

**Mongolia EITI MSWG meeting minutes**  
**25 May 2015**

The 37<sup>th</sup> MSWG meeting opened at 11 am in the conference hall of Puma Imperial Hotel on 25 May, 2015.

Members attending: B. Delgermaa (Senior Prime Ministerial Advisor); B. Nergui (Strategic Planning and Policy Development Division Chairman, Ministry of Mining); T. Zuunnast (Ministry of Mining Officer); G. Zulai (Accounting Policy Department Officer, Ministry of Finance); G. Sarangerel (Prevention and Education Department Officer, Independent Agency Against Corruption); N. Nyamdorj (Investment Department Senior Officer, Petroleum Authority); D. Enhtuya (General Department of Taxation Officer); N. Enhbold (Mongolian National Mining Association CEO); G. Urantsooj (Human Rights and Development Center NGO Head); B. Batbold (Mongolian Environmental Civil Council Board Member); G. Chagnaadorj (Ariun Suvarga Movement Head); L. Dolgormaa (Responsible Mining Initiative NGO Head); D. Tserenjav (Transparency Foundation NGO CEO); D. Erdenechimeg (Open Society Forum Manager and PWYP Coalition Coordinator); L. Bolormaa (Boroo Gold LLC Tax Accountant); S. Enhtuya (Monpolimet LLC CEO); B. Altanbagana (Government and Community Affairs Chair, South Gobi Sands LLC); Sh. Tsolmon (EITI Secretariat Coordinator and MSWG Secretary): 17 of 33 members (55%) were present.

Also present: B. Delgermaa (EITI Secretariat Communications Officer); A. Otgontungalag (EITI Secretariat Finance Officer); G. Ganbat (IT Consultant).

B. Delgermaa, Senior Prime Ministerial Advisor and National Council Secretary, chaired the meeting.

B. Delgermaa: I propose to start the meeting at once, on time. Anyone disagree?

All in favor. The Chair outlined the rules and agenda , with no questions or comments.

1. TOPIC: Regulations for EITI e-reporting

G. Ganbat: In September 2014, to boost the use of IT in EITI reporting, to introduce a paperless technology, to make reporting and data management easier, to create a unified database for EITI reports and to improve information access, an e-reporting system was developed with support from Adam Smith International and financing from EBRD.

EITI started receiving 2014 EITI reports through this e-reporting system. So far, a total of 1050 companies have been officially registered to the e-reporting system, of which 987 have submitted reports electronically and 753 have not yet reported. Of government agencies, 32 have submitted reports, 3 are pending and 8 have not submitted any reports.

Regulations for EITI e-reporting were developed to ease sending and receiving of reports, better disclosure of process and data and to regulate affairs related to administration of the electronic system. The regulations are in seven sections: common grounds; e-reporting system; reporting of corporate users; reporting of government users; checking and verifying; data exchange; and other (presentation and regulations attached).

The Chair thanked G. Ganbat and asked for questions or comments. None were offered and the regulations were approved.

B. Delgermaa: Our EITI Secretariat has created a good e-reporting system. Good job and congratulations.

Next on the agenda was a presentation from G. Urantsooj of the Human Rights and Development Center.

## 2. TOPIC: AMENDMENTS TO REGULATIONS OF EITI MSWG AND THE NATIONAL COUNCIL

G. Urantsooj: We monitored recommendations from the reconcilers of the EITI reports and presented the findings to the MSWG. However the activities of the National Council, MSWG and Secretariat are unclear, which necessitates amendment of the respective rules and regulations. We therefore propose some amendments (presentation attached).

B. Delgermaa: Thanks to National Council member G. Urantsooj. Any questions? The proposed amendments to National Council and MSWG regulations are effective. Please raise your hand if you agree. If you have no questions, shall we approve the amendment as a whole or one by one? No comments. Approved. Now, a presentation by T. Zuunnast.

T. Zuunnast: A sub-working group was established in January 2015 with G. Zulai (Ministry of Finance Accounting Policy Department Officer); G. Oyuntuya (Mineral Resources Authority Officer); G. Urantsooj (Human Rights and Development Center Head); P. Bolormaa (Boroo Gold LLC Tax Accountant); and N. Lhamaa (Oyu Tolgoi LLC Government and Community Relations Officer) (presentation attached).

B. Delgermaa: Thank you. Any questions?

G. Urantsooj: We proposed to hold a National Council meeting at least twice a year and an MSWG meeting at least once a quarter. We support this amendment because we presently meet once a year, but always end up talking about the report and nothing else. Please consider this.

T. Zuunnast: The Economics Standing Committee is working to get the Extractive Sector Transparency Bill adopted. When this happens, National Council meetings can be held according to the law.

B. Delgermaa: What if the Bill is not supported in parliament? Some MPs opposed it during discussions and in the plenary session.

G. Urantsooj: Can we make amendments to National Council and MSWG regulations without waiting the law?

B. Delgermaa: The National Council is chaired by the Prime Minister and we propose meetings at least once a year. If you agree that we can hold other meetings on topics other than the reports, chaired by the National Council Secretary, I can make time. To ensure that the MSWG works more effectively, we have established 5 sub-working groups; I think they are working well. I also think that such meetings can be regulated by the rule.

Now let's move to the third topic. EITI Secretariat Coordinator Sh. Tsolmon will give a presentation on the upcoming visit of the Chair of International EITI Board.

## 3. TOPIC: PREPARATION FOR THE VISIT OF CLAIRE SHORT, INTERNATIONAL EITI BOARD CHAIR

Sh. Tsolmon: Ms Claire Short will visit Mongolia between 3 and 5 June 2015. On 3 June, we will hold a workshop on international validation. The agenda for the workshop has been distributed to members. The National Council will meet between 2 and 4 pm on 4 June (presentation and agenda attached).

B. Delgermaa: Any questions on the agenda?

D. Erdenechimeg: Is the meeting time with President and Prime Minister clear and set?

Sh. Tsolmon: Yes, think that we can arrange the meetings nearby when the meeting is established.

D. Nergui: Do we understand that some meetings are separate from meetings with professional associations and civil society organizations in the Policy Council?

B. Delgermaa: The meetings are separate, with one at the ministry and the other, with civil society, could be near Government House.

B. Batbold: Will National Council and MSWG members be welcomed at the meetings with civil society?

Sh. Tsolmon: It must be as open as possible, so there will be no limitations for members. Of course, if the numbers attending are too big, it may be difficult.

B. Delgermaa: How many civil society organizations are represented on the National Council and MSWG? Those wishing to attend would include 9 members of the PWYP Coalition and 2 members of Mongolian Environmental Civil Council. Anyone wishing to meet Claire Short may attend, but the meeting must not be too unorganized.

N. Dolgormaa: Sub-working groups must prepare well for the presentation to the National Council.

B. Delgermaa: There is a need to appoint members to the sub-working group for the presentation to the National Council so they may prepare beforehand. Each presenter will have about 5 minutes. I will arrange the meeting time with the Prime Minister; however we await final approval for the meeting with the President.

Thanks to Tsolmon. Now, presentations from sub-working groups.

TOPIC: PRESENTATION FROM SUB-WORKING GROUP 5 ON A DEVELOPMENT WORK PLAN FOR THE RECOMMENDATIONS IN THE 2013 EITI REPORT

B. Delgermaa (Secretariat): Let me introduce progress. The sub-working group is studying mining sector revenues; methodologies used in preparing the EITI report; the percentage of other business in overall revenue of a mining company that runs various other businesses; what taxes they actually pay; and the potential to register revenue from other/secondary business in the registration so as to identify the possibility of separating mining revenue and revenue from other business.

The working group has met once, when it discussed the scope of studying mining sector revenue, methodology for identifying revenue and separating those revenues from other business. We have selected 93 of the 1660 companies that reported to the EITI in 2013, and now plan to make a

comparative study of companies to develop recommendations on the possibility of excluding non-mining revenues and tax from EITI reports (presentation attached).

B. Delgermaa: What percentage of your planned work have you accomplished? If it is at least 50%, it could be presented to the National Council.

B. Delgermaa (Secretariat): We are looking at the possibility of separating additional non-mining income. It seems quite possible from the company side, but there are difficulties from the government side.

B. Delgermaa: Members should decide whether to let this working group present its findings at the National Council meeting.

D. Nergui: I think we need to invite working groups that have made good progress to the National Council meeting and postpone meeting with groups whose work progress is insufficient.

B. Delgermaa: Now, a presentation from Group 4, from Delgermaa from the EITI Secretariat.

B. Delgermaa (Secretariat): Our working group is developing recommendations on the removal of barriers to disclosure of extractive contracts, on identifying stakeholder positions, and defining the potential importance and impact of contract transparency. We have met twice and have completed 70-75% of all planned work (presentation attached).

B. Delgermaa: Thank you, Working Group 4 is doing well and making progress, so I will propose the findings to the National Council. I think you need to prepare a full presentation from group leaders.

B. Nergui: Our group is working on developing a website of realistic data. We have proposed it to the Open Society Forum and have agreed on cooperation. We began by selecting a consulting company to develop the electronic database of contracts that have been made transparent.

B. Delgermaa: Looks like you are doing well. Group secretaries must prepare well and leaders should make the presentation.

Now, we will continue with presentations from the working groups and discuss preparing to submit findings to the National Council. Members, please take an active part in further meetings. I hope civil society organizations will make good preparations and ensure that all members attend meetings. We must be amicable with each other and be proud to be Mongolian. There is no need to argue about confronting issues when we meet foreigners, but should respect each other.

Thank you all, I have to leave for another appointment, so my apologies. Good luck.

Sh. Tzolmon: Sub-working group 2 is assigned to conduct studies of environmental management phases such as environmental impact assessment, environmental protection plan, deposits for reclamation, release of deposits and reclamation monitoring, identification of pressing issues and solutions and facilitating stakeholder consensus. The working group, which has met three times, comprises Bolormaa, Bayarmaa and Enhtuya and works at the Ministry of Environment, Tourism and Green Development. It has looked at documents relating to deposits paid by mining companies for environmental reclamation. The group has identified the study scope and is planning to report findings to the WG on 29 May, when presentations and submissions to the National Council will be prepared. Members have also been

assigned companies for study on compliance with Requirement 8. Tuyatsetseg will present findings of a study on environmental protection regulation and reclamation to EITI stakeholders, as she is experienced in this area and has carried out much research. We plan to meet once more to finalize the study and will be able to present the findings to the National Council (presentation attached).

Let me briefly present the progress of sub-working group 5, which is tasked to study the application of legislation to mining entities, particularly equal application and effects, royalty rates and so-called benchmark mineral prices. The group is studying the current tax rates in the extractive sector, terms and conditions of contracts, positions of various stakeholders and relevant legislation.

The sub-working group has 12 members; it meets at the Ministry of Finance and has discussed how the group can contribute to the EITI. The group is scheduled to meet on 26 May, when they will develop recommendations to present to the National Council (presentation attached).

G. Urantsooj: I am a member of this group, but I am unable to offer effective involvement as I have limited knowledge and understanding about taxation.

Sh. Tsolmon: What does the meeting think of sub-working group 5's submission and presentation of recommendations to the National Council?

L. Dolgormaa: It depends on what they have prepared. We will meet and discuss before we present to the National Council of what we have agreed on as final recommendations.

Sh. Tsolmon: We have agreed to meet tomorrow. We understand that Mr Enkhbold will replace Mr Algaa in the sub-working group.

B. Enkhbold: We have adequate materials and documents for a study of royalties.

Sh. Tsolmon: Members have approached issues from different angles and have not yet reached consensus. Shall we agree that sub working groups 2 and 5 will meet and we will make a final decision on the submission of their findings to the National Council at the next MSWG meeting?

D. Erdenechimeg: Are these 8 criteria the same as the criteria/requirements for responsible mining?

B. Batbold: We have considered and proposed these criteria.

L. Dolgormaa: It is not that. It is not about whether a company has an environmental management plan with which it complies. Companies certainly have such plans; that is why they operate an extractive business. We must focus on whether companies have realistic environmental impact assessments, with at least 50% accuracy. The next issue is into which account the 50% deposit goes; companies may claim back strongly, but often reject depositing. We must study the existing situation. This issue is often kept confidential and undisclosed, so we must focus on this, not on whether they have plans or not.

B. Batbold: That's not the only issue; we must focus on whether these companies do reclamation work after they get their deposits back.

L. Dolgormaa: Surely they get the money back after they do the reclamation.

G. Chagnaadorj: They get it back when they complete the reclamation; otherwise they cannot get the money easily.

S. Enhtuya: No interest is calculated in the deposited money. In fact, the total deposited is in the billions, so interest must be paid.

D. Erdenechimeg: There is a provision in the law that Independent Agency Against Corruption or the Ministry of the Environment must employ professional reclamation entities if a mining company fails to do the environmental reclamation, and accepts the payment from the companies on a non-dispute basis. Please check to what extent this provision is complied with. The Ministry of Finance has calculated the environmental damage by several companies and made reclamation. How much was spent from the national budget? The government has not done received reimbursement for reclamation from some companies. Can the sub-working group study this situation?

L. Dolgormaa: Are we being asked to check whether the government has been reimbursed by companies?

D. Erdenechimeg: Half of all environmental reclamation costs are placed as deposits. This deposit does not cover the total cost for reclamation. When a company leaves a mining area without reclamation, the Ministry of Environment makes a contract with a reclamation company, pays the deposited 50% to the reclamation company and gets the remaining 50% on a non-dispute basis from the miner, under Article 39 of the Minerals Law.

L. Dolgormaa: I have never heard about that.

D. Erdenechimeg: An environmental reclamation census was conducted in 2010, and reached an estimate of environmental damage. But nothing has been done to get the companies to pay for this damage.

Sh. Tsolmon: OK, our working group needs to carry out additional studies. Any more questions or comments on sub-working group 5?

If not, let's move presentation of sub-working group 3.

G. Ganbat: Sub-working group 3 aims to simplify the reporting process and explore the possibility of getting audited EITI reports from both companies and government agencies. Currently we are re-visiting reporting templates; improving guidelines for reporting templates; ensuring data reliability; studying government procedures for data collection; listing additional data required for auditing; developing auditor templates and inclusion of audit requirements in the ToRs; and checking the possibility of getting audited reports from companies and government, with recommendations. The group has met three times and has so far completed 70% of our planned work. We created a Google group for the exchange of data and member comments. A new reporting template for companies is almost finished, and it will be presented to you for comment. The group's ToR includes collecting information on investment in the extractive sector. The group has agreed that we should not require companies to get their EITI reports audited separately, while reports from government agencies should be audited by the National Audit Agency. We plan to consolidate comments and finalize all work before seeking comment from government agencies. We propose the following changes/modifications to the reporting template. First, the deadline for submission of reports should be 31 May for local government agencies and

companies. We propose the removal of the indicator “other” from the government reporting template, add “water pollution fee” and move “personal income tax” into the voluntary reporting section. We suggest 17 other changes to the templates, such as merging templates 1 and 2. Under ToR sections 1, 2 and 3, we sent a questionnaire on EITI reporting and electronic reporting to 691 company respondents and 48 government respondents. We consolidated all responses, and based on the findings, have developed recommendations on the removal of barriers to receiving reports electronically and eliminating common reasons for discrepancies.

We have completed 60-70% of all planned work; we now need some clarification and agreement before presenting our findings to the National Council. When the reporting template is approved by the National Council, it can be used (presentation attached).

Sh. Tsolmon: Templates must be formally approved by the Ministry of Finance and National Statistics Office.

L. Dolgormaa: It might take a month to get the templates approved by the National Statistics Office.

Sh. Tsolmon: Yes, but the National Statistics Office Chair is a member of our National Council, so the process can be accelerated. Now, let’s agree that sub-working group 3 will present its findings to the National Council. Any other comment? The MSWG draft resolution has been circulated to you, so shall we leave the draft as is and finalize assigning sub-working groups 3, 4 and 5 to present their findings to the National Council?

L. Dolgormaa: Let’s agree that the draft will be finalized as is.

D. Enhtuya: What about group 5? Did we agree that the group will re-process its papers and re-present to the MSWG?

Sh. Tsolmon: Sub-working group 5’s members representing Erdenet and Oyu Tolgoi developed excellent recommendations which are almost as the same as the Cabinet resolution, so we can submit them to the National Council as soon as possible. National Council member Galbadrakh has been involved and will present the recommendations to the National Council.

G. Urantsooj: Only two group members represent civil society - me and Tur-Od. I am not fully across the taxation issue. Taxation is an important issue, so I want the other civil society organizations and PWYP coalition involved, otherwise civil society does not know about the recommendation to the National Council. If one stakeholder has no involvement at all, what happens at the National Council? I think that civil society organizations should receive the material before the National Council meeting.

Sh. Tsolmon: Sub-working group 5 will meet tomorrow, and you may attend at the meeting for exposure to the recommendations.

G. Urantsooj: Sorry, tomorrow is not possible.

B. Batbold: Why can’t we all show up tomorrow?

Sh. Tsolmon: I would ask all civil society members to join the meeting tomorrow. We will agree that sub-working groups 3 and 4 present their recommendations to the National Council and groups 1 and 2 can work more on their recommendations.

D. Erdenechimeg: I propose to add one more member representing the PWYP.

Sh. Tsolmon: Please send me the name of the representative to attend the working group meeting tomorrow. Royalty issues have been fully studied and recommendations have been developed at the level of Cabinet resolution, so they can present their findings to the National Council.

B. Nergui: There are many pressing issues, such as the contract price for minerals. When an issue is proposed from the government side, or from the Mining Ministry, it is one-sided. The Mining Ministry tends to support the companies while the Finance Ministry wants more tax. As Erdenechimeg said, presentation must be made by the independent agency that conducted the study.

B. Batbold: As to royalties, companies and the government are informed, but we are not, so we need to hear in advance what is going to be presented.

B. Nergui: Has the civil society carried out any studies?

Sh. Tsolmon: PWYP proposes a new member in the group.

B. Nergui: Someone from the Mining Association can be added.

Sh. Tsolmon: Actually, Mr Alгаа is already there.

Enkhbold: Then he cannot serve as an independent member.

Sh. Tsolmon: Who is coming to tomorrow's meeting? We also have some materials from Erdenet Corporation which I will send to you. Probably groups 3 and 4 will prepare their presentations. Group 2 will meet to discuss again. This concludes the meeting. Thank you all.

Meeting finished at 12.45.

Meeting minutes revised by: B. Delgermaa (Head of MSWG)

Meeting minutes taken by: A. Otgontungalag (Finance Officer, EITI Secretariat)