

**Minutes of meeting of Mongolia Extractive Industries Transparency Initiative Multi Stakeholder  
Working Group  
(18 October 2012)**

The 30<sup>th</sup> meeting of EITI MSWG opened at 10 am, 18 October 2013 in the Mongolian National Mining Association Conference Room.

MSWG members present: L. Gansuh (MSWG Chair, Senior Prime Ministerial Advisor); D. Enhtuya (of General Taxation Department Officer); D. Munhsaihan (Mineral Resources Authority Officer); J. Iveelen (Finance Ministry Accounting Policy Department Officer); Gan-Ochir (Mining Ministry Policy Implementation Coordination Department Officer); B. Bat-Otgon (Independent Agency Against Corruption's Enlightenment and Prevention Division Chair); D. Enhbat (Environment and Green Development Ministry's Environment and Natural Resource Department Chair); B. Oyun (Petroleum Authority Divisional Chair); N. Alгаа (Mongolian National Mining Association CEO); Bolor (Petro China Daquin Tamsag LLC Accountant); H. Lhamaa (Oyu Tolgoi LLC Multilateral Cooperation Senior Officer); T. Munhbat (Mongolian Geology Union President); N. Bayarsaihan (Steps Without Boundaries NGO Head); D. Tserenjav (Transparency Foundation NGO CEO); L. Ganzorig (Mongolian Environmental Civil Council Officer); N. Narantsetseg (Baigal Ehyн Avрал NGO Head); B. Batbold (Mongolian Environmental Civil Council Board Member); Sh. Tsolmon (MSWG Secretary and EITI Secretariat Coordinator). Of 33 MSWG members, 18 were present (55%).

Also present: B. Osorgarav (Ulaanbaatar Audit Corporation LLC CEO); N. Erdenetsog and B. Mendbayar (Senior Auditors); B. Delgermee (EITI Secretariat Finance Officer).

**I. TOPIC: Updating EITI reporting templates**

L. Gansuh: At the previous meeting, we agreed to re-visit our reporting templates, to minimize challenges and difficulties met by companies and government agencies in EITI reporting. A Working Group with representatives from the Mongolian National Mining Association and Ulaanbaatar Audit Corporation LLC worked on the templates and prepared a preliminary proposal for modification. In general, we receive reports on 53 types of taxes, fees and payments; the Working Group proposes to remove 19, to a total of 34 reportable taxes and fees, reducing 3 pages of templates to one. Before the presentation, we must reach a common understanding. Companies report to central and local government agencies: the General Taxation Department, the Mineral Resources Authority, the Environment and Green Development Ministry, the Mining Ministry, the Nuclear Energy Agency and the General Social Insurance Agency. I think reports must be retrieved from these agencies without asking companies to re-report. Or will we require separate EITI reports?

Gan-Ochir: I represent the Mining Ministry. An EITI report is actually a process of checking whether reports to the General Taxation Department and the Mineral Resources Authority, in compliance with legislations, agree with data provided to EITI. So I'd say these two different streams must be separate. However, we must talk about simplifying the reporting templates.

L. Gansuh: I think we must seriously consider that removal of some taxes and fees from the templates may make it difficult for some companies to disaggregate data that have been reported in bulk. The company balance sheet shows how much it paid to the General Taxation Department and to the General Social Insurance Agency. As the data we are trying to identify has already been submitted, do we really need to ask for that data again? Why don't we retrieve the data from the existing government databases?

N. Alгаа: We are going to reduce the large number of taxes, fees and payments in order to simplify the process, but not to make the current two-stream reporting into single-stream reporting.

N. Erdenetsog: When a company makes payments, there is a different bank account for each type of tax or fee. This can be seen in the account documents, so it would not be a trouble for the company.

D. Enhtuya: For us, all taxes are paid to different bank accounts, so General Taxation Department has no problems. But we don't know how customs taxes are paid, so that should be clarified.

N. Erdenetsog: A company has no problem with recording taxes separately by type. But they pay customs taxes in bulk, so they have problems about discrepancies.

L. Gansuh: Today we should discuss what to do about customs taxes, and talk about customs authority later. So let's look at the suggestions one by one.

N. Erdenetsog: We propose removing excise tax on gasoline and diesel and taxes on gasoline and diesel fuel, because few mining companies pay these taxes. Apart from Erdenet and Petro China Daqin Tamsag, which import their own gasoline; no company pays these taxes. Also the amount is insignificant and is mostly material payment; so we propose removing it (template attached).

L. Gansuh: If the customs agency has no problems with reporting without inclusion of these two taxes, they can be removed.

N. Bayarsaihan: Auditors are only talking about 200 reconciled companies. There are over 1,000 companies operating, so what would be the situation with the other 800 in terms of these taxes and fees? Maybe, the General Taxation Department representative could comment.

L. Gansuh: You are right. But initially we need to consider the 200, study how a removal would affect them. Actually, this idea is not proposed only by the auditors. The Mining Association represents extractive companies.

N. Alгаа: It may not be 800. There are said to be over 1,000 license holders, but not all license holders are companies. Of the over 400 companies in active operation, over 100 are running gravel and sandstone quarries.

N. Erdenetsog: Royalties, additional royalties and exploration and mining license fees are all included in the Tax Section, and we propose moving them into the Fees/Payment Section.

Sh. Tsolmon: We believe they are actually taxes, although they are called fees, which is why we have specifically put them in the Tax Section.

N. Alгаа: A whole batch of Tax Laws say that the word tax refers to taxes, fees and charges. Therefore, we must allocate taxes to taxes and fees to fees.

D. Enhtuya: Yes, the overall tax system comprises taxes, fees and charges, so the aforementioned fees should be classified as fees.

L. Gansuh: OK, let's move to the Fees Section.

N. Gan-Ochir: Here, royalty and additional royalties are different: those paid to central government and those paid to local government. We should note that royalties are not paid to local governments.

B. Mendbayar: Basically, the two level governments get a 70:30 ratio.

L. Gansuh: After royalties are paid to the central government budget, 30% is re-allocated to local government. We have nothing to do with it, as it relates to allocation of government budget, so we must remove the part paid to local government. Next.

N. Erdenetsog: Windfall tax: the relevant law was repealed, so we propose removing it.

L. Gansuh: OK, removed.

N. Erdenetsog: As the four types of state stamp fee in relation to nuclear energy have never been levied, and they are non-material, we propose removing them.

L. Gansuh: They are not being paid as yet, but may be levied in the future, so we should leave them to avoid later difficulties for reconcilers.

N. Alгаа: I have a suggestion: as these state stamp fees are one-off payments, never paid twice, what about removing them?

L. Gansuh: Even if they are one-off payments, the issue is that we will later have to talk about 400 and 800 companies, not just today's 200. However, the state stamp fee amount is insignificant, so it could be classified as non-material. We could remove it.

B. Batbold: The key aim of EITI is to disclose and publicize. Nuclear energy issues are serious, so we can track licensing by use of license fees payments; we can find the necessary information, so it should remain in the template.

N. Alгаа: The information can be found out by license transparency, not by payment of license fees.

L. Gansuh: OK, stamp fees are not material because they are a service charge, let's remove these four types of payments.

N. Erdenetsog: Premiums paid for social and health insurances are not taxes, so we suggest moving them to the Fees Section.

L. Gansuh: Agreed.

N. Erdenetsog: There are three types of payments: stamp fees and service charges paid to ministries and government agencies and fees for a foreign workforce. The total reconciled amount of these payments is insignificant, not relevant, but the levies create more discrepancies, leading to complications in reconciliation, so we propose to remove them from the templates.

L. Gansuh: OK, let's remove them.

N. Erdenetsog: We suggest removal of fines and penalties in the Other Section as the reconciled amounts are insignificant.

L. Gansuh: I have a question on this. Do fines for environment pollution belong to this section?

N. Erdenetsog: Yes.

L. Gansuh: Then, it should stay. We will be imposing billions MNT in fines for environment pollution. In the past, we have imposed small fines under the Administrative Law for a company causing MNT 800 million-worth of natural environment damage. Now, the fines will equal total damage losses: MNT 800 million of fines for MNT 800 million of loss. So we should not remove fines. But our templates don't mention compensation. What I described is actually compensation, so both fines and compensations must be in the templates. Let's add Compensation as a separate line.

D. Enhbat: What about inserting "offset conservation costs" under Compensation?

Sh. Tsolmon: Should this be reported by the government? Isn't it a company cost, not paid to the government?

L. Gansuh: Right, we cannot have it in the template as it is a company cost.

B. Mendbayar: The reporting template section on voluntary reporting has a sub-section titled Costs for Environmental Conservation. It could be reported there.

N. Erdenetsog: We propose removing vehicle taxes, as the amounts reported are insignificant, and have no real impact on the overall report. Companies pay the private vehicle taxes for their directors, which results in more discrepancy and a loss of reconciliation time.

L. Gansuh: OK, let's remove.

N. Erdenetsog: As the Other Payments section is unclear, and sometimes companies report personal income taxes etc, we propose removing it.

L. Gansuh: Correct. This unclear section should be removed.

B. Batbold:

N. Erdenetsog: Fees for wood from the forest. Not all mining companies pay this, it is non-material and not reported in government reports, so we propose removing this.

L. Gansuh: Let's remove it.

N. Erdenetsog: Fees for use of natural resources apart from minerals. In practice, this type of payment is not made, so we suggest removal.

L. Gansuh: Removed.

N. Erdenetsog: Stamp fees and service charges paid to local government agencies are low and non-material, so we propose removing them.

L. Gansuh: As they are the same as the stamp fees and service charges we discussed earlier, remove them.

N. Erdenetsog: We propose removing fines paid to local governments.

L. Gansuh: These must remain, and we should add Compensation as we discussed earlier.

N. Erdenetsog: An amount equal to 50% of the cost of environment protection is deposited in special account. We found that companies paid a maximum of MNT 100,000, so we propose removing this as the amount is insignificant.

L. Gansuh: I think it should stay.

B. Mendbayar: Mining companies pay the ministry, exploration companies pay the local government. So what about making this two payments: to ministry and to local government? We see huge discrepancies in this payment.

L. Gansuh: But the companies get the deposit back, don't they?

B. Mendbayar: Very rarely.

N. Alгаа: Money deposited with the ministry stays there, but money deposited with the local government disappears.

L. Gansuh: Then shift it to the Other Section under the subheading Local Payments.

N. Erdenetsog: We propose removing this section to Other Agencies under Donation and Aid to Government Agencies, because companies report donations to aimags and soums, then disaggregate donations to local schools and kindergartens under this section, which results in discrepancies.

L. Gansuh: Right. If the donates to a soum or aimag agency, it should be reported as given to soum or aimag. It seems the soum governor will be in debt unless the companies specify recipient names. So let's remove Other Agencies. Now, let's review the updated template (updated template attached).

D. Enhtuya: Only vehicle owners, coal miners and energy companies pay the Air Pollution Fee. So that should be followed with "relating to coal mining" in brackets.

L. Gansuh: Right. Add "relating to coal mining" in brackets, and add Customs Service Charge" to Part 1.3.

N. Erdenetsog: I propose adding "advance payment to government" to Part 1.4.

L. Gansuh: OK. To Section 1.4 "advance and other payments to government" we should include three revenue types: 1) revenue to the government from oil sales under product sharing agreements; 2) revenue for the government under the Nuclear Energy Law; and 3) advance payments to government. Then let's add Fines and Compensations to Section 1.6, and change Section 2.2.5 "Fee for foreign workforce" into legal terminology.

N. Bayarsaihan: I understand these proposals for adding, removing and modifying templates are made by auditors, the mining association and government agencies. Civil society only received these template yesterday, so we have had no time to discuss them as a coalition and it is not possible to give our definite comments. In addition, proposal and grounds submitted by the audit company seem to be contrary to International EITI rules and not well-grounded. So we need time to consider these template updates. We need to discuss them with the local community and research compliance with International EITI rules. Only then can we submit our comments.

L. Gansuh: You should not take the suggestions as coming only from auditors. In previous meetings we discussion how, after 6 years of reporting, there will inevitably be mistakes and drawbacks, lessons not

drawn from experience, unapplied auditor recommendations, companies with persisting negative attitudes, and how we can improve our work. We agreed to work towards reducing negative company attitudes and eliminating reporting difficulties. I remember it all clearly. We then agreed that the Mining Association will represent the companies and work with auditors to simplify templates about which companies always complain, present their findings to the MSWG and government for revision, with civil society to comment. We have worked hard on the templates, which we must present to the National Council on 15 November. We have limited time so we will give you a specific time for comment. By 1 November, civil society should offer final comments. Any more comments on the templates?

B. Osorgarav: That is all from our side.

Sh. Tsolmon: representing the Secretariat, let me say that it's not only Mongolia, but over 30 EITI-member countries are working on updating reporting templates. They are getting suggestions from the International Secretariat on updated templates. These countries intend to liberalize and simplify their templates while not deviating from the main content; much work is going on worldwide. The International Secretariat advises it is OK to remove or add payments, but the grounds for such changes must be clearly detailed. I believe these proposed changes seem OK. But what about using these updated templates for 2012 reporting as a pilot? The reason is, that the templates must be ratified by joint resolution of the Finance Minister and the National Statistics Office Chair. I think we could pilot the reports before ratification, then make changes and fine-tune for a final version for ratification.

L. Gansuh: So do we understand that companies, government and auditors all reached initial agreement on the updated template. Now our comments will be incorporated and the final version sent to the Civil Council, who must comment before 1 November. The MSWG will meet on either 1 or 2 November. The Ulaanbaatar Audit LLC should finalize its reconciliation report before that meeting, and there must be an annex of disaggregated aimag data 15 November. Finally, one warning: we may discuss issues openly at the MSWG meeting and the three stakeholders may dispute. But outside these doors we must present one position, behave like one person. This concludes today's meeting. Thanks to all.

**RESOLVED to:** 1. Assign Ulaanbaatar Audit Corporation LLC CEO B. Osorgarav and EITI Secretariat Coordinator Sh. Tsolmon to update templates by incorporating MSWG members' comments and formally submit the final version to PWYP Coalition Coordinator N. Bayarsaihan.

2. Agree that the Civil Council should submit its comments regarding the templates to the EITI Secretariat by 1 November 2012.

3. Assign the EITI Secretariat to meet with the General Customs Agency for comments.

3. Advise Ulaanbaatar Audit Corporation LLC CEO B. Osorgarav to finalize the Mongolia EITI 6<sup>th</sup> reconciliation report by 2 November 2012 for discussion by an MSWG meeting.

MSWG meeting ended at 12.10.

Meeting minutes reviewed by:

L. Gansuh  
MSWG Chair, Senior Prime Ministerial Advisor

Minutes taken by:

B. Delgermaa  
EITI Secretariat Communications Officer