD project is for EITI implementation in Mongolia, which was to start formally in August 2011, but for the past few months has been delayed for known reasons. To re-start the project, EBRD Senior Economist Paul Moffat and Adam Smith International CEO Jonathan Pell have come to Mongolia, and have been involved in two days of meetings for comments and clarifications on the new project implementation plan. I now offer the floor to our guests to present the new project plan.

Paul Moffat: Thank you. Good morning everybody. My name is Paul Moffat. I am responsible for EBRD TA projects for Mongolia. This is Jonathan Pell, project team leader. The project aims to strengthen the achievements and successes that have already been made. The project will target 6 specific issues. Jonathan Pell will give you project component details, and I will give a brief intro on why EBRD has decided to support Mongolia EITI.

The project formally started in August 2011, and we carried out some concrete action up to January 2012. Thereafter, the project was delayed for some time due to legal constraints. However, these have now been resolved; we now offer to re-start the project and have developed a plan for your review and comments.

Before speaking about why EBRD has decided to support Mongolia, I would like to tell you something about EBRD. You are probably aware that EBRD investing a considerable amount in Mongolian mining and other sectors. We are pleased to be able to contribute to Mongolia's economic development. Investment is important for any development, but we see that the country at present has an insufficient sustainable development policy and the investment does not adequately benefit people. To ensure sustainable development and bring more public benefit from investment, accountability and transparency play a key role. EITI is an important tool for ensuring and mainstreaming this accountability and transparency at an international level. Therefore, EBRD has decided to implement a project to support Mongolia EITI implementation, and we hope that the project will give concrete benefit. The project will be carried out in 6 main activity areas, and the new plan includes all these areas. However, we have made some changes in response to your comments, as well as considering the policy of the newly-established government. For example, we have included some new activities you requested, proposed new project implementation methodology, changed the project team and finally aim to include more national consultants. Now, I'd like to invite Jonathan Pell to present the new plan.

Jonathan Pell: Good morning. As Paul has just said, I am in the project team representing the Adam Smith Institute Australia Office. Australia has some similarities to Mongolia; for example, the mining sector is the backbone of the economy and the country is quite dependent on the mining sector. Mongolia is an EITI-implementing country while Australia has recently signed up to the EITI and is holding the 6<sup>th</sup> EITI International Conference in May 2013.

I am happy to have the opportunity again to work in Mongolia. Two years ago I worked with the National Taxation Administration as part of an ADB-funded project. Now, let me offer my presentation on the project plan, in two sections. First I will outline the project objectives, and then describe the implementation (presentation attached).

N. Bayarsaihan: Thank you. The project will be of great importance in supplementing the necessary skills and capacity that we still lack for effective EITI implementation. It will be implemented with a considerable funding amount, so we need to pay considerable attention to the project. Questions and comments, please?

B. Bayarmaa: I asked at yesterday's meeting how the project will be monitored to ensure successful implementation. I hope that the section titled Institutional Capacity Building will indicate monitoring. Second, when the training is run by foreign trainers, we have many problems, such as translation difficulties that do not properly convey the context. So the section on Training must put more emphasis on national trainers, and possibly include Training of Trainers. If trainers are picked from civil society, we will be enabled to organize the training ourselves. So I request an emphasis on this.

J. Pell: Thank you for your comments. In monitoring, there will be three levels or types. First, the Adam Smith Institute has its own tools for monitoring and evaluation, meeting international standards. Obviously, we also strive to make this project effective and beneficial. Second, the EBRD has its own monitoring criteria which we must meet. Third, there is internal monitoring of EITI implementation in Mongolia, in particular of strategic policy

implementation. I agree that this is very important. Just yesterday we talked about institutional capacity-building, eg improving EITI Secretariat monitoring and strengthening public oversight by increasing sub-national level responsibility. As to training, we agree with you. Organizations like us, which work at the international level, have only limited abilities to reach rural areas. Therefore we will assess training needs in partnership with you and develop relevant plans. We will be open to your comments. I would like to highlight that we do not plan for foreigners to run the training, and the course will be translated into your language.

B. Adiya: I have two comments. First, Part 6 of the Project Activities talks of an International Study Trip. This is to compare capacities built by the project with international benchmarks, and to share experiences. So it should not be a separate activity, kind of over-exaggerated. It could be included under the Training section as a study tour. Second, the project will probably produce final documents as deliverables. We will need to pay more attention to the Mongolian translation, as for example the material given to us today.

J. Pell: As to any international study trip, we will be happy to accept any recommendations for clear and concise development of the plan. An international study tour could be a sub-section of a program. For instance, if we want to see e-reporting work in Ghana, we could include an international study tour under that sub-section/program.

Sh. Tsolmon: Thank you. Being responsible for the project, I am quite well informed. However, I do need some clarification, just to make sure nothing is forgotten or omitted. We would like to get frequent and detailed information on project costs. In the past, this data was scanty, which is why the project was delayed. Second, there is a large budget for the introduction of e-reporting which is not detailed in the plan. It should be clear and detailed. Third, the project will probably involve extensive cooperation with MSWG members. The MSWG members have spent a lot of time, resources and labor on the initiative, so I ask: would it be possible to pay members for their participation in project activities?

P. Moffat: As with project financing and costs, we included detailed breakdowns to the Finance Ministry, Secretariat and National Council when we submitted the project documents to Finance Ministry for registration. Were they not distributed to MSWG members, Tsolmon?

Sh. Tsolmon: The previous estimates were delivered.

P. Moffat: We have not updated the previous cost estimates and projections. First we have to agree on activities and priority areas. When these are finalized, it will be possible to make estimates and projections on project costs. As with the e-reporting system, we will conduct the necessary studies and present findings to the MSWG and government. As to a fee for project participation, it is probably not possible because of bank policy. My apologies.

B. Batbold: I want to include in the plan the establishment of an EITI Information Center in major soums, although not in every aimag. Disseminating information to the public through these information centers will be truly important.

P. Moffat: Good idea. However, that is not part of our training program; we will check again.

N. Alгаа: Last year the project stopped for a while. I am happy that it has been restarted. I don't know whether we need to search for reason anymore. It stopped mainly because of project costs and approval of the consultant program/agenda. It was not stop by the international consultants - we stopped it ourselves. It is said, "Don't look a gift horse in the mouth." We probably don't need to talk about costs and whether it should be more or less; that only results in delay. We need to consider this more, and I have some comments. I think that EITI must have a stand-alone law. Issues of institutional capacity-building must be discussed along with the law. The law should clearly lay down how the institution should work, or we will be stuck with World Bank financing. I am also concerned that we will be late unless we give our EITI-related comments before adoption of the Minerals Law. Next, training issues. We have not been able to reach agreement on training content. Actually, there are two types of training, one on how to produce company reports. But we need to focus on training about public awareness-raising and education. In fact, only the National Council and MSWG-related parties fully know about the EITI; other stakeholders, such as Parliament, Cabinet, companies and the community, have limited knowledge. So, the training must concentrate on raising public awareness and enlightenment. As to the legal environment, the MNISO26001 standard on Corporate Social Responsibility was endorsed in February 2012. I would advise that we consider this standard in developing the draft law. When the proposed plan is compared to previous plans, we see that many issues on which we had concerns and comments have been included and enhanced. We are going to have a Technical Sub-Council and more national consultants; that is worth mentioning. So we need to implement the project as quickly as possible to see outcomes. We will call on our members for active project involvement.

J. Pell: Just briefly about the training. We will run four types of training courses for the public. As planned, the first will be in partnership with government agencies; the other three need your comments and inputs. Please share your ideas on how to make these courses most effective.

E. Sumiya: Thanks for the project introduction. I am one of those who are trying to make this project as successful as possible. The final project goal is to eliminate barriers and difficulties that we meet in EITI implementation. But the documents developed by the former project team were almost useless empty paper. I certainly saw them as blank paper. Compared to them, the current new plan is much clearer. In terms of law, we need thorough studies of the Mongolian legislation. If we propose a bill without studying current valid legislation, it won't go far. So I would like to ask for inclusion of "study of law" as an objective. Second, we need to include development of specialized training modules, such as for company managers, for accountants, for government officers and for citizens, and advanced levels for each. This will be a legacy and something tangible that we will have for future training courses. Third, on the need for national consultants. When we are finished, our national consultants will remain. The international consultants will make recommendations and leave after getting paid. So please highlight building the capacity of our national consultants. In particular, I want to ask MSWG members and representatives of civil society - I would not force government officers - to compete to become national consultants. Please get prepared and trained as national consultants, keeping all knowledge and information. Thanks.

D. Sengelmaa: In terms of content, I agree with Mr Sumiya. The plan strictly lays down that a technical sub-committee will have two members representing each stakeholder. However, I differ. Creating the legal environment does not solely relate to mineral resources, but also includes international trade, finance and the environment, a much broader scope, so we need input from various consultants. Two representatives on the committee are not enough. I'd also ask to allocate finance for translating into Mongolian broad-scale scientific research, carried out internationally, for delivery to MSWG members and the community.

B. Byambadagva: Task Four, on e-reporting, calls for an assessment of the feasibility of e-reporting. In Mongolia, it has been a long time since we started receiving tax reports and mine plans electronically. I think that there is no need for an assessment, so we should remove the section on conducting assessments. In agreeing with Mr Sumiya, I support activities that would remain in Mongolia.

N. Bayarsaihan: I have a comment. Under this project, we must prepare national trainers. Civil society organizations conduct many training sessions, particularly in action-based training. Within the framework of the PWYP Coalition, we also run tri-partite dialogues in rural areas. The national trainers should be picked from civil society, particularly those who have already learned to work with the local community and in the local context. Second, Mr Sumiya stresses building the capacity of national consultants, who will stay in Mongolia. It is important to include this in the project plan.

P. Moffat: My response to the comment relating to e-reporting is that I don't think the existing reporting system has indicators for EITI reporting. Therefore we need to study what the existing reports include. Obviously, then Mongolian companies will work on the development of software. The government must agree. As to training, the content is two-fold; one is on running training courses. We plan modules for all 12 training courses, and will be happy to work with stakeholders to develop detailed plans. The other thing is that the overall content of the training must be clear and understandable to everyone. We will mainly focus on this, and will do our best to make the project effective and beneficial.

N. Bayarsaihan: Any other comments? Are there any ideas on who should be included in the technical sub-committees?

Sh. Tsolmon: One clarification: two members from each stakeholder group; the World Bank and EBRD have recommended that they have observers. We have prepared a draft list of technical sub-committee members, with skills and experiences; please check it and comment.

D. Bathuu: I propose B. Byambadagva from the Mineral Resource Authority to represent the Mining Ministry.

B. Byambadagva: Our officer D. Munhsaihan has been designated as EITI-responsible officer for over a year. We have been making good progress because we have a designated officer, so I propose Munhsaihan to be on the sub-committee rather than me.

P. Moffat: I think it would be best to have 6 permanent members of the technical sub-committee. Obviously there will be a designated working group for each of the 6 project components/programs. The sub-committee responsible for overall administration of the project should be small.

N. Dorjdari: I think it is right to have a smaller technical sub-committee. As to the 6 issues or program areas, I think we need to form sub-committees by grouping the program areas. For instance, it would be better to have Finance Ministry and Taxation Administration representatives on the committee on the reporting template. Let's leave it unfinalized now, but we can have email correspondence through Tsolmon and reach an agreement between the heads of stakeholder groups, Adam Smith and the EBRD.

Sh. Tsolmon: No objection. Actually I proposed that.

E. Sumiya: Let's agree that we will have a technical sub-committee; but we probably don't need to decide now on the chair and members. Along with Dorjdari, I support group issues and establishing committees. Maybe three committees, each party to chair one. What about this as a solution?

N. Dorjdari: Not 3, but 2 could be fine. Three is quite a lot.

N. Alгаа: I support the proposal from Dorjdari. But the technical sub-committee will have overall coordination of the project, so we could have 6 members, then have additional members for each program area; this could be a decent option.

P. Moffat: The technical sub-committee could have 6 permanent members, with more members added later to each committee according to emerging issues. But, it is hard to determine that now.

N. Bayarsaihan: OK, let's have 6 members. We'll let stakeholders agree internally on who will be on the committees, the names of their two members to be sent to the Secretariat next week, as agreed. Now I will read the draft meeting resolution. First, we resolve to start project implementation effective 14 December 2012. Agreed? Yes, all agreed. Second, we assign the legal team to complete the draft law by the end of January. In fact we must develop the draft law before February 2013, because we don't want to be late and the draft Minerals Law will soon be discussed in parliament. How do we formulate the resolution for this part?

D. Bathuu: It is wrong for us to prescribe dates; rather we should ensure activities are carried out to meet deadlines.

N. Bayarsaihan: OK, let's support the timeframe and dates stipulated by the project team, and let's monitor meeting of deadlines.

Sh. Tsolmon: Just a clarification on a date: it says the international study tour is to be in May. Probably that will not be consistent with our schedule, because it will coincide with the international conference. It should be postponed until October.

J. Pell: Dates and deadlines in our plan are not final. After this meeting, we will plan the timeframe in more detail, but we need your comments.

N. Dorjdari: Project implementation status must be reported to MSWG maybe once every two months. This will make us informed enough to participate.

P. Moffat: Yes, that is a good idea. We require the Adam Smith Institute to report on a fortnightly basis and we monitor every two months.

D. Bathuu: Will be the draft law be fully developed by February?

P. Moffat: We have done considerable work on the draft law. It is not work that must be started anew, but we have some work to do, such as updating some old documents, revising and checking. So I think we will be able to finish it. If you agree on the plan we have presented today, we would like to get a letter from Mr Gansuh stating formal approval. This will enable us to restart the project formally.

N. Alгаа: In general, we support the draft plan, and the resolution could say a detailed timeframe will be presented to MSWG; we could attach these meeting minutes.

N. Bayarsaihan: But we will want to check if comments we made today are included in the final version. So we need to email it to MSWG members first for final comments. Do you agree?

P. Moffat: We will include your comments in the plan, and send a formal letter and final version of the project plan to Chairman Gansuh. A copy will be sent to Tsolmon, and I hope he will circulate it to you. And we look for a formal letter from Mr Gansuh stating that the project plan is approved. This will make our work easier.

N. Bayarsaihan: OK, agreed. This concludes our discussion on the first agenda topic. Thanks to Paul Moffat and Jonathan Pell for your presentations.

**RESOLVED:** 1. MSWG members reviewed a draft plan for an EITI Support Project by EBRD and all agreed the project in terms of overall content.

2. Agreed with EBRD and ASI that the project team will finalize the project plan by including MSWG member comments at the 14 December 2012 meeting, with a final version to be sent to all members through MSWG Chair L. Gansuh and the EITI Secretariat.

3. Assigned EITI Secretariat Coordinator Sh. Tsolmon to send a formal letter to EBRD and ASI, signed by MSWG Chair and approving the project.

4. Assigned the project team to report on project implementation status on a monthly basis to the MSWG meeting, and MSWG to monitor and check project deadlines and timeframe.

5. Agreed on a 6-member technical sub-committee, as proposed by EBRD and ASI, stakeholders to submit their member names to the EITI Secretariat no later than 21 December 2012.

II. **TOPIC:** 6<sup>th</sup> EITI International Conference, 23-24 May 2013, in Sydney, Australia.

EITI Secretariat Coordinator Sh. Tsolmon spoke on the conference and offered proposals (presentation attached).

Sh. Tsolmon: We want to have as big a representation at the conference as we can; if possible 10-15 delegates. The International Secretariat can pay the expenses for 4 delegates, while the Secretariat can pay for 3-4 delegates. Companies will basically cover their own expenses.

N. Dorjdari: This event is very important. At the conference in Australia the EITI charter/rule will be amended, so we must have a large delegation. We have discussed this internally and have nominated our Coordinator N. Bayarsaihan as delegate, with expenses paid by the International Secretariat. My expenses will be paid by the International EITI as I am an International EITI Board Member. I also formally notify that CEO Erdenejargal of OSF will attend, expenses borne by us. I would also like to request selection of at least two civil society delegates, expenses to be borne by International EITI. Civil society organizations have some difficulty in paying expenses.

As Rio Tinto is represented here, I'd ask whether it might be possible to organize a tour to an RT Australian mine when our people arrive in Australia in May. As to costs, we might be able to cover our costs for a mine visit. I think that it is important for civil society to see the future Oyu Tolgoi there. I therefore ask you to pass the request to your senior management.

B. Bayarmaa: I agree with Dorjdari. If we see with our own eyes what will be built at Oyu Tolgoi, civil society - especially those opposing OT - could have more belief and confidence.

N. Bayarsaihan: OK, let's agree formally to name our delegates to Tsolmon today.

**RESOLVED:** 1. Agreed to formally submit names of delegates of each party for the 6<sup>th</sup> EITI International conference in Sydney, Australia, 23-24 May 2013, to EITI Secretariat Coordinator Sh. Tsolmon.

III. **TOPIC:** Other issues. Approval of evaluation committee members for recruitment of an officer (Finance Officer) for the EITI Secretariat.

Sh. Tsolmon: Here we have an issue. You will be aware that our Communication Officer S. Batbayar has left the job. So we advertised recruitment of a Communication Manager. Our Finance Officer Delgermaa has applied for this position. If Delgermaa is chosen, we will have to recruit a new Finance Officer. If she does not qualify, she will remain Finance Officer. This is just a clarification.



N. Dorjdari: I'd like to address the Finance Ministry and General Taxation Administration. In our report, MNT 2.1 trillion was shown as revenue from the extractive industry, but the Finance Ministry says it was MNT 1.3 trillion. I'd like to ask for an explanation of such a big discrepancy. As I see it, the EITI report includes many companies that work across multiple sectors e.g. the Gatsuurt LLC has both crop planting and mining, and pays a lump tax sum. Is it possible to report the tax paid on its mining business as a separate amount? I'd like to ask for a clarification and suggestions of possible solutions. The reason is that we focus on ensuring transparency in the extractive industry. If our reports include revenues from other sectors, it derails us from the main principle.

Second, I have a question for Chairman Bathuu. The EITI International Board sent you a formal letter about consultation with governments of implementing countries on how contract transparency can be ensured. Briefly, the letter asks whether contract transparency can be tied with the EITI, and proposed 4 options: [1] making it a formal requirement; [2] including it under certain conditions, such as only new contracts; [3] making those provisions transparent which are not subject to confidentiality; and [4] individual countries making decisions. A letter asking about these four options must have been sent to Minister D. Ganhuuyag. Did you receive this letter? If so, have you replied? If so, what was the content of your reply?

D. Bathuu: I know that we received a letter. Our Department for Strategic Policy and Planning is working on the reply.

N. Dorjdari: Finally, it seems that stakeholders should chair MSWG meetings in rotation. My suggestion is: why don't we hold the next meeting at OSG, not at the Mining Association as usual, and thence at company venues, as part of their participation?

N. Bayarsaihan: Thank you. Shall we construct a draft resolution saying that MSWG assigns the Finance Ministry to look at options for separating company mining tax from tax on other sectors and submit recommendations to MSWG?

B. Byambadagva: I think that it is impossible this year. When the Mineral Resource Authority received the annual mine plans from companies, we asked the same from the General Taxation Administration, to list separately tax paid on mining. For four consecutive years the General Taxation Administration has replied "impossible."

N. Bayarsaihan: This is a truly important issue. We must study this. Let's put this in the meeting minutes. I hope you all understood the importance of chairing the MSWG meeting in rotation. That concludes today's MSWG meeting. All best wishes to you.

**RESOLVED:** 1. Approve members of evaluation committee for recruitment of an EITI Secretariat Communication Officer as attached.

MSWG Meeting finished at 1.10 pm.

Meeting minutes reviewed by:

N. Bayarsaihan  
PWYP Coalition Coordinator, Steps Without Boundaries NGO Head

Minutes taken by:

B. Delgermaa  
Finance Office, EITI Secretariat