

3<sup>RD</sup> MEITI MULTI-STAKEHOLDER GROUP (MSG) MEETING

INYA LAKE HOTEL, YANGON

7 APRIL 2014

# Minutes

**MEITI Coordination Office/Secretariat**

9<sup>th</sup> April 2014

# MINUTES OF THE 3<sup>RD</sup> MEITI MSG MEETING

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Yangon, 7<sup>th</sup> April 2014

## 1 Welcome from the Chair and Outline of Meeting Agenda/Objectives

The Chair, Dr. Maung Maung Thein, welcomed the MSG members and outlined the aims and objectives of the meeting. He highlighted the significant progress made so far on the development of the MSG Terms of Reference (TOR) and the Workplan, and informed members that work is underway to produce Myanmar's EITI candidacy application. He then also highlighted the importance of submitting the application as soon as possible, for review by the EITI International Board at their next meeting.

The EITI International Secretariat Regional Director, Dyveke Rogan, who is in Myanmar for the week, explained the process for the candidature application. She noted that subject to approval of the Terms of Reference and the Workplan, the MSG would need to endorse the candidature application and submit it to the EITI Board. She said that the MEITI Coordination Office had already made good progress on the drafting of the application, and that a draft would soon be shared with the MSG for feedback and approval. The EITI Board's Outreach and Candidature Committee comprised of members of civil society, companies and governments that implement the EITI, would then assess the application and seek further clarifications from the MSG if needed. Dyveke explained that the assessment process usually takes 6-8 weeks. She noted that the next meeting of the EITI Board would be held on 1 July. Thus, if the MSG would want the EITI Board to consider Myanmar's application at its meeting on 1 July, the application would need to be submitted to the EITI Board in early May. She also said that the EITI Board had discussed the invitation from the government of Myanmar to host the autumn EITI Board meeting in Myanmar on 14-15 October. The Board had agreed that if Myanmar were admitted as a candidate country in July, the Board would be delighted to hold its autumn meeting in Myanmar.

She reminded the MSG that there is no reason they shouldn't submit the candidacy application provided that MSG members are satisfied. Documents such as the Workplan can be changed and amended as often as the MSG thinks is necessary. The Workplan should be considered as a 'living document', it is not static.

## 2 TOR Discussion and Approval

Daw Kay Thi from the Myanmar EITI Coordination Office presented the outlines of the discussion so far on the draft TOR. She talked the MSG members through the structure of the draft TOR and highlighted that there had been active participation of all participants during each TOR sub-committee meeting and that 3 meetings had been held so far, on the 14<sup>th</sup> and 28<sup>th</sup> February and the 28<sup>th</sup> March. Discussions and development of the draft TOR had been based on international good practice examples as well as the MEITI Options Study recommendations. After each meeting, the draft TOR were amended in line with discussions, translated and shared among members for their review and feedback. The final draft (presented at this MSG meeting) was agreed at 28<sup>th</sup> March sub-committee meeting, and a few further comments had been received by the MEITI Coordination Office from CSO and private sector MSG representatives on Friday 4<sup>th</sup> April. These comments were discussed during the meeting and MSG members were given the opportunity to also provide further comments.

Private sector representatives strongly expressed their views that their alternates should have the same responsibilities as the primary representatives. They requested that their alternate members should have the same decision-making and other responsibilities as primary representatives as long as authorised by the primary representative and that the MSG agrees. Private sector representatives also responsibilities were clarified and agreed by the MSG members.

A civil society representative requested that the relationship between the MEITI Secretariat/Coordination Office and the MSG be clarified. Dr. Zaw Oo responded by informing MSG members that the transition of the MEITI Coordination Office to the Ministry of Finance has already been agreed and that a plan and next steps for exactly how this happens will be agreed. A civil society representative then asked that the TOR set out clearly the responsibilities of the secretariat and a clear reporting mechanism. The EITI International Secretariat representative explained that although not required, TORs are often developed for national secretariats. She explained that the TOR for national secretariats is sometimes part of the MSG TOR and other times it is a standalone TOR. She suggested that if the MSG wishes to elaborate more detailed TORs for the MEITI Secretariat, one approach could be to attach these as an annex to the main MSG TOR. She also offered to share the Standard TORs for MSGs and examples of TORs from other secretariats around the world.

A civil society representative raised the question of whether to add a provision in the decision-making procedures regarding a follow up mechanism to ensure progress against actions agreed by the MSG at meetings is followed through and tracked. CSOs requested that the minutes of the meeting clearly reflect this discussion.

### Actions

The MEITI Coordination Office will send the draft TOR to MSG members by email.

### 3 Workplan

Dr. Zaw Oo, the National Coordinator, presented the background and process of the development of the MEITI Workplan including a discussion and presentation of the budget. He presented the development of the draft Workplan, he highlighted that 4 Workplan sub-committee meetings had been held and that all sub-committee members had been actively involved in each of the discussions. After each meeting, the amended draft Workplan was shared with members for their review and feedback. The final draft MEITI Workplan was agreed on the 28<sup>th</sup> March meeting, incorporating the comments and feedback from the EITI International Secretariat and the MEITI Technical Adviser. Some final revisions were made in line with the discussions during that meeting, the budget estimations were added, and this final draft was shared on 29<sup>th</sup> March with MSG members for final feedback and review. On Friday 4<sup>th</sup> April some additional comments were received by the MEITI Coordination Office from both CSOs and companies before the 3<sup>rd</sup> MSG meeting on Monday 7<sup>th</sup> April.

A CSO MSG representative highlighted 4 keys points that CSOs would like to be included in the workplan. These are:

- Voluntary Contract transparency
- Social Expenditure
- Special Units in government ministries for better coordination (it was noted that this is already included as an activity in the Workplan)
- Recognition that the logic, objectives and structure of the Workplan can be reviewed by the MS another time.

The CSO MSG member suggested that a number of issues that CSOs would like to incorporate in the Workplan can be reflected in the MSG meeting minutes and can be reviewed by the MSG another time.

A private sector representative noted that a lot of work has gone into the draft workplan to get it to this point and reiterated that the document is 'alive' and can be amended and changed in the future by the MSG. The private sector representative suggested that the current draft be approved, and pointed out that the new proposed activities and changes would not be possible to approve at this meeting given that the broader constituency group would need to be consulted, and this would take time. However, regarding contract transparency the private sector representative highlighted that the private sector does not have an issue with contract transparency per se, but need to discuss with other companies before agreeing to any concrete activity.

In response to a CSO query, the EITI International Secretariat clarified that contract transparency will not be a mandatory disclosure in 2016, however the EITI International Secretariat is currently carrying out a pilot study on beneficial ownership which may lead to this becoming a mandatory disclosure in 2016.

A mining sector representative suggested that contract transparency could be a voluntary activity in the Workplan. The oil and gas sector representatives agreed that this is a very important point that they do not have an issue with, and that they do not have a problem with voluntary contract transparency. However, the oil and gas sector representatives highlighted that they are concerned with the language and wording of the activities and suggested rephrasing from the current proposed wording "MSG to agree a process and plan regarding contract disclosure... "to "MSG to agree to discuss..." . There was a big discussion among all of the MSG members including about social expenditures. Finally the MSG members agreed the following wording: "MSG members will explore methodology and extent of contract disclosure and social expenditures"

The National Coordinator asked the MSG members if they were all satisfied with the Workplan and asked representatives from each constituency group if they had any objection or remarks. There were no objections from the constituency group representatives and as such the Workplan was approved by the MSG.

### Actions

The MEITI Office will send the approved Workplan to the MSG.

## 6. General Discussion and Any Other Business

CSOs requested clarification on the status of the MEITI legal review. The MEITI National Coordinator, Dr. Zaw Oo said that the sharing of the legal review had been delayed because the expert who carried out the legal study was checking some final facts. However he promised to try to share the legal review as soon as possible. The local World Bank representative (as an Observer) confirmed that the legal review commissioned by the World Bank had recently been completed (last year). She noted that the report is of excellent quality and should be helpful to stakeholders. She also confirmed that from the World Bank perspective it contains nothing that cannot be disclosed and hoped the report could be distributed as soon as possible. She apologised on behalf of the World Bank for any confusion or delay regarding the legal review. She also confirmed that the World Bank and MDRI have commissioned a MEITI institutional and regulatory review or 'political economy study' for which international consultancy firm Adam Smith International has been contracted, and which is due to start in May. It was clarified that this study is not 'the' MEITI scoping study but can in fact serve as a 'pre'-scoping study that can then feed into the actual scoping study and that can also support the MSG to gain a greater understanding of the extractive sector and related institutional /regulatory processes in Myanmar. The World Bank representative agreed to share the Terms of Reference for the institutional and regulatory review with the MSG.

A CSO representative questioned the timing of the proposed legal study and MEITI bill, and suggested that this could take place before the election in 2015. The Chair of the MSG responded by saying it will be better to first understand the challenges and options before a law can be suggested. U Min Zar Ni from the MEITI National Coordination Office added that some countries that have adopted an EITI Law have chosen to do so after producing their first EITI Report so that they have a greater understanding of any challenges or difficulties encountered during the report-production process. The EITI International Secretariat highlighted that the MSG should consider the various options and explore whether a specific MEITI bill would in fact be the most appropriate approach for Myanmar.

The CSO group announced the replacement of one of their 9 MSG members. The MSG welcomed the new member, Daw Moe Moe Tun.

### Actions

It was agreed that the MEITI Coordination Office will share the draft Candidacy Application with MSG members for their review and feedback.

## 7. Agreed Actions for Follow up at Next MSG Meeting

What	Who	When
Draft TOR to be sent to MSG members	MEITI National Coordination Office	As soon as possible
Final approved Workplan to be sent to MSG members	MEITI National Coordination Office	As soon as possible
Share the draft MEITI Candidacy Application with MSG members for their review and feedback	MEITI National Coordination Office	As soon as possible

## Participant List

### Chair

Dr Maung Muang Thein, Deputy Minister, Ministry of Finance

### Vice Chair

U Myint Zaw, Deputy Minister, Ministry of Energy

### MSG Members

1. U Win Htein, DG, Ministry of Mines
2. U Myo Myint Oo, MD, MOGE
3. Daw Myint Myint Than, Director, Attorney General Office
4. U Linn Ko Ko, General Administration Department (alternate)
5. U Kyaw Kyaw Lwin, MOECAAF (alternate)
6. U Soe Naing, Director, IRD (alternate)
7. U Htun Myint Aung, 88 Generation
8. U Wong Aung, Shwe Gas Movement
9. U Khaing Kaung San, Wan Lark Foundation (Rakhine)
10. U Thant Zin, Coordinator, DDA
11. U Tin Thit, Sein Yaung Soe
12. U Win Myo Thu, ALARM/EcoDev
13. U Aye Thwin, Goldpetrol (alternate)
14. Mr. Li Hongyuan, CNMC
15. U Aye Lwin, MFMA
16. Terry Howe, MPRL E&P Pte Ltd.

### Observers /Alternates/Others

1. U Saw Chit Aye, Director (Finance), MOGE
2. U Kyaw Thet, Director, MOM
3. Daw Yi Yi Htwe, DICA
4. U Sun Win, Assistant Director, MOF
5. U Kaung Myint Thu, General Administration Department,

6. Daw Mya Mya Soe, IRD
7. Daw Khin May Hla, Attorney General Office
8. U Saw Moe Myint, Myanmar Green Network
9. Daw Moe Moe Tun, Green Trust (POL)
10. U Hosana, Spectrum
11. U Tin Ko Ko Oo, 88 Generation
12. U Salai, Advisor, Pyoe Pin
13. Daw Nant Thein Thein Mya, MATA
14. Daw Mu Cherry, KYWO/UKSY
15. U San Tin, KSNG
16. U Min Han, 88 Generation
17. U Nyunt Oo, CSR, NRP, Group Company
18. Mr. Brun, TOTAL E&P Myanmar
19. U Khin Maung Han, Vice Chair, MFMA
20. Daw Mya Htwe Yee, Goldpetrol
21. Daw Thi Thi Myat, MFMA
22. Yang, Myanmar CNICO
23. U Soe Thura, Assistant HR Manager, MPRL

#### International Observers

Ms Erica Westenberg, EITI Policy Officer, Revenue Watch Institute (RWI)

Ko Ko Lwin, Myanmar Program Associate, RWI

Matthieu Salomon, Asia Pacific Project Manager, RWI

Lorenzo Delesgues, Research Consultant

Juman Kubba, Global Witness

Yu Yu Naing, DFID

Declan Magee, DFID

Eddie Bowles, World Bank



### EITI International Secretariat

Dyveke Rogan, Regional Director

### MEITI Coordination Office/Secretariat

Dr Zaw Oo, MEITI National Coordinator

Min Zar Ni, Deputy National Coordinator

Kay Thi, Senior Programme Coordinator

Thi Thi Han, Programme Assistant

Aung Pyo Kyaw, Research Assistant

Mae Sandar, MEITI Office Intern

Emma Irwin, MEITI Technical Adviser

**The following table** outlines the various civil society and private sector comments and suggestions on the final draft Workplan received prior the MSG meeting. Some were discussed and some were not. **It was agreed that these will be followed up and reviewed by the MSG during a future review of the Workplan.**

#	Activity No.	Comments
1	Expected Output ( <b>Title</b> )	<b>CSOs suggest</b> that for each output it should be clarified that all studies or reports will be made publicly available after MSG approval, unless agreed otherwise by the MSG
2	Activity 1.2.1 (about Start Date and Estimated Duration) Mid-2015	<b>CSOs suggest</b> Legal study should take place from end 2014 -early 2015, and Bill should be prepared by mid 2015 (Bill prepared before the election)
3	Activity 1.2.6 (about Activity)	<b>Government suggests</b> to include "software, Hardware and other related accessories for register of license system"
4	Activity 1.2.12 (about Responsible (Responsible Entity)	<b>CSOs suggest</b> CSOs should be included as responsible entity under some of the activities
5	Activity 1.2.13 (about Activity)	<b>CSOs suggest:</b> add 3rd point under 1.2.13 re contract disclosure "MSG to agree a process and a plan for contract disclosure" <b>Private Sector suggest:</b> re suggested contract disclosure addition - better to discuss in MSG and sub-com meetings with more time rather than adding it in here now at last minute without sufficient opportunity for discussion among constituency group
6	Activity 4.2.5 (about Activity)	<b>CSOs suggest</b> to add that outreach activities could link to Objective 1 outputs
7	Activity 4.2.7 (about Expected Output)	<b>CSOs suggest</b> change wording of output to: "Regional support groups established in line with the options discussed and agreed by the MSG"
8	Activity 4.3.1 (about Activity)	<b>CSOs suggest</b> that MSG also agrees to establish an independent CSO extractive industry monitoring entity/system
9	Activity 4.3.2 (about Activity)	<b>CSOs</b> to carry out 2 studies after each EITI Report
10	Activity 4.3.2 (about Budget)	<b>CSOs suggest</b> this should be changed to 96,000 (because 1 study = 16000, so 2 studies per year = 32,000 - so for 3 years = 96,000)
11	Activity 4.3.4 (about Start Date and Estimated Duration)	<b>CSOs suggest</b> changing timeframe to "Whenever necessary as agreed by the MSG"
12	Activity 4.3.4 (about Activity)	<b>Private Sector suggest</b> adding "at least annually"