

**Minutes of meeting of National Council of Mongolian Extractive Industry  
Transparency  
24 June 2010**

The 7<sup>th</sup> meeting of EITI National Council opened at 2 pm, 24 June 2010, in the Government House “G” hall.

Present: D. Zorigt (Mineral Resources and Energy Minister and National Council Deputy Chair); T. Ochirhuu (Deputy Finance Minister); Ch. Sangaragchaa (Independent Agency Against Corruption Chair); N. Alгаа (Mongolian National Mining Association CEO); Ch. Radnaa (National Audit Agency Chair); I. Idesh (Erdenet Mining Corporation General Manager); A. Munhbat (Oyu Tolgoi LLC VP); N. Dorjdari (Open Society Forum Manager); H. Ganbaatar (Confederation of Mongolian Employers CEO); B. Dolgor (Senior Prime Ministerial Advisor and National Council Secretary).

Also present: E. Sumiya (Cabinet Secretariat Senior Officer and MSWG Secretary); D. Myagmardash (Finance Ministry Accounting Policy Department Chair); B. Erdenebileg (Mineral Resources Authority Deputy Chair); B. Bathuu (Mineral Resources and Energy Ministry’s Mining and Heavy Industry Policy Department Chair); Ya. Purvee (General Taxation Department Special Inspection Division Chair); Oyuntsetseg (General Taxation Department Officer); E. Oyun (Division of Petroleum Authority Chair); Sh. Tsolmon (EITI Secretariat Coordinator); T. Hurelchimeg (EITI Secretariat Finance Officer); B. Osorgarav (Ulaanbaatar Audit LLC CEO); N. Erdenetsogt, B. Munhbayar, I. Saizmaa and Ch. Nomunchuluun (Ulaanbaatar Audit LLC Auditors).

Mineral Resources and Energy Minister and National Council Deputy Chair D. Zorigt opened the meeting and introduced the agenda.

D. Zorigt: As you all know, Mongolia must meet requirements and implement assignments by September to become EITI-compliant. The National Council has been assigned to resolve some pressing issues and establish the necessary legal environment for compliance. So let’s start today’s meeting; the agenda has the following items:

1. Ulaanbaatar Audit LLC CEO B. Osorgarav will make a presentation of the 2008 EITI Mongolia reconciliation report, conducted by Hart Noirs Ltd (UK) and Ulaanbaatar Audit LLC (Mongolia).
2. Presentation by Senior Prime Ministerial Advisor and EITI National Council Secretary B. Dolgor on decisions of the EITI International regarding Mongolia EITI validation and the status of action to implement International Board decisions.
3. Cabinet Secretariat Senior Officer and EITI MSWG Secretary E. Sumiya will present a draft mid-term (2010-2014) strategy for EITI implementation in Mongolia.
4. Presentation on the methodology and guidelines in calculating payment materiality by Cabinet Secretariat Senior Officer and EITI MSWG Secretary E. Sumiya.
5. EITI Secretariat Coordinator Sh. Tsolmon will present the process and status of 2009 EITI reporting by companies and government agencies.

Any comments on the agenda?

B. Dolgor: I propose to reduce the 10-minute time limit on presentations to 5 minutes.

D. Zorigt: Accepted. Unless there are any other comments, let's start.

**I. TOPIC:** 2008 EITI Mongolia audit reconciliation report by Hart Noirs Ltd (UK) and Ulaanbaatar Audit LLC (Mongolia).

B. Osorgarav: UK-based Hart Noirs and our Ulaanbaatar Audit LLC formed a consortium to produce the 2008 EITI audit reconciliation report. I present the final reconciliation report to members of the National Council (presentation attached).

D. Zorigt: Thank you, Mr Osorgarav, for your presentation. Are there any questions?

Ch. Radnaa: It seems that discrepancies of MNT 420 million are unresolved. Why? Lack of authority and power? Lack of human resources? Not enough time to fit it in? You say that we must carry on with the reconciliation. What should we check? Why don't we get the companies we are paying for the service to complete the work? Our state auditors can carry out the remaining reconciliations without fee, but we don't have any budget for per-diems or travel costs.

Sh. Tsolmon: The auditor contract does not say that all discrepancies must be checked and followed-up. But it does say that reconciliation must be completed within 45 working days. I think the auditors have performed their duties as laid down in the contract. The auditors have arrived at the level they can check for; I guess any future inspection must be carried out by our professional agencies.

B. Osorgarav: We also have some comments. During the reconciliation, it was commonly observed that EITI is thought of as a volunteer-based NGO, so parties are reluctant to report. Our auditors work involved very high burden and stress. Most importantly, a lack of system ensuring responsibility and sanctions resulted in companies and government agencies being reluctant to spend much time responding to our requests.

Ya. Purvee: Among recommendations is one that says the operation and internal networking of the tax agency must be improved. We record all taxes and payments under 17 stand-alone laws. Do you believe that the overall tax office operation is insufficient? Or just the part relating to the EITI?

B. Osorgarav: Let me clarify that our recommendations are not for the overall tax system, but only for EITI reporting. When we presented our reconciliation report to the MSWG meeting, we had identified discrepancies worth MNT 8 billion. After working closely with Mr Purvee, we managed to reduce the discrepancies to the present figures.

D. Zorigt: I have several questions. Is anyone present from the Environment Ministry?

Sh. Tsolmon: We invited Environment Ministry Officer Erdenetsetseg to this meeting, but just before the meeting she said she was unable to attend.

D. Zorigt: The previous meeting decided to send a formal letter, signed by me, to Minister Gansuh. An unresolved discrepancy of MNT 600 million was removed from the report; the remaining MNT 400 million discrepancy relates to environment costs and payments. So the largest discrepancies involve the environment. Why? Are the relevant officers not responsible?

N. Erdenetsog: Let me explain. The figures relating to environmental reclamation are unrealistic because they use a sample (benchmark) cost multiplied by the overall area; the result is just approximate. In particular, they multiply each square meter of area worked by MNT 500, then allocate the total to environment reclamation. In some companies, reporting templates were not completed by environment officers but engineering and geology staff.

D. Zorigt: As no Environment Ministry officer is present, let's assign that ministry to report back on its actions. Now a second question: with tax issues, we understand both parties. The tax office reports using a certain methodology on, for example, donations. At the previous meeting, we discussed integrating business financial reports received by the tax office with our EITI report. What action has been taken on this matter?

E. Sumiya: The Finance Minister issued a resolution on recording, spending and reporting of donations and aid, which will come into effect from this year's report.

Ya. Purvee: We have also provided comments on updating EITI reporting templates in relation to ordinary tax reports.

D. Zorigt: Another point: we pay considerable attention to finding out and reporting our implementation outbound. We should also know internally, particularly at the aimag, soum and agency levels, which company has given how much. For example, I want to see which company gave, and how much, to our affiliate agency, the Mineral Resources Authority. Imagine a citizen of Arhangai aimag: can he or she check how much was given to that aimag? Also, the report offers data from 46 companies. Are they all companies that have paid over MNT 100 million in tax to the government? Is any company not included?

Sh. Tsolmon: We are working on an easily comprehensible summary so that anyone, including company representatives and local community, can understand.

N. Erdenetsog: We can disaggregate the report by aimag and soum, and by recipient agency.

E. Sumiya: These 46 companies paid over MNT 100 million taxes as shown by a Finance Ministry report; 38 submitted a report, 6 did not. Involving companies that paid over MNT 100 million was a success from this year's reconciliation.

D. Zorigt: I need clarification. There are over 1,200 license holders, but only 46 pay over than MNT 100 million in tax; that means that there are companies falsely reporting or that don't pay tax. The Mineral Resources Authority can be said not to be able to perform its duties. Mineral Resources Authority Chair Erdenebileg: could you please comment?

B. Erdenebileg: It is estimated that about 30% of license holders are operating actively; that means about 300 companies. I don't know any more detail.

D. Zorigt: Please explain at the next meeting how many companies submit mining reports and how many pay over MNT 100 million in tax. I hereby assign this fixed term duty to the Mineral Resources Authority.

B. Dolgor: So over MNT 600 million of discrepancies in the report have been removed, but there is still doubt. What about the remaining MNT 400 million? Do we leave it or address the Independent Agency Against Corruption?

N. Erdenetsog: Most of this MNT 400 million, that is MNT 350 million, is service fees and charges, fees for bailiff service, road tolls, etc. Companies report these payments. However, it is impossible to find out which company paid what to whom.

D. Zorigt: When we cross a bridge at the Terelj national park, they charge MNT 3,000. Is that included?

B. Osorgarav: It is exactly those types of fees. Many companies pay such fees repeatedly, so the amount looks huge. The total is large, but is mainly composed of many small payments of MNT 1000, 2000, 3000 etc. It is not economical to track down MNT 1000 by going to a distant soum, so we talked to Mr Sumiya and others and agreed we need to introduce a materiality level.

H. Ganbaatar: Where is the international agency checking and verifying the report according to international benchmarks? Is a separate and independent agency? Or the taxation office?

Sh. Tsolmon: Reporting templates of other countries are quite simple, and they therefore have a relatively small amount of discrepancy. Our reporting templates have many indicators, so there is a higher likelihood of discrepancy. We are increasing the number of template indicators, so the likelihood is increasing.

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

N. Alгаа: I propose we classify environmental reclamation costs as a voluntarily reported payment. Let's leave that 50% of deposit for environment reclamation in the reporting template. I also propose removal of service fees and charges from the templates.

Ch. Sangaragchaa: Over 60% of the total discrepancy is for environmental costs and there is MNT 70 million of discrepancy in donations. Companies claim that they paid, but recipients deny receipt. Overall, MNT 4 billion was given to NGOs; to what NGOs and for what purpose? How, in the future, can we impose sanctions and responsibilities?

H. Ganbaatar: I think the present report is much better than previous ones. We must not refer to the report as if it is a financial audit. We must not place a burden on reporting companies by investigating more thoroughly. Fees should be removed from reporting requirements. I think we must promote companies that have submitted properly accurate reports and investigate companies with the largest discrepancies.

Ch. Radnaa: I insist that an auditor agreement must contain a clause that auditors will balance all payments and receipts. As long as they are being paid, they must reconcile to the

end. It seems you insist that we resolve this MNT 420 million discrepancy. We can do it without a fee, but we will need recovery of costs of travel to mines.

N. Dorjdari: First, it is correct that environment-related costs must be reported. As to fees, they must be covered; this category includes some large fees such as the customs service fee. Auditors can assess the materiality of payments. Companies claim that they paid, but government agencies deny receiving the payment. However, the government audit agency, responsible for checking discrepancies, says that there should be no investigation unless they are paid; that does seem irresponsible.

D. Zorigt: Unless there are other suggestions, let's conclude this issue after hearing a summing-up from the Finance Minister. Minister Ochirhuu, will you present?

T. Ochirhuu: I will make a presentation on behalf of Minister Bayartsogt (presentation attached).

#### **RESOLVED TO:**

1. Agree on the EITI Mongolia 2008 reconciliation report from the consortium of Hart Noirs Ltd (UK) and Ulaanbaatar Audit (Mongolia) and approve the inclusion of member comments.
2. Advise Auditor-General and National Council member Ch. Radnaa to investigate the unresolved discrepancy of MNT 420 million this year and report to a National Council meeting.
3. Note that the final report must be publicized through the websites of the EITI Secretariat, the Ministry of Finance, the Ministry of Mineral Resources and Energy, the Mongolian National Mining Association and the Open Society Forum.
4. Assign EITI stakeholder representatives (Mineral Resources and Energy Minister D. Zorigt, Mongolian National Mining Association President Damba and Open Society Forum CEO P. Erdenejargal) to get the final report discussed by each stakeholder group, and assign EITI Secretariat Coordinator Sh. Tsolmon to provide necessary support for organizing the dialogues.
5. Ask the EITI Secretariat and Working Group developing reporting templates and regulations for publicizing to finish the task immediately and submit the results to relevant agencies and ministries for approval.
6. Assign Finance Minister and National Council member S. Bayartsogt to organize training for ministry and agency staff responsible for EITI reporting, in cooperation with the EITI Secretariat, and provide guidelines and directions to government officers.
7. Assign the Environment and Tourism Ministry to study the 2008 EITI Mongolia reconciliation report, identify the reasons for discrepancies in environmental reclamation costs, take measures on calculating environmental cost reportage, suggest future action to the September meeting of the National Council, and assign National Council members to oversee enforcement of this assignment.

8. Agree that the EITI Secretariat will prepare for e-reporting of companies; the Finance Ministry and General Taxation Department will prepare e-reporting by government ministries, agencies, aimag, capital city, soum and district administrations; and take action to simplify and ease reporting procedures.

9. Assign Mineral Resources Authority Chair and National Council Member Bathuyag to check implementation of the mine plans of all license holders included in the 2008 Mongolia EITI reconciliation report against reported amounts of mined minerals, reported income from the sale of minerals, payments to central and local governments (data in the EITI report provided by government) and taxes paid to local and central government (data in the EITI report provided by companies), with technical assistance from the General Taxation Department and EITI Secretariat; and to submit a report and proposals for further actions to the September meeting of the EITI National Council.

10. Agree to include, in the Terms of Reference for audit reconciliation, that discrepancies in company donations shall be reported in disaggregated format by each ministry, agency, aimag, soum, city and district.

11. Finish the current EITI task of producing a summary report from each company, and reports of discrepancies in taxes, payments, fees and donations to each recipient ministry, agency, aimag, city, soum and district, report to National Council members and publicize.

12. Thank companies which had no discrepancy in the 2008 EITI reconciliation report and which cooperated with reconcilers.

13. Assign the Government of Mongolia Press Officer to publicize the 2008 EITI Mongolia reconciliation report in cooperation with the EITI Secretariat.

All agreed the final decisions.

D. Zorigt: Let's finish this topic and move to next. Dolgor will present.

**II. TOPIC:** Decision from the International EITI Board on Mongolia's EITI validation report and progress of action for implementation of international report recommendations.

B. Dolgor: I will make a presentation on the International EITI Board's decision on Mongolia's EITI validation report and progress of our actions in implementation of the international report recommendations (presentation attached).

B. Dolgor: Minister Zorigt has left the meeting, and we will continue. Any questions?

N. Dorjdari: One question. It seems that financing for the 2009 audit reconciliation will be included in the 2011 government budget, which means we are getting out of the cycle of doing audit reconciliations two years after the event.

B. Dolgor: We are discussing the inclusion of 2009 reconciliation costs in the 2010 government budget. Although the costs were not included in the recent budget

amendment, we are talking to the Finance Ministry about potential coordination in financing. We hope to have it included in the 2010 budget.

Sh. Tsolmon: We are also consulting about this with the World Bank. We could finance part of the reconciliation costs from our savings, with the rest from the government budget.

Ch. Radnaa: What are the costs of audit reconciliation?

Sh. Tsolmon: The first reconciliation cost us USD 103,000, the second cost USD 121,000 and the most recent cost USD 94,000. In other countries the government pays for finance audit reconciliation one year, and private companies the next year.

H. Ganbaatar: Why don't Cabinet include these costs in the government budget? It would probably not be possible to get the companies pay the costs.

B. Dolgor: A previous National Council meeting decided to get the costs defrayed from the government budget. No, let's aim to get a government resolution. Any more comments? If not, let's vote.

#### **RESOLVED TO:**

1. Assign Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor to intensify implementation of the International EITI Board decision on Mongolia's EITI validation report and progress of the international report recommendations, discuss progress at an MSWG meeting, and report to the National Council.

2. Agree that Mongolia EITI audit reconciliation and other costs should be financed from the government budget and submit the proposal to Cabinet.

3. Discuss the outcomes of action on the International EITI Board decision on Mongolia's EITI validation report at the next EITI National Council meeting.

B. Dolgor: Mr Sumiya, could you make a presentation about the third topic?

**III. TOPIC:** Approving mid-term (2010-2014) strategy for implementation of EITI in Mongolia

E. Sumiya: I present a draft mid-term (2010-2014) strategy for EITI implementation in Mongolia (presentation attached).

B. Dolgor: Thank you. Any questions? If not, any comments?

H. Ganbaatar: The Working Group have done a good job in developing this strategy. I have three comments. First, on the "building capacity" section, Clause 9.6, we should add a validator-company from Mongolia; second, we should use national auditors for reconciliation; and third, we should change "training of trainers" to "developing training modules."

E. Sumiya: With government financing, we would be able to use national auditors. Will you, Dorjdari, answer regarding the possibility of using national validators?

N. Dorjdari: I think we could prepare Mongolian auditors or validators. Companies meeting specific requirements could apply to become validators. We could make a presentation on the use of national auditors to the International Board meeting in February 2011.

**RESOLVED TO:**

1. Approve a mid-term (2010-2014) strategy for EITI implementation in Mongolia with the inclusion of Council member suggestions.

2. Assign Mineral Resources and Energy Minister D. Zorigt and Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor to take action to implement a mid-term (2010-2014) strategy for EITI implementation in Mongolia and report on implementation status to the National Council no later than the end of Quarter One each year.

3. Assign Mineral Resources and Energy Minister and International Board member D. Zorigt and Open Society Forum Manager and International Board Member N. Dorjdari to present a Mongolian proposal to use national reconciliation auditors and national validators to the International Board meeting discussing EITI implementation and future trends.

B. Dolgor: Now, let's move to our next topic. Will you start your presentation, Mr Sumiya?

**IV. TOPIC:** Introduction on methodology for identifying payment materiality

E. Sumiya made a presentation on the methodology for identifying materiality of payments (presentation attached).

B. Dolgor: Any questions or comments?

N. Alгаа: I propose including environment reclamation costs as voluntary reporting. I think we need to re-visit material payments.

E. Sumiya: Inclusion as voluntarily reporting has already been discussed at an MSWG meeting. It is already in the report, which is why we are discussing it.

H. Ganbaatar: I think we must approve it. As to donations, what about making it over MNT 10,000? Then discrepancy investigations should depend on the discrepancy amount, and be investigated only by domestic auditors.

B. Dolgor: OK. Let's consider comments from members and then vote.

**RESOLVED TO:**

1. Include the following taxes, payments, fees and donations as material payments:



- 1.1. All taxes except personal income tax (taxes on corporate income, property income, sale of immovable property, value added, windfalls in 2010 only, customs duties, excise on petrol and lubricant imports, tax on petrol and diesel, real estate, vehicle tax, state stamp duty for building, changing, modifying, demolishing and using nuclear facilities, stamp fees for licensing import, export and transport of nuclear minerals, dumping and environmental reclamation after exploitation, stamp fee for license possession, use, sale, montage, place, rent, produce, decommission, demontage, storage, transport, import or export of nuclear generators, dump treatment, deactivation and related activities).
- 1.2. All types of payments set by law (royalties, fees for exploration and mining licenses, recompense for mineral deposits explored with government budget financing, fees for land, water and firewood, royalties for commonly distributed minerals, fees for foreign experts and workers).
- 1.3. Service fees imposed in compliance with law (customs service fees, stamp fees and service charges paid to all level of administrative agencies).
- 1.4. Premiums for social and health insurances paid by business entities.
- 1.5. Government oil revenue under a Product Sharing Agreement, with royalties, other payments under the agreement, deposits, bonuses (agreement bonus, mining outset, training bonus for the year, deposits for exploration field, premiums for administrative services, costs of representative officers and for local area support).
- 1.6. Dividends from central and local government ownership.
- 1.7. Funds deposited in the special account for 50% of environment reclamation costs.
- 1.8. Revenue from fines imposed by authorized persons (soum, district and khoroo governors and state inspectors).
- 1.9. Donations exceeding the government-set minimum wage for all administrative agencies such as ministries, agencies and aimags, capital city, soum and district administrations (cash and in-kind).

2. Assign Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor and EITI Secretariat Coordinator Sh. Tsolmon to include taxes, fees, charges and donations in Clause One of these notes (draft templates attached) in EITI reporting templates, with approval.

3. Agree that the minimum threshold for material payment shall include all taxes, fees, charges and donations over MNT 10,000 (under Provisions 5.8 and 13.1 of the Law on State Stamp Fees, fees for registration of business entity and certification shall be MNT 10,000).

4. Agree that donations (over the government-set minimum wage) to ministries, agencies and administrations of aimags, capital city, soum and districts (cash and in-kind) shall be reconciled by auditors.

5. Agree that extractive businesses paying over MNT 50 million in material revenues according to payment materiality or total taxation and payments shall be subject to an international independent audit reconciliation.

6. Agree that reports of companies with MNT 10-50 million material revenues according to payment materiality or total taxation and payments shall be subject to national audit reconciliation.

7. Agree to comply with international materiality definitions and standards (international financial reporting standards) in developing EITI reporting templates, in guidelines for completion of templates, and in government and businesses definitions of payment materiality for reporting purposes.

8. Agree that an audit company producing a Mongolian consolidated/reconciled report, in defining payment materiality, shall apply international audit standards and all respective regulations for EITI MSWG.

9. Assign Mineral Resources and Energy Minister and National Council member D. Zorigt to oversee and guide overall action in developing a draft concept note and law on EITI and work on submitting such draft law to the autumn session of parliament.

B. Dolgor: EITI Secretariat Coordinator Sh. Tsolmon will present on the progress of the 2009 Mongolia EITI reporting process by companies and government.

**V. TOPIC:** Progress of the 2009 Mongolia EITI reporting process by companies and government.

EITI Secretariat Coordinator Sh. Tsolmon gave a presentation on the progress of the 2009 Mongolia EITI reporting process by companies and government (presentation attached).

A. Munhbat: What do companies say about their reasons for not reporting?

Sh. Tsolmon: They don't say they are not reporting, they just do not answer phone calls or just vanish without comment.

A. Munhbat: We must clearly raise awareness and convince all responsible company officers on the importance of reporting to EITI. Even if senior officers understand, often their finance officers do not, or ignore it, and not report. Our company is like all, we have discrepancies, but we work hard to clarify and correct.

H. Ganbaatar: There must be consequences. Larger companies should definitely be aware of reporting requirements. We also need to impose consequences on government agencies that do not report.

N. Alгаа: A question. Are there 80 companies that have paid over MNT 50 million to government?

Sh. Tsolmon: Yes.

E. Oyun: I have one request. You just mentioned imposing consequences on our Petroleum Authority. We have consistently provided all necessary data on a timely basis to the tax agency and auditors. I would like to discuss responsibility after checking whether our report was received. Also, Mr Tsolmon is pushing us to get exploration companies to report, which we are working on.

B. Dolgor: Requests for the imposition of consequences will be sent to the respective agencies. We will work on imposing consequences on Uvs province, Nalai and Chingeltei districts. We also need to work towards publicizing our activities. I'd like to ask the Secretariat and all members to devote attention to this. We are holding a press conference and hope that Mr Alga, Dorjdari and Minister D. Zorigt will attend. Shall we endorse the above decisions?

All: Agreed.

**RESOLVED TO:**

1. Assign EITI Secretariat Coordinator Sh. Tzolmon to notify daily newspapers of the names of companies not submitting 2009 EITI reports.
2. Assign EITI Secretariat Coordinator Sh. Tzolmon to conduct a study on the names of non-reporting companies as of 1 July 2010, and recommend penalties to the Mineral Resources Authority and State Specialized Inspection Agency.
3. Assign Mineral Resources and Energy Minister and National Council Deputy Chair D. Zorigt and Finance Minister and National Council member S. Bayartsogt to warn chairs of non-reporting government agencies for the 2009 EITI Mongolia reconciliation to insist that their officers comply with performance agreements.
4. Assign Finance Minister and National Council member S. Bayartsogt, Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor and EITI Secretariat Coordinator Sh. Tzolmon to organize a bid for selection of an audit consortium for the 2009 EITI Mongolia audit reconciliation in July 2010.
5. Assign Finance Minister and National Council member S. Bayartsogt and Senior Prime Ministerial Advisor and National Council Secretary B. Dolgor to take steps to finance payment of the 2009 EITI Mongolia audit reconciliation costs from the government budget.

B. Dolgor: Let's work for implementation of our decisions. We are planning to hold the next National Council meeting in September. Thank you for your participation.

Meeting ended at 5.00 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