

**Minutes of 12<sup>th</sup> Meeting of the Myanmar Extractive Industries Transparency Initiative  
(MEITI) Multi-Stakeholder Group (MSG)  
18<sup>th</sup> December 2015  
Inya Lake Hotel, Yangon**

**(Draft)**

**Objective and Agenda**

The meeting has the following objectives: (i) presenting the First MEITI Draft Report that includes reconciliations' findings, results and recommendations by the Independent Administrator, Moore Stephens and (ii) seeking comments, consideration and approval from MSG members concerning with the draft report for producing the First MEITI Report.

**Welcome**

Dr Maung Maung Thein, Chair of the MEITI-MSG, Deputy Union Minister for the Ministry of Finance, opened the meeting. He stated that today meeting is important to discuss for the submission of the EITI Report in timely manner (2<sup>nd</sup> January 2016) and today meeting may be the last one as there is uncertainty when new government comes. Because of the time constraint, he requested MSG representatives to discuss the main issues, emphasize on the report preparation and agree on the report. He then added that he was proud of everyone for hard work.

Mr. Alex Gordy from the International EITI Secretariat congratulated Myanmar for productive hard works in implementing the EITI process in Myanmar in timely manner. He explained that it is common that every first report in the EITI implementing countries has gap and needs. Therefore validation takes place on the second report. Myanmar will need to submit its second report in January 2017 and the validation will be based on the second one. He found that this first draft report was good and hoped today meeting was productive.

**Presentation of the First Myanmar EITI Report (Draft), Reconciliation Findings, Results and Recommendations (by Moore Stephens)**

Moore Stephens presented the reconciliation's findings, results and recommendations to be considered by MSG so that MSG to agree on the report scope and to be able to produce the first report in timely manner.

Mr. Karim Lourimi from Moore Stephens presented key figures, the reconciliation scope, completeness and accuracy of EITI data, extractive sector revenue, reconciliation results, other information included in the report and recommendations. As key figures in this report, he highlighted that this EITI report is the first Myanmar EITI report, 3 sub-sectors are covered in this report and the final discrepancies represents 0.01%.

**Scope of the Reconciliation**

In regard to his presentation of the reconciliation scope, he said the report includes the scope decided by MSG and covered revenues from three sectors (oil and gas, mining and gems and jade emporium data). Moreover the transportation data from MOGE is also included according to MSG's decision. As agreed by MSG, the number of companies selected to submit the reconciliation scope is 13, 30 and 14 companies in oil and gas, gems and mining companies respectively. For reconciliation, the material threshold is above 10 billion for gems and jade and 0.25 billion for mining. He added this is the reconciliation scope, but this is not the report scope because MSG wants to include revenues from other companies, and therefore government discloses revenues received from all the companies not only based on the companies included in the reconciliation scope. Therefore this report includes reconciliation companies and other revenues, he explained. He then explained the coverage covered in each sector. Overall coverage is 92% which involved 100% for oil and gas, 53% of revenue received from jade and gems emporium and 45% from mining companies. He added that revenue from oil and gas transportation was excluded because this is not requirement for EITI standard. He finally then emphasized that it is important to understand the differences between reconciliation and report scopes.

### **Data collected from reporting entities**

He presented the data and information collected from reporting entities is as follow:

- (1) Cash payment: this includes both tax and non-tax, payment flows made by each entities (i.e. payments from companies to SOEs, those from companies to government departments and payments made between SOEs and government departments.)
- (2) In kind payment: SOEs receives both in cash and in kind payment from companies. In this report, in kind payment was also reconciled.
- (3) Sale of the state's share of production and royalties collected in kind: although this is not a requirement of EITI Standard and as this figure should be considered as well, Moore Stephens collected the data from SOEs. However this was not reconciled.
- (4) Export and sales data provided by SOEs.
- (5) Production data reported by SOEs.
- (6) Transport revenues declared by MOGE.
- (7) Legal ownership: this is based on companies' declaration.
- (8) Public participation: MSG can later discuss what government departments need to disclose more.
- (9) Social payments: this payment is disclosed by companies but not reconciled.
- (10) Quasi fiscal expenditures
- (11) Licenses/ Permits allocation: the information such as license allocation, permits and permitted projects and blocks were reported by government departments and SOEs.
- (12) Transactions/ Infrastructure provisions and barter arrangements
- (13) Loans/ loan guarantee granted to entities operating in extractive sector.

### **Discussion concerning with Reconciliation Scope**

One CSO representative questioned Moore Stephens on (i) why only SOEs disclosed production data but not companies; (ii) why only MOGE disclosed the transportation data but not companies; and (iii) legal ownership. Karim Lourimi explained that this scope and reconciliation were based on MSG decision (for example: MSG decided MOGE to disclose transportation data although this is not the EITI requirement. Therefore Moore the report is based on the MSG decision. In similar to transportation data disclosure, disclosing production data is not the EITI requirement. However MSG decided to include the production figures. If MSG decided to reconcile these data, it will depend on MSG.

### Comprehensiveness of Data in the EITI Report

Moore Stephens presented its findings concerning with the comprehensiveness of data and the impacts on the report

#	Findings	Impacts	Discussion
1	IRD and CD under MOF did not disclose the revenue collected from extractive companies not selected in the reconciliation scope.	These revenues were not taken into account when determining the total revenue from the extractive sector in Myanmar.	
2	Gems and Jade sub-sector was included based on the Emporium data only	Revenues such as royalties, a 20% value-based tax on Jade at the mine site, taxes paid by companies where production is directly exported and revenues from sales of State shares of Gems & Jade were not covered by this report	<p>One representative from government discussed on gems and jade sector. He explained that there is no direct export from the production and the export can be occurred through emporium. Only small portion export directly. Thus, he requested to remove this comments.</p> <p>But Moore Stephens response they cannot assurance Jade and Gems export is only through emporium statement “taxes paid by companies where production is directly exported”.</p> <p>MEITI Office explained that since Moore Stephens reconciled payment within emporium sale, it is reasonable for Moore Stephens to include this comments.</p>
3	Nobel Gold Ltd has not submitted a Reporting template. The company ceased operations in the	Payments made by this company, amounted to MMK 639,200,847 were included in the report based on	

#	Findings	Impacts	Discussion
	country according the MOM	Government Bodies declaration only.	
4	4 Oil & Gas companies (Nippon Oil, ONGC Videsh Ltd, Gail JJ India Ltd and Korea Gas Corporation) did not submit their reporting templates	According to the data submitted by Government Bodies, there are no payments made by these companies except for Nippon Oil for which IRD has reported CIT amounting to MMK 19 bn. This payment was however declared by Petronas (as operator) on behalf of this company and was accordingly reconciled	MOGE representative explained that these four companies got tax exemption from MIC and because of this, they did not submit their reporting template.
5	Discrepancies between revenues collected by SOEs from companies and SOEs' transfer money to State Budget	-	Moore Stephens explained that they are still waiting for the sale of state production figures from SOEs.  Moore Stephens also recommended that the revenues collected by SOEs and state transfer made by SOEs should be reconciled in next reports.

### Data Assurance and Reliability

Moore Stephens explained that all companies have submitted reporting templates signed by an authorized officer and assurance on Government figures has been given by the senior official in the reporting departments and the Office of the General Auditor (OAG) for all government agencies except for IRD-CD.

### Extractive sector revenues

Moore Stephens explained that 85% of total revenues from extractive sector is from oil and gas companies and 13% from gems and jade and 2% is from mining sector. During reconciliation process, concerning with the findings of revenues, he gave details on (1) presentation of revenues received from each companies and each sector; (2) transfer made by SOEs to state budget; (3) revenues collected by each government department, SOEs from each sector and each company; and (4) the revenue in the state budget.

### Reconciliation Results

As the results of reconciliation process, there is 0.01% of discrepancies between payment in cash made by companies and revenue received by government as well as in kind payment was also reconciled.

### Other information besides reconciled figures

- (1) Although extractive sector is important in Myanmar Economy, this report does not include all the revenues received from this sector (for instance: IRD did not report all the revenues collected from gems and jade companies). Moreover the employment rate in this report only reflect the rate of employment based on the companies selected in the reconciliation scope.
- (2) Production and export figures according to types of commodities reported by MOGE and MOM are included in this report.
- (3) The revenue received from extractive companies besides the companies included in the reconciliation scope. These revenues were disclosed by SOEs and government departments.
- (4) Transportation data provided by MOGE
- (5) Revenues received from sale of the state's share of production: concerning with this information, Moore Stephens explained that they are still seeking to receive the full data from SOEs by coming Tuesday. However they did not expect and think that there will be any major changes.
- (6) Social expenditures and infrastructure provisions: concerning with social expenditures, MSG agreed to disclose only aggregated data of social expenditures made by companies. Therefore MSG can discuss and decide whether they want to include detail expenditures made by companies. In order to do this, companies need to provide the detail information and assurance needs to be considered for all the expenditures. However this is not the EITI Standards.
- (7) MOGE's disclosure on quasi fiscal expenditure.
- (8) Although the payment/ fund made by companies to regional/ state governments should be disclosed according to MSG's decision, there is no declaration of this kind of payments by companies as there was no payment to the sub-national.

### Recommendations of Independent Administrator (Moore Stephens)

	Findings	Recommendation
1	Completeness of the data reported by IRD and CD	Improvement of the government reporting system with the use of the tax identification number system
2	Completeness of the revenues disclosed from Gems and jade subsector	Launch a complementary study in order to identify all the revenues streams paid by companies and to get the full picture of the operating companies in the sector
3	No specific references to any audit to government bodies involved in the extractive on the Auditor	Made public the audit reports carried out the Office of the General Auditor. Emphasizing in the instructions for next EITI

	Findings	Recommendation
	General website/ Audited financial statements/Audit reported not submitted by companies selected in the scope	Report the importance of submitting the audited financial statements.
4	Discrepancies raised due to the gap between the date of payment and the date of receipts issued by IRD	Review the process and identify weakness which lead to this delay in producing the receipts by IRD
5	Disclosure of the government and SOE(s) beneficial ownership in extractive sector	Urge SOEs to disclose their level of beneficial ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period
6	Delays in the submission of data	The reconciliation schedule should be better planned in the years to come in order to avoid short and pressured deadlines.
7	Future EITI Scope	<ul style="list-style-type: none"> <li>• Include the production in the reconciliation process and clarify the definition of production for use in future EITI reports;</li> <li>• extending the coverage of the Gems and Jade sub-sector revenues by including all revenues collected and not only those received from emporium; and</li> <li>• reconcile the revenues collected by SOEs from companies with the transfers receives by the MoF from SOEs;</li> <li>• include transportation revenues in the reconciliation scope</li> </ul>
8	Definition of the Beneficial Ownership	Agree the appropriateness of the BO definition proposed in the scoping report and agree whether Politically Exposed Persons, who otherwise benefit financially from the company, are also considered to be beneficial owners
9	Military holding companies	Address the issue whether MHC should be treated as a SOEs for the next EITI Report
10	Lack of a comprehensive database including contextual information and statistics on the extractive industry	Considering in conjunction with the MOM, the MOE and CSO the implementation of database for the extractive sector
11	The current register of licenses: i) is not available online. ii) transfers of mineral rights though documented are not computerized; iv) intensive manual manipulation required to extract the list of licenses; v) licenses are not systematically pre-numbered.	Implementing of an online cadastral system including all the information required by the EITI Standard

	Findings	Recommendation
12	Review the Government reporting system : Use of manual system; Lack of a Tax Identification Number for taxpayers	Introduce an appropriate computerized systems to record and control information relating to the production and finances from the extractive sector and implementing the use of Unique Tax Identification Numbers
13	Extensive use of “other accounts” with limited information disclosed on their use and management.	Redefining the other accounts as normal budgetary revenue and disclose more information on “other accounts” in the budget
14	Enactment of EITI reporting regulations	Introducing EITI reporting provisions in Myanmar regulation
15	Allocation of licenses	Review the current legislation to state clearly the process to be used for awarding licenses and when a round of bidding should be conducted with the highest bidder obtaining the concession.
16	Confidentiality provisions in PSCs	Amend the PSC provisions to allow disclosure for EITI purposes and include the EITI reporting requirements

Concerning with Moore Stephens’ recommendations, civil society organizations (CSOs) had a few comments and additional points that CSOs would like to include. One CSO representative discussed that any of Moore Stephens’ recommendations does not include for ground situations (i.e. he does see any recommendation related to issues happening in communities because of the extractive industries). Therefore he thinks there should be ‘mechanism’ that helps all the stakeholders to solve together on issues occurring in communities. Moreover he requested Moore Stephens to include realistic recommendations to be able to apply. MSG discussed and agreed to mention ‘descriptive statements’ in the report.

### **MSG agreed to include the following recommendations**

	Recommendations
1	To include Forestry, Hydro, Fishery and others in future scope  Agreed: extending the coverage of the Gems and Jade sub-sector revenues by including all revenues collected and not only those received from emporium; and study and include Forestry, Hydro, Fishery and others in future scope
2	SOEs to be more transparent
3	To state the contextual information commented and made by CSOs to reflect the real ground situations/  Agreed: It is also useful to reflect the establishment of subnational EITI Coordination units in mining regions/states such as Mandalay and Magway regions and Rakhine and Shan states. This process can provide a valuable forum for dialogue at the state/regional level on the distribution/collection of extractive revenues and environmental and social issues

	associated with the extractive industries. To extend establishment of subnational coordination units.
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Then, Dr. Mg Mg Thien, Chair of MSG invite for more comments and suggestions. After that, Chair asked MSG members that is there any one would like to object the approval of the report by Moore Stephens. Since there is no objection from MSG members on the approval of report, Chair announced that the MEITI report is approved by MEITI-MSG.

**CSO Representative Replacement**

Then, Daw Su Hlaing Myat was proposed to be a MSG CSO representatives, to replace U Thin Thit’s position from Sein Yaung Soe (Mandalay). The rest MSG members welcomed Daw Su Hlaing Myat with no objection.

Follow up actions (Decision)

#	Follow up actions	Responsible
1	To amend and send recommendations (Moore Stephens to include MSG’s considerations on IA’s current recommendations)	Moore Stephens
2	To send the First MEITI Report (Pre-Final) version to MEIT National Coordination Office and MSG on 25-Dec-2015	Moore Stephens
3	To give comments/ feedbacks on the Pre-Final version of the report (to send to Moore Stephens)	MSG MEITI-CESD
4	To approve First MEITI Report and submit to the International EITI Board by 2-January-2016 (in timely manner)	MSG Chair, MEITI Office (CESD)

The Twelfth MEITI-MSG meeting was concluded and closed at 13.45 pm.

The attendance list is also attached.