

**Minutes of 9<sup>th</sup> Meeting of the Myanmar Extractive Industries Transparency Initiative  
(MEITI) Multi-Stakeholder Group (MSG)  
15<sup>th</sup> May 2015  
Summit Parkview Hotel, Yangon**

**Objectives and Agenda**

The meeting has the following objectives: informing the current situations of the implementation of MEITI, seeking comments from the members of MSG regarding MEITI related studies, sharing the experiences gained from the study tour to Philippines and discussion on the required actions to be carried out in the future.

**Welcome**

Dr Maung Maung Thein, Chair of the MEITI-MSG, Deputy Union Minister for the Ministry of Finance, opened the meeting. He acknowledged the gradual progress made so far and that now the production of the first report is closer than ever. He stressed the importance of MSG members needing to work together to achieve this goal in the interest and benefits of the people.

**Review of Actions Agreed at Previous MSG Meeting**

Daw Kay Thi from the MEITI Coordination office presented a review of the decisions and actions agreed at the 8<sup>th</sup> MSG meeting:

- The EITI MDTF grant from the World Bank is nearly ready for 'government execution', and the Ministry of Finance EITI Secretariat together with the MDRI MEITI team and the World Bank are following up on this.
- The MSG study tour to the Philippines took place at the end of March.
- In April, the MEITI Coordination office met with the Ministry of Finance to discuss the preparation for the scoping study, particularly in relation to the disclosure of payment and revenue data and other information, in line with requirements 3 and 4 of the EITI Standard.
- The meeting that had been agreed between CSOs and the Letpadaung copper project Joint Management Committee (JMC) – in particular UMEHL, has been postponed until further notice.
- The MEITI Coordination office met with the Myanmar Federation of Mining Associations to share and discuss progress and EITI implementation.
- GIZ has offered to send MSG members from Mongolia to Myanmar for a peer-to-peer learning workshop to share and discuss experiences with Myanmar MSG members regarding EITI implementation. Initially the workshop had been scheduled for May however it has now been postponed to a later date to be agreed with the MSG and that is also suitable for GIZ and for the Mongolian participants.
- A press conference can be held after the MSG workshop.
- The Communications and Outreach Sub-Committee has been leading the preparations and planning for the establishment of the four pilot MEITI Sub-national Coordination Units, the first of which will be established in Mandalay, and the second in Magway

- The Ministry of Mines has responded to the list of 14 Questions raised by CSOs a few months ago. The responses have been distributed among MSG members prior to this meeting.
- Consultancy firm Moore Stephens has been appointed to be the Independent Administrator for Myanmar EITI's scoping study and first report.
- The World Bank has appointed a communications consultant and two other consultants (financial management and EITI liaison) to support EITI implementation.

### **Independent Administrator Selection Process**

U Wong Aung MSG CSO representative and member of the Independent Administrator Selection Committee provided a step-by-step overview of the Independent Administrator (IA) selection process. The Selection Committee systematically assessed all proposals received based on a number of agreed criteria. These included prior experience producing EITI reconciliation and scoping reports, their broader EITI experience, proposed methodology and workplan, auditing experience, experience of relevant key sectors and inclusion of local Myanmar consultants on their team. Moore Stephens is the firm that has been selected based on these criteria. The MEITI Coordination office then reminded MSG members that it had contacted them regarding their confirmation and endorsement of the selection of IA. However, only MOECAAF had responded to this request with their confirmation of agreement. As such, and given the absence of any other replies before the designated deadline, it was assumed that the other MSG members agreed and endorsed the selection of Moore Stephens as the Independent Administrator. There were no further comments from MSG members. On behalf of the MSG, the Chair then expressed his thanks to the IA Selection Committee for their work in the selection of the IA.

### **Role of MIC on MSG**

A CSO representative raised a question regarding Myanmar Investment Commission (MIC) and whether an MIC representative should be included in the MSG in order to ensure harmonisation of with EITI activities. The MSG chair responded that he is already a member of MIC. It can be recognized that MIC is already included in the MSG. There was some discussion about inviting another MIC representative to join in the MSG, and finally all MSG members agreed that MIC should be invited to attend to MSG meetings. It was agreed that an MSG invitation letter to the MIC can then be prepared by the MEITI Coordination Office, and signed by the Chair of the MSG.

### **Independent Administrator and Scoping Study**

Moore Stephens' proposed schedule and timeframe was presented to the MSG. The team will begin their scoping study mission on Monday 22<sup>nd</sup> June and will be in Myanmar for two weeks meeting with the MEITI Coordination Office/Secretariat, relevant government EITI representatives, and also some private sector MSG representatives. They will then present their initial findings at a workshop for the MSG to be held on 3<sup>rd</sup> July. They will then write up their draft report and send this to the MSG for review, feedback, comments and approval. The final scoping study report will then be produced in the last week of July. The team will then return in the second week of August to begin the reconciliation work (part two of their contract).

### **MSG Workshop**

The proposed MSG workshop was discussed. GIZ has expressed an interest in supporting a workshop in Myanmar by bringing MSG members from Mongolia to exchange ideas with Myanmar MSG members. Some MSG members expressed concern that this could distract from the key objective of the MSG members meeting in a workshop context for the first time, and the fact that there are so many things to discuss that there would not be sufficient time available to also include Mongolian colleagues in a meaningful manner. Finally, it was agreed that it would be better to organise two separate workshops: one for the MSG where the scoping study findings can be discussed; and, a separate workshop where GIZ can bring Mongolian EITI representatives to Myanmar to share their experiences and where members can review the MSG Workplan for the first time.

### **Gemstone (and Jade) Sector Study**

The Concept Note for the gemstone sector report (MEITI Workplan Activity 1.2.8) had been circulated to all MSG members prior to the meeting, in order to seek endorsement on this study by MSG members during the meeting. Ms. Emma Irwin, international EITI adviser to the MEITI process (World Bank) outlined the proposed purpose and objectives of the gemstone sector study and proposed that it should be started as soon as possible and carried out in tandem with the scoping work of the Independent Administrator. This will demonstrate externally that the MSG is committed to understanding more about the gemstone (and jade) sector, beyond the scope of the IA's work as agreed by MSG in December 2015 (only formal government revenue data from the annual Gems Emporium will be included in the scope of the scoping study). She clarified that she would be happy and able to lead the study (as with the Training and Capacity Needs Assessment), given that this lies within her area of expertise and the agreed areas of responsibility as per her contract. A CSO representative stated that according to the MSG Workplan, the gemstone sector study should only be carried out after completion of the scoping study. The CSO representative expressed concern about carrying out the gemstone sector study simultaneously with the IA's work, noting that this would represent a deviation from the Workplan as agreed by the MSG. The CSO representative then requested the World Bank to inform the MSG in advance of any changes to the Workplan, and then continued by asking about budget allocation for this proposed study. The CSO representative then requested the World Bank to provide details of the budget allocation for this and other activities in the Workplan, and that these should be openly discussed and presented to the MSG. The international EITI adviser responded by clarifying that the purpose of consulting with MSG members today was to openly seek their feedback and endorsement of the proposed study, and that the cost of the proposed study would be covered as part of her existing contractual arrangements.

### **Establishment of Sub-National Coordination Units**

The establishment of the four 'pilot' sub-national coordination units was discussed. The plan to establish the unit in Mandalay at a workshop at the end of May was discussed, and it was agreed that MSG members and alternates, as well as a representative from each of Rakhine, Magway and Shan CSOs should also be invited to the workshop as observers in the interest of learning and awareness-raising. It was agreed that for each of the four sub-national coordination units to be established, the Chief Minister or the person assigned by the Chief

Minister would be appointed as 'Patron'. TORs have already been distributed to Mandalay and Magway regions. MSG members' feedback and any responses to these TORs were then requested.

#### **CSO 14 Questions regarding Letpadaung**

A CSO representative gave a special thank you to the Ministry of Mines for their response to the 14 Questions that had previously been raised by CSOs. The 14 Questions related to the Letpadaung and Sabei Copper Mine Projects and were raised by CSOs at the 8th MSG meeting. The Ministry of Mines had recently prepared a formal detailed response to the 14 Questions, which had then been distributed among MSG members ahead of this MSG meeting. U Myint Zaw, MSG Vice Chair acknowledged that CSOs' thanks to the Ministry of Mines should be put on record as an important achievement and result of the MEITI process.

### **Lunch Break**

#### **MSG Philippines Study Tour**

The experience and lessons learned from the MSG Study Tour to the Philippines in March 2015 were shared by the MEITI Coordination Office. It was noted that the Philippines had also faced a challenge re disclosure of tax information for EITI reporting, and, that while in some countries this obstacle is removed via a decree from the Head of State, in the Philippines the MSG members were able to get the required information released through voluntary agreement.

#### **Training Needs Assessment**

The international EITI adviser reported that the capacity and training needs assessment, which had been agreed as a priority by the MSG at the previous meeting, was already underway. She reported having already met with many MSG members and requested MSG members to let her know if they had any further requests, or if they would like to meet her to discuss any of this further. She confirmed that she hoped to complete the assessment and come up with recommendations on the training needs over the next few months.

#### **Gemstone Sector Study (continued) and Workplan Budget**

A CSO representative raised the issue of the gemstone sector study (MEITI Workplan Activity 1.2.8) again, noting that an agreement on this had not been made earlier, and encouraging MSG members to endorse the proposal given that it would be very timely to carry it out as soon as possible and in parallel with the IA's work. A private sector representative agreed with this and added that it would be in the MSG's interest for the study to be conducted now given the international EITI adviser's availability and that this would save the cost of recruiting a separate expert at some point in the future when the international EITI adviser is no longer available to do this work. A CSO representative insisted that it should only be carried out after the scoping study is complete and according to the specifics that are detailed in the Workplan. This then led to a further discussion about the budget. The CSO representative stated that the budget needed to be calculated in detail by the MSG Workplan and Governance Sub-Committee, and that the entire Workplan budget should be scrutinised and reviewed by this sub-committee. The Chair of the MSG and the National Coordinator then contributed to the discussion about the need for budget

scrutiny and auditing. It was suggested that a separate MSG Auditing Sub-Committee could be established. It was recognised that the Workplan and Governance Sub-Committee has budgetary oversight and has already contributed to the current Workplan budget calculations. Finally it was agreed that the Workplan and Governance Sub-Committee should meet as soon as possible to review the Workplan and budget in detail, to prioritise specific Workplan activities, and to do the auditing as well. to discuss the gemstone sector study and then present this to the MSG at the next meeting for approval.

### **EITI Disclosure Challenges**

The issue of constraints on the public disclosure of tax payments (from companies to the Internal Revenue Department) was raised. This data is essential for the EITI report. A solution therefore needs to be found as soon as possible. According to Section 49 of the Revenue Law, tax payments cannot be publicly disclosed. In the Philippines they were able to agree on tax disclosure on a voluntary basis, but according to Myanmar law this will not be possible. This needs to be discussed as a matter of priority with the Union Government. The Chair acknowledged that this issue has been raised several times before and that different line ministries will need to disclose and cooperate with the IA team. The question is how to ensure this is done legally. The Chair stated that he and Dr Zaw Oo, National Coordinator, had also discussed this before the meeting. The National Coordinator stated that if the MSG agrees then the issue should be raised with the Leading Authority and the Attorney General's Office in order to speed things up.

The National Coordinator stated that there are additional complications in that some companies are involved in more than one sector, and that as part of the reform process the government statistical data systems, of which tax payments are a part, are also being reformed. The National Coordinator asked the respective constituency representatives for their views. The MOE representative stated that data is available for key projects (e.g. Total, Petronas and PTTEP) and that the money goes directly to MOF.

The issue of availability of tax data on a disaggregated, project-by-project basis was discussed, given that many companies in Myanmar operate within many sectors. It was reiterated that the IA will be requesting information from each line ministry, and that depending on individual contract provisions some of this information may not be disclosed. It was stated that the MSG already gave instructions about this 2 meetings ago and that the possibility of issuing a presidential decree had been discussed. It was suggested that in order to get a result it should now also be raised with the Union Attorney General otherwise the issue may need to be raised with Parliament. The importance of preparing in advance and getting a detailed list of all the data required by the IA as soon as possible was noted. It was also noted that the MEITI Coordination Office has already discussed the level of data that will need to be disclosed with the various ministries.

A private sector representative then asked whether they will need to provide tax data to the IA during the scoping study phase. The National Coordinator responded that as far as the major taxpayers are concerned, detailed information will be necessary, maybe not at the scoping phase, but certainly later on, so if this can be prepared in advance it would be better. The company representative asked whether all companies would be required to do this. The National Coordinator responded that no company would be discriminated against,

and that the companies to be included in the first year reporting process will depend on the outcome of the scoping study.

The National Coordinator reiterated the importance of informing the government EITI Leading Authority and the EITI Champion, as soon as possible, to ensure the required disclosure of data for the IA's work. The Champion can then discuss this with the Cabinet and seek approval of the Attorney Generals' Office in order to ensure a sound legal basis is agreed. He confirmed that the government are seeking to start this process immediately.

It was acknowledged that meaningful tax disclosure can only come from the Internal Revenue Department. The National Coordinator went on to request, 'in the spirit of EITI', that all stakeholders cooperate to make the scoping study successful and enable the IA to do their work. In addition, and in the meantime, a legal basis for disclosure is being sought. He stated that it is not possible to promise that the legal basis will be in place before the IA arrives. However, MSG members need to build trust and not let this undermine the process. The Chair and the National Coordinator agreed that this matter should be brought to the attention of the MEITI Leading Authority and EITI Champion on behalf of the MSG as soon as possible, for their quick resolution.

#### **National Ceasefire Agreement and EITI**

A CSO representative reported having learned from the Armed Groups that there is a clause in the National Ceasefire Agreement (NCA), which states that all investment and development projects will have to meet 'EITI standards'. Clarification was requested on what challenges there would be to meet this requirement and how the MSG could help with this. It was pointed out that these groups are not familiar with EITI and would like to learn more, and it was suggested that it was within the MSG's mandate to share information with the public. The National Coordinator stated that he had also sought information on this reference in the NCA, and that it was his understanding that at this time there is just a reference in the NCA that investment projects will have to meet 'EITI standards'. Later on in the peace process it will be important to consult local communities to apply the EITI Standard. Considerations of responsible business and other standards will also come into the political dialogue. This information is not public so naturally there are many questions. The details are still being discussed and are confidential. The National Coordinator stressed that at this stage in the peace process, reaching agreement is the priority for all of the stakeholders, and added that a clear response was not given when asked exactly what was covered in the NCA regarding EITI.

#### **Constraints re Government Attendance at Meetings**

A CSO representative raised the issue of the constraints faced by the Ministry of Finance EITI Secretariat Office representatives who are required to seek approval from senior government representatives before attending any meeting. This step-by-step approval process up the ranks of progressive decision-making authority represents a significant challenge and leads to delays with any work being undertaken. Dr. Zaw Oo, National Coordinator, responded that this is directly related to the ongoing process of administrative reform. He noted that this challenge is present throughout all government departments, all

of whom are required to seek approval on all issues to the relevant top management according to the hierarchical structure. It was acknowledged that the issue is not one of human resources but in fact depends on procedures. For instance, there may be many champions on any given issue however the existing systems are not aligned with the vision of these champions. These issues should therefore be treated with patience and understanding.

It was pointed out that EITI is being referred to as an achievement in the reform process.

**Hydropower and Forestry in the Scoping Study**

A CSO representative raised a question as to whether the hydro and forestry sectors will be included in the scoping study. The international EITI adviser reminded the MSG that at its 7<sup>th</sup> meeting in December 2014, the MSG had agreed the scope of the IA’s work, i.e. that oil, gas and mining sectors only would be included. It has also been agreed that within the mining sector, as far as jade and gemstones are concerned, that only the formal government revenue data from the annual Gems Emporium would be included. The MSG had agreed at its 7<sup>th</sup> meeting that the forestry sector would not be included in the scope, and had agreed that a separate feasibility study for the hydro sector should be carried out. It was then agreed that the timing of this study would be discussed at the next MSG meeting.

**NRGI Study**

NRGI reported that in line with their work on the Natural Resource Charter, they plan to carry out research into the natural resources value chain to learn where Myanmar stands within this value chain, and see how this can be moved forward. This will involve field trips and meetings with some MSG members and government line ministries. There will be a workshop in to which all members of MSG will be invited. NRGI stated that they hoped this project will support the EITI process.

**Actions Agreed**

The following actions were agreed:

<b>Actions</b>	<b>Responsible</b>
MSG workshop to be held on 3 <sup>rd</sup> July where IA will present initial scoping study findings	MEITI team will send invitations in advance

MSG members to provide any feedback on draft MSG workshop agenda as soon as possible	MSG members
An invitation letter to be prepared for MIC to be invited to the MSG meetings by the MEITI Coordination Office with the Chair's approval.	Chair of MSG and MEITI Coordination Office /Secretariat
Separate workshop with GIZ to be held, where Mongolia EITI members come to Myanmar to share experiences. The workshop was postponed and the confirmed date will be informed to the MSG.	MEITI Coordination Office
To leave the gems study until after the scoping study has been completed according to the workplan activity (1.2.8)	MSG members
The Workplan and Governance Sub-Committee to review Workplan activities and budget, and report priorities back to the MSG at the next meeting The Workplan and Governance Sub-Committee to take the auditing responsibilities as well	Workplan and Governance Sub-Committee
MSG members to provide feedback on the proposed Magway outreach event / TORs for the establishment of the MEITI Sub-National Coordination Units, as soon as possible	MSG members
To present the challenges related to disclosure of tax data to the government Leading Authority and the EITI Champion as soon as possible	MSG Chair and MEITI Coordination Office / Secretariat
To follow up with rescheduling a meeting between the Letpadaung Joint Management Committee/UMEHL and CSOs	MEITI Coordination Office/ Secretariat
To request clarification and an update on the EITI reference in the National Ceasefire Agreement	MEITI Coordination Office/ Secretariat
To invite CSO members from 2 States and 1 Region to attend the workshop to establish the sub-national coordination unit in Mandalay as observers	MEITI Coordination Office/ Secretariat
The hydropower feasibility study to be discussed at next MSG meeting	MSG members
The 10 <sup>th</sup> MSG meeting to be held in the third week of July 2015	MSG members

The Ninth MEITI-MSG meeting was concluded and closed at 4pm.