

11TH EITI BOARD MEETING, OSLO, 9-10 FEBRUARY 2010

Minutes

EITI International Secretariat Oslo, 18 March 2010

MINUTES OF THE 11TH EITI BOARD MEETING

Holmenkollen Park Hotel, Oslo, 9-10 February 2010

Chair

Dr Peter EIGEN

Implementing Countries

Mr Abdoul Aziz ASKIA, Permanent Secretary, EITI Niger, Niger
Alt: **Mr Sidi OULD ZEÏNE**, Chairman, EITI Mauritania, Mauritania

H.E. Essimi MENYE, Minister of Finance, Cameroon
Alt: **Mr T. Negbalee WARNER**, former National Coordinator, EITI Liberia, Liberia

Prof Humphrey ASSISI ASOBIE, Chairman, NEITI, Nigeria

Mr Shahmar MOVSUMOV, Executive Director, State Oil Fund, Azerbaijan

Mr Kairat DJUMALIEV, Deputy Minister, Ministry of Natural Resources, Kyrgyzstan

Supporting Countries

Mr Mark PEARSON, Director General, External Relations, Science and Policy Integration, Natural Resources Canada, Canada

Mr Jostein LEIRO, Deputy Director General, UN Department, Ministry of Foreign Affairs, Norway
Alt: **Ms Cathy BUGGENHOUT**, Embassy Councilor, Department of Economic Issues, Ministry of Foreign Affairs, Belgium.

Dr Ulla MIKOTA, Deputy Director General, Federal Ministry for Economic Cooperation and Development, Germany

Civil Society Organisations

Mr Ingilab AHMADOV, Director of the Public Finance Monitoring Centre - Baku, Azerbaijan
Alt: **Mr Dorjdari NAMKHAJANTSAN**, Open Society Forum, Mongolia

Mr Alfred BROWNELL, Green Advocates, Liberia

Mr Christian MOUNZEO, Coordinator PWYP Congo/President Rencontre Pour la Paix et les Droits de l'Homme, Republic of the Congo

Mr Michel ROY, International Advocacy Director, Secours Catholique France
Alt: **Mr Diarmid O'SULLIVAN**, Team Leader, Oil Campaign, Global Witness

Mr Anthony RICHTER, Chairman of the Governing Board, Revenue Watch Institute
Alt: **Ms Radhika SARIN**, Coordinator, Publish What You Pay

Companies including Investors

Mr Stuart BROOKS, Manager, International Relations, Chevron
Alt: **Mr Michael D. MAHER**, Public Affairs, ExxonMobil

Mr Olivier LOUBIÈRE, Corporate Business Ethics Advisor, AREVA
(Alternating for David BAKER, Vice President for Government & Environmental Affairs, Newmont)

Dr R Anthony HODGE, President, International Council on Mining and Metals
Alt: **Mr Edward BICKHAM**, Independent Consultant, International Council on Mining and Metals

Mr Reidar GJÆRUM, Senior Vice President, Corporate Communications, Statoil

Mr Jean-François LASSALLE, Vice President of E&P Public Affairs, Total

Ms Julie McDOWELL, Head of SRI, Standard Life Investments

Alt: **Mr David DIAMOND**, Co-Head of SRI Development, Allianz Global Investors France

Observers

Ms Gro ANUNDSKAAS, Assistant Director General, Ministry of Petroleum and Energy, Norway

Mr Baldanjav ARIUNSAN, Deputy Minister for Energy and Minerals, Mongolia

Mr Franklin ASHIADEY, GHEITI, Ghana

Mr Anton Op de BEKE, Senior Economist, International Monetary Fund

Mr Luigi BIONDI, Attaché for Economic Affairs, Embassy of Italy, Norway

Ms Christina del CASTILLO, Anticorruption Advisor, US State Department

Ms Delphine CLERC-TOURE, Energy & Climate Unit, Ministry of Foreign Affairs, France

Ms Diana CORBIN, Operations Officer, Donor Relations Extractive Industries Transparency Initiative, World Bank

Mr Aidan DAVY, Senior Program Director, ICMM

Mr Manuel De LEMOS, Coordinator, EITI Timor-Leste

Mr Philip J. DANIEL, Deputy Division Chief, International Monetary Fund

Ms Page DYKSTRA, Program Associate, Revenue Watch Institute

Ms Helga Fastrup ERVIK, Assistant Director General, Norwegian Ministry of Foreign Affairs

Mr Cristiano FACCIOTTO, Legal Counsel, ENI SpA, Italy

Mr Farid FARZALIYEV, State Oil Fund, Azerbaijan

Ms Katharina GUNSELMANN, EITI Policy Advisor, German Technical Cooperation (GTZ), Germany

Mr David HENRY, Energy and Natural Resources Division, US State Department

Mr Jon HOBBS, Lead Policy Advisor, Department for International Development (DFID), UK

Mr Karybek IBRAEV, Head of National Secretariat, Kyrgyzstan

Ms Gill JAMES, Standard Chartered, UK

Ms Carine KHAWAM, Development Officer, World Bank Unit, Canadian International Development Agency

Mr Mirco KREIBICH, Federal Ministry for Economic Cooperation and Development, Germany

Ms Magali KREITMANN, Financial Governance Unit, Ministry of Foreign Affairs, France

Mr Aloys LIGAULT, Campaign Assistant, Global Witness

Mr Ron LYEN, Director, International Affairs Division, Natural Resources, Canada

Mr Geir LØKKEN, Assistant Director General, Ministry of Foreign Affairs, Norway

Mr Rafael Munoz MORENO, Country Economist, World Bank

Mr Håkon NORDANG, Adviser, Social Responsibility, Statoil

H.E. Birgitta NYGREN, Ambassador, Ministry for Foreign Affairs, Sweden

Ms Agnès Solange ONDIGUI OWONA, National Coordinator, Cameroon

Mr Mohamed El Moctar OULD MOHAMED EL HACEN, Technical Adviser, African Development Bank

Mr Christian PETERS, European Commission

Ms Johanna PEYREDIUE DU CHARLAT, European Commission

Ms Donica POTTIE, Foreign Affairs and International Trade, Canada

Mr Anwar RAVAT, Program Manager, EITI, Oil, Gas and Operations Unit, World Bank

Mr Paolo de SA, Manager, Oil, Gas and Mining Policy Division, World Bank

Mr Haruna SAEED, Nigeria Extractive Industries Transparency Initiative (NEITI), Nigeria

Mr Zafar SAMADOV, Energy Charter Secretariat, Belgium

Mr Markus SCHRADER, State Secretariat for Economic Affairs (SECO), Switzerland

Ms Rosemary STEVENSON, Department for International Development (DFID), UK

Ms Siv Helen Rygh TORSTENSEN, Manager Legal, Corporate Compliance Officer, Statoil

Mr Oliver WAGENER, EITI Advisor to BMZ Division 211, German Technical Cooperation (GTZ)

Ms Bente WEISSER, Senior Advisor, Ministry of Foreign Affairs, Norway

Mr Jelte van WIEREN, Head, Good Governance Division, The Netherlands

Mr Joseph WILLIAMS, Information and Advocacy Officer, Publish What You Pay (PWYP)

Mr Kuniko YOSHIDA, Embassy of Japan, Norway

Ms Gabriele ZÖLLER, EITI Desk Officer, BMZ, Germany

EITI International Secretariat

Mr Sam BARTLETT, Regional Director

Mr Tim BITTIGER, Regional Director

Ms Carole ISIK, Intern, EITI Secretariat

Mr Anders KRÅKENES, Communications Manager

Mr Jonas MOBERG, Head of Secretariat

Mr Francisco PARIS, Regional Director

Mr Eddie RICH, Deputy Head of Secretariat

Ms Dyveke ROGAN, Intern

Mr Jürgen REITMAIER, Special Adviser, EITI

Mr Mike WILKINSON, Special Adviser, EITI

1. Welcome and adoption of the agenda (Board Paper 11-1)

The draft agenda was adopted.

The Chairman announced that Mariano Ruiz Funes from Pemex was passing his seat as Board member to Raidar Gjørnum from Statoil, taking over the latter's seat as Alternate.

2. Validation deadline procedures

Introducing the issue, the Chair said the Board had an important task in ensuring both pragmatism and rigour.

Sam Bartlett presented a table recalling the procedures and scenarios in Policy Note #3. He differentiated between two current Board work streams: 1) considering extensions (process) and 2) assessing validation reports (content). He also reminded Board members that the deadline was for completion of Validation and not for becoming Compliant, as this had been a point of confusion.

Julie McDowell reported on the Validation Committee meeting of 9 February. The Committee had reviewed the status report provided by the Secretariat, and noted that most countries would need to request extensions. The Committee recommended postponing a decision on deadlines and assessing the situation after 9 March. Meanwhile, countries should make extension requests, to be reviewed collectively after the deadline.

Abdoul Aziz Askia read out a declaration in the name of most Francophone African national coordinators, asking for Board clemency and reassurances that deadlines would be extended, with the aim to allow current national efforts to continue and obstacles to be overcome (see attached). Humphrey Asobie reminded colleagues of the shared responsibility of national and international EITI stakeholders for the state of affairs in implementation and validation.

The Board reached the following agreement on Validation deadline extensions: While welcoming progress, the Board acknowledged that validation has taken longer than anticipated. It noted that several countries had requested an extension. The Board considered a motion introduced by Mr Abdoul Aziz Askia on behalf of several implementing countries requesting that the Board grant a "blanket extension" to all implementing countries. Several Board members argued that this was unnecessary, as the existing rules allow the Board to assess the merits of extension applications on a case-by-case basis, taking the diversity of country processes and circumstances in account. Several Board Members argued that a blanket extension would weaken the credibility of the EITI. The motion was subsequently withdrawn. The Board reaffirmed its intention to apply the process as set out in EITI Policy Note 3. Countries that had not completed the validation process by 9 March 2010 were advised to apply for an extension, outlining any challenges experienced in implementing the EITI and in completing validation by the agreed deadline. Extension requests should be sent to the Board (via the International Secretariat) in advance of the 9 March 2010 deadline. The extension should also have the backing of the multi-stakeholder group. The Board decided to consider all requests for extension together after the 9 March deadline. The decision on extensions would most likely be taken at the next Board meeting in Berlin on 15-16 April. The Board agreed that the Chair should write to each country outlining the Board's agreed position. The Secretariat welcomed the Board's decision to make no change to the Rules at this time. Tony Hodge reminded the Secretariat of the importance of developing a media strategy well ahead of 9 March.

The Board agreed that a review of the Validation methodology should be conducted (including the adequacy of the two-year rule), once the first round of validations has been completed.

Action

The **Chair** to send out letters to each country with a 9 March and 12 May deadline as soon as possible to confirm the Board's consensus and to remind countries about the process for requesting extensions if they did not expect to complete Validation by the deadline.

The **Secretariat** to develop a media strategy on deadlines.

The **Secretariat** to develop terms of reference for a review of validation procedures to be undertaken over the summer. Board members invited to provide comments on improving the EITI methodology.

3. Implementation Report 8 (Board Paper 11-3)

Jonas Moberg briefly introduced this paper, together with the one-page update on recent Validation progress that was handed out at the meeting. He noted the substantial activity and positive progress across the 22 Candidate countries with a 2010 Validation deadline, welcome particularly given that this was a learning process for all.

Sam Bartlett explained that delays had occurred in procurement and in lengthy negotiations between the multi-stakeholder group and the Validator, and that going from a draft report to a final report took substantial time. He nevertheless cautioned against rushing the process, underlining that useful recommendations with the full backing of the MSG were essential for improving implementation.

The country-by-country assessment started with a discussion of the objection which the Secretariat had given to Congo's choice of the Validator on 22 January. Tim Bittiger explained that after analysis of the tender documents, the Secretariat had found the Congo multi-stakeholder group's treatment of potential conflicts of interests of the Validator to be insufficient, and transparency, inclusiveness and competitiveness of the selection process not adequately demonstrated. Several Board members insisted that flaws in the selection process would jeopardise the integrity of the entire Validation process, and could lead to a rejection of the Validation report by the Board.

Anthony Richter lamented the lack of political will and of progress - particularly reporting - in Equatorial Guinea, noting that Revenue Watch capacity-building staff had recently been declined visas. Several Board members advocated for a general EITI requirement for regular reporting, noting concerns about a lack of timeliness in EITI reporting and that some countries were producing EITI reports several years in arrears.

Minister Menye provided a background on the EITI process in Cameroon, pointing at the need to build capacity and to ensure disclosure by all stakeholders in order to improve the process.

Francisco Paris gave an update on progress in Latin America.

The Chair invited all Board members to contact the Secretariat with any further questions or comments about country progress.

Action

The **Secretariat** to work with stakeholders towards a solution of Validator selection in Congo.

The **Secretariat** to provide regular implementation updates to the Board around the Validation deadline.

4. Norway's EITI implementation

The Chair opened the session by applauding Norway for its important role as both supporter and implementer. He expressed gratitude to Norway for hosting the Secretariat, and the 11th Board meeting.

Gro Anundskaas outlined Norwegian EITI implementation since autumn 2007. The representatives of Canada and the Netherlands asked for Norway's practical experiences with implementation and the added value for the country. Gro noted that through the EITI, information on financial flows was for the first time available in a consolidated way in Norway. This particularly benefited civil society and the public. Reidar Gjørum stated that transparency was important in ensuring the legitimacy of the industry.

5. Azerbaijan Compliance (Board Paper 11-5)

Shahmar Movsumov reported that the Azerbaijan multi-stakeholder group – set up at the Baku Board meeting in October 2009 – had met for the first time in early February 2010. Ingilab Ahmadov confirmed that the meeting had been useful from civil society's point of view and welcomed the approval of a workplan for 2010.

The members of the Board were satisfied that the Board's two conditions had been met and reconfirmed Azerbaijan's compliant status by consensus.

6. Extension request: Yemen and Madagascar (Board Papers 11-6-A and 11-6-B)

Eddie Rich outlined the progress in Yemen in light of their request for an extension. Delays had been experienced due to protracted distrust and suspicion in the stakeholder council and wider economic and security issues which meant that the EITI had been a lower priority. However, he highlighted the impressive recent progress including a breakthrough agreement to undertake the first report and recommended that an extension be granted until the end of the year.

Julie McDowell restated the recommendation of the Validation Committee that all extension cases be assessed together after 9 March. Some other Board members pushed for a decision at the meeting, arguing that the case was clear-cut, that it was the duty of the Board to serve the in-country processes, and that the impact of a delayed decision might bring unnecessary risk to the process. It was agreed that a letter be sent by the Chair to Yemen explaining that a decision would be taken after the deadline, but giving strong encouragement to continue the process with all due haste. It was agreed that concerned Board members would be given sight of this letter in advance, in order to assess its wording.

Madagascar's request for an extension was not directly discussed, though Eddie Rich circulated an assessment by the Secretariat on their request based on his visit to the country the previous week (attached).

Action

The **Chair** to write a letter to Yemen to explain that a decision will be taken with the other applications, and encouraging the process to continue.

Secretariat to write a letter to Madagascar also explaining that a decision on their extension application will be taken with the other applications, and encouraging the process to continue.

The **Validation Committee** to prepare a paper covering all extension applications for consideration at the Berlin meeting.

7. Candidature assessment: Afghanistan, Iraq and Ethiopia (Board Papers 11-7-A, 11-7-B and 11-7-C)

Sam Bartlett introduced the Afghanistan paper, reporting that the Government of Afghanistan had endorsed the EITI by Cabinet decree in late 2009. Since then, an informal working group had been set up, a national coordinator mandated, and a workplan developed with advice from the World Bank and the Secretariat. The mining sector was poised to become a driver for Afghanistan's formal economy, expected to account soon for 50% of State income. The two challenges to implementation were the security situation and a lack of capacity. Some Board members questioned the country's ability to become compliant within two years, and whether civil society was in a position to play a relevant role. The Board pledged to monitor the situation closely. Afghanistan was accepted on 10 February 2010 as the 31st EITI Candidate country. It will have until 9 February 2012 to become compliant.

Diarmid O'Sullivan noted, with reference to Afghanistan and Iraq, that in countries where political violence is common, there was an onus on Board members and EITI supporters to ensure the safety of civil society participants in the EITI. This point was noted by the Chair.

The paper on Iraq was by introduced by Eddie Rich, who emphasised the impressive government commitment to the process, the excellent preparations and the strong international community support through the informal 'Friends of Iraq EITI'. He alerted the Board to two issues. Firstly, that since the oil and gas sector was 100% government owned in Iraq, the EITI would not cover its usual scope of tax and royalties, but that the proposal was to cover oil and gas export sales in the first report, and incrementally include domestic sales, signature bonuses and other payments, and non-cash sales of oil and gas products. Secondly, there was strong recognition for the need to build the capacity of all actors, particularly civil society, and that the Friends of Iraq EITI group had been coordinating on a number of next steps.

Diarmid O'Sullivan noted that the focus on export sales revenue was understandable in the specific case of Iraq, but must not be seen as setting a precedent that Candidate countries may choose which material revenue flows to disclose. The Board was satisfied that this focus was reasonable, given the specific circumstances of the oil and gas industry in Iraq, where export revenues are the dominant source of government income. The Board expects Iraq to

strive towards the inclusion of all material revenue payments in its EITI reporting within two years, as required by the EITI rules on Compliance.

On this basis, Iraq was accepted on 10 February 2010 as the 32nd EITI Candidate country and will have until 9 February 2012 to complete a Validation process.

At the Board's request at the Baku meeting in October 2009, Humphrey Asobie and Alfred Brownell, supported by Eddie Rich, had undertaken a mission to Ethiopia to assess this country's candidate application. Humphrey Asobie introduced a paper that was circulated at the meeting outlining the situation regarding the Proclamation on Charities and Society, which many Board members were concerned would restrict the activities of NGOs engaged in the EITI process (attached). The paper noted that although the Proclamation was indeed restrictive, stakeholders in Ethiopia, including civil society, were strongly supportive of the application proceeding. The paper recommended that a decision be delayed pending a reassurance from the government that NGO activities around the EITI be exempted from the law, whilst the International Secretariat and others continue to engage constructively and supportively.

In discussion, some Board members stated that they could not foresee an assurance that could adequately confirm, in a binding form, that civil society organisations (inside and outside the Ethiopian EITI multi-stakeholder group) would be able to make an effective contribution to the EITI process. No final decision on Ethiopia's Candidate application was taken, and the decision was deferred, in effect, until the Proclamation on Charities and Society is no longer in place.

Action

The **Chair** to write welcoming Afghanistan as the 31st EITI Candidate country.

The **Chair** to write welcoming Iraq as the 32nd EITI Candidate country.

The **Secretariat** to publish **media announcements** in Afghanistan and Iraq candidate status.

8. Report from the Nominations Committee (Board Paper 11-8)

Stuart Brooks reported on the status of the Committee's search for a successor to the Chairman. He confirmed that the Committee had received 25 nominations from EITI stakeholders. The Committee had then drawn a shortlist of ten names by consensus, and following the agreed selection criteria. This list ensured a good balance in terms of stakeholder groups, gender and geography. All ten shortlisted nominees had since been approached with letters. The Committee intended to propose a final choice to the Board in October 2010, as late as possible so as to not interfere with the mandate of the current Chairman. The designated candidate would attend the last meeting of the outgoing Board at the next Global Conference. The shortlist of ten was read out *in camera*. It was agreed that further names could be added to the list provided they met the criteria.

Action

Board members to **provide additional nominations** for consideration by the Nominations Committee.

9. Incentivising Compliant Countries (Board Paper 11-9)

Jonas Moberg introduced this paper by recalling that compliance should be considered the proper beginning and not the end of EITI implementation. With a number of countries due to reach compliance in 2010, the task ahead was how to encourage them to continue and improve their EITI processes. He proposed that the Board set up a working group on incentivising, with all stakeholders represented.

The proposal was welcomed as a timely intervention to chart the future rationale and direction of the EITI, particularly to leave a legacy for the next Board. Tony Hodge proposed that the EITI draw lessons from similar initiatives such as the Kimberly Process and the Voluntary Principles on Security and Human Rights.

Looking at the current wider discussion of EITI policies, Jonas identified four streams:

1. The Validation process, requiring the Validation Committee and the International Secretariat to draw lessons learned, and conduct a review of the Rules and guidance, including the Source Book;
2. A working group on outcome indicators;
3. A working group on the participation of CSOs in the EITI;
4. A working group and paper on incentives.

The Chair proposed to update and reissue the policy paper he had sent to the Board in August 2009 (Circular 54). This was welcomed by the Board.

Civil society Board members expressed a strong view that the proposal on incentivising Compliance, although valuable, was not a sufficient answer to the question of how EITI should evolve. While noting that EITI's future will be determined by the consensus of stakeholders, they called for discussion between now and the next EITI Conference on expanding the EITI to cover other areas of concern in the extractive industries, such as licensing and contracting, transit revenues and subnational reporting. They also noted the need to learn from the experiences of implementing countries and to further engender ownership of the EITI at the national level. Civil society board members proposed to present a discussion paper on this issue at the April Board meeting.

Action

The **Secretariat** to convene a working group on the participation of CSOs in the EITI, with a first meeting at the Berlin Board meeting.

The **Secretariat** to convene a working group to draft a discussion paper for the Berlin Board meeting and to organise a forum on incentivising compliant countries at the Berlin Board meeting.

The **Secretariat** to convene a working group on outcome indicators.

The **Secretariat** to update and distribute the policy paper.

10. EITI Progress Report 2009 (Board Paper 11-10)

Jonas Moberg introduced the report as an interim – and public – progress report to the Board, in between the biennial comprehensive reports presented to the EITI Conference.. He noted that financial figures in the 2009 report were preliminary.

Alfred Brownell proposed that impact be measured in the next progress report. Tony Hodge suggested using financial figures split by activities as a tool to track performance. Julie McDowell and Jonas clarified that the financial reporting was already improving , following the review in 2009 by the Finance Committee.

Action

The **Secretariat** to propose **how impact can be measured** in the Progress Report reflecting the conclusions of the outcome indicators working group.

11. 5th EITI Global Conference (Board Paper 11-11)

Jonas Moberg informed the Board that no proposal had yet been received for the place or time of the next Global Conference. He appealed to Board members to offer ideas and help during February and March. He pointed at Paris, Jakarta and Accra as venues under active discussion. Julie McDowell recommended favouring an EITI implementing country over an outreach country as a sign of reward.

Action

Board members are invited to **propose a place and time** for the next Global Conference.

The Secretariat to **pursue Paris, Jakarta and Accra** as Conference locations.

12. Any other business, including meeting schedule

The Chair announced that two dates for the autumn Board meeting would be communicated by Circular for decision (12-13 and 19-20 October 2010). He noted that no Francophone country had to date hosted an EITI Board meeting or Conference, and named Kinshasa or Montreal as possible locations. Sidi Ould Zeine invited the Board to consider Nouakchott in Mauritania for the event.

Under any other business, Julie McDowell made a plea in the name of the Validation Committee to allow adequate time in the Berlin Board agenda for discussing Validations.

Action

The **Secretariat** to circulate two autumn Board meeting dates for Board decision.

The **Secretariat** to find an autumn Board meeting location, also considering Nouakchott.

The **Secretariat** to allow for sufficient time for Validation discussions in the Berlin Board agenda.

EITI Secretariat

March 2010