EITI CONSULTATION ON CONTRACT DISCLOSURE

Dear [EITI lead],

The Extractive Industry Transparency Initiative (EITI) is currently undertaking a strategic review to improve the EITI Standard. One of the proposals under discussion is whether the revised EITI Rules should require or encourage disclosure of contracts between governments and extractive companies, or simply note that implementing countries may wish to decide to do so. The EITI Board seeks views from all EITI implementing countries on this matter. We would appreciate if you could let Dyveke Rogan (drogan@eiti.org) at the EITI Secretariat know by 8 January 2012 which of the following options you prefer the future EITI standard should include. Transitional procedures for phasing new requirements will be developed. If you have any comments in addition to indicating your preferred option, for example if there are some options you do not consider agreeable or wish to rate your preferences, we would of course welcome additional views. The attached note provides more background.

Option 1 That the EITI Standard in the future should require all EITI implementing countries to publicly disclose on a single government website any contracts that establish the terms attached to the grant and operation of an exploration or exploitation license.

Option 2 That the EITI Standard in the future should require all EITI implementing countries to publicly disclose on a single government website any contracts that establish the terms attached to the grant and operation of an exploration or exploitation license, with some exceptions. Such exceptions may include limiting disclosure to future contracts, and/or to contracts which give rise to material oil, gas and mining payments by companies to governments, and/or allowing for redaction of commercially sensitive information.

Option 3 That the EITI Standard in the future should encourage (but not require) all EITI implementing countries to publicly disclose on a single government website any contracts that establish the terms attached to the grant and operation of an exploration or exploitation license. Option 2 and 3 could be combined, with the disclosure of certain contracts required and the disclosure of all contracts encouraged.

Option 4 That the EITI Standard in the future would simply state that implementing countries may wish to publicly disclose on a single government website any contracts that establish the terms attached to the grant and operation of an exploration or exploitation license. The EITI Rules would not mandate nor encourage such disclosures.

Best wishes,

Jonas Moberg
Head of Secretariat
Extractive Industries Transparency Initiative

[CC: National Coordinator]
1. **Proposals on contract disclosure**

It is proposed that the EITI Standard covers disclosure of contracts between governments and extractive companies. Some EITI stakeholders consider that contract disclosure is required in order to enable users of EITI reports to compare revenue data with the terms of a contract (including incentives, government share in projects, social and environmental provisions, etc.). Other stakeholders have expressed concern that contract disclosure may reveal commercially relevant information that might undermine competition.

Several countries have already committed to contract transparency. Their governments publicly disclose (typically on a government website) any contracts that establish the terms attached to the grant and operation of an exploration or exploitation license. Some stakeholders have argued that this should be required in all EITI implementing countries. Others have argued that it should be encouraged, left to the discretion of implementing countries, or not mentioned at all.

2. **Background**

As part of the EITI strategy review ([http://eiti.org/about/strategy-review](http://eiti.org/about/strategy-review)), it is proposed that EITI addresses issues related to contract disclosure. At its meeting in Lusaka on 25-26 October 2012, the EITI Board discussed options to be adopted at 6th EITI Global Conference in Sydney in May 2013. The Board requested further views from implementing countries on this matter.

3. **Definition, the term “contract” implies disclosure of:**

   i. licenses, titles or permits by which the government confers to a company(ies) rights to explore or exploit oil, gas and/or mineral resources;

   ii. where such licenses, titles or permits are supplemented or supplanted by agreements that provide the terms attached to the grant and exercise of the right to explore and/or exploit:

      o the full text of any such agreement (concessions, production sharing agreements, service contracts and joint venture agreements);

      o the full text of any annex, addendum or rider that establishes details relevant to the agreement mentioned above or its execution, including provisions on financial terms, work program, the geographic perimeter of the license, accounting rules, the life of the contract, social or environment obligations of the company, and stabilization/confidentiality clauses;

      o the full text of any alteration to the terms of the original agreement or any amendment regarding the sorts of provisions noted above.