

25<sup>TH</sup> EITI BOARD MEETING, ABIDJAN, 16-17 OCTOBER 2013

# Minutes

**EITI International Secretariat**

Oslo, 2 December 2013

## Contents

25-1 Welcome from the Chair and adoption of the agenda .....	3
25-2 Report from the Head of the Secretariat .....	3
25-3 Report from the Implementation Committee .....	4
25-4 Brief report from the World Bank MDTF .....	5
25-5 Report from the Validation Committee .....	6
25-6 Report from the Outreach and Candidature Committee .....	7
25-7 Report from the Governance Committee .....	8
25-8 2014 Workplan .....	9
25-9 Report from the Finance Committee .....	9
25-10 2014 Board Meetings .....	9
24-11 Any Other Business .....	10
Implementation session 1: Report from the country visits to DRC, Guinea, Ghana and Nigeria .....	11
Implementation session 2: Understanding oil contracts.....	14
Implementation session 3: Outlook for the EITI in francophone Africa .....	15
Implementation session 4: Implementing the EITI Standard.....	15
Participant List .....	17
Annex A .....	20
EITI Board decision on Cameroon .....	20
EITI Board decision on Indonesia.....	20
EITI Board decision on Kazakhstan .....	22
EITI Board decision on Senegal .....	23
EITI Board decision on Ukraine.....	23

# MINUTES OF THE 25<sup>TH</sup> EITI BOARD MEETING

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*Abidjan, 16-17 October 2013*

## 25-1 Welcome from the Chair and adoption of the agenda

The chair welcomed Board members.

In addition to regular board proceedings, the agenda included four implementation sessions where a range of implementation issues were discussed. Brief notes from these sessions are included in the final sections of this document.

The chair noted that Francisco Bataller-Martin, representing the European Commission, representing supporting countries, had stepped down as Olivier Bove's alternate. The Board thanked him for his service to the EITI.

The agenda was adopted.

## 25-2 Report from the Head of the Secretariat

Jonas Moberg updated the Board on the Secretariat's activities and follow-up actions on Board decisions since its previous meeting in Sydney. He noted the following:

- The focus had been on rolling out the new standard with training and there had been visits to almost all implementing countries since the conference. As well as training, staff had been supporting MSGs to develop their 2014 workplans. The main emphasis was on making the processes more meaningful and improving the availability and use of the data from the EITI reports.
- Linked to this, the team had spent significant time developing guidance notes, templates, and examples, on the revised requirements. Pilots are being planned for beneficial ownership and for oil sales.
- Board committees had been established and most have met on several occasions.
- The G8 Summit had generated enormous progress with France, the UK, and Italy, all committing to implement, as well as a pilot in Germany, and commitments by Japan and Russia to encourage their companies to support the EITI. The Presidents of Ghana, Guinea and Senegal came to London for the Summit and all emphasised their commitment to the EITI. In addition, eight "fast track" partnerships in the extractive sector were announced between G8 countries and Burkina Faso, Colombia, Ghana, Guinea, Mongolia, Myanmar, Peru and Tanzania. All of the partnerships make reference to the importance of the EITI and that implementation support is part of the partnership.
- Later in October, London would host the Open Government Partnership Summit with 60 countries. This had proven to be an important route for government commitment to the EITI, e.g. Colombia, the Philippines, Ukraine, Mexico and the United States. The Secretariat is involved in the planning and will participate in some side meetings.

- Efforts had been under way to coordinate more closely with the World Bank and the Revenue Watch Institute (RWI) in making the EITI more meaningful, relevant and used in each implementing country, with considerable discussions on better use of data. Joint missions between WB, RWI and EITI are for example likely to become more frequent.
- Together with DFID, RWI and other partners, the team held a series of 'hack' events where developers demonstrated their EITI data apps. Similarly, implementing countries had been competing to explain the EITI findings visually in an infographic competition with a good response. The results would be announced shortly.
- The EITI website would soon launch a section that collects the stories of how EITI is having an impact in countries.
- Interest in the EITI, as measured by website visits and media articles continued to grow after Sydney with an average of 23,000 visitors per month, up 36% from last year. Media mentions of EITI now averaged over 350 newspaper articles per month, also a clear growth over last year.
- With support from GIZ, Talking Matters, a guide for how implementers can communicate the EITI, was launched. This went hand in hand with a series of communication training seminars, such a seminar for francophone countries would be held the subsequent week.
- There had been no major staffing changes since the Conference. Aida Aamot was temporarily based in Peru and helping the process there.

Board members discussed to what extent they wanted to see each other's comments to the Board circulars. Members concluded that the current practice should be kept, and that Secretariat should circulate comments only if it received a large number of significant comments. The Secretariat was asked to ensure that only Board members and their alternates regularly received EITI Board circulars and to review and update the distribution list.

### 25-3 Report from the Implementation Committee

Jonas introduced Board paper 25-3-A Implementation Progress Report. He drew the Board's attention to the overview of EITI reporting, noting that several countries were struggling to meet the deadline of 31 December 2013 for 2011 EITI reports.

Board members asked for details on the efforts to assist **Peru**. Francisco Paris and Javier Aguilar briefed the board on support provided by the Secretariat as well as from a recent World Bank mission to the country. The publication of the 2011 and 2012 reports was delayed, and was due to be ready in early 2014.

The Chair noted the term "**Compliant**" was often misleading, as countries needed to continue their efforts to improve governance once the requirements were met. The Board requested that in future reports the Secretariat should provide additional details on what additional support was needed for those countries assessed as "red" (i.e., at risk of suspension or delisting) and which actors needed to be mobilised.

Board members commented that there is a potential conflict of interest in that the Secretariat is to both support countries efforts towards compliance, in addition to conducting Secretariat Reviews where they effectively judge whether the country is compliant or not. It was suggested that this issue should be

referred to the Governance Committee.

The Chair invited Sam Bartlett to introduce the draft template **ToR for Independent Administrators**. The EITI Standard requires a board-approved procedure to guide the compilation of EITI Reports. The template had been developed in consultation with national coordinators, Independent Administrators, and other experts. It was expected that the template will significantly improve the quality and consistency of EITI reports. The ToR was flexible enough to allow countries to add additional tasks as agreed by the MSG. The Secretariat welcomed comments on the draft. It was agreed that the Implementation Committee would review the final draft and make a recommendation to the Board via circular.

The Implementation Committee had been active in reviewing and commenting on the **guidance notes** being prepared by the Secretariat. These were being updated regularly as best practice emerges. It was agreed that the Secretariat would not seek Board approval of guidance notes, but that the notes would be circulated to the Board for information before they are issued. The Implementation Committee would continue to oversee the process and where necessary refer matters to the Board for decision.

The Board discussed a recent case from **Liberia** where a journalist was jailed, and the space for civil society participation in other implementing countries. Civil society board members expressed concerns that this type of situation in Liberia and other EITI implementing countries can have a chilling effect on the enabling environment for civil society, especially in light of a broader new EITI standard being linked to wider sectoral reforms. Senator Findley outlined the Liberian case setting out his view that the issue was normal judicial procedure for someone unable to pay legal costs, and was not related to wider campaigning on extractive governance issues. Clare emphasised the importance of a consistent approach to handling cases of civil society participation, and that the Board must not apply different standards to existing and prospective implementing countries.

Building on the recommendation from the Sydney Board meeting, Clare proposed to set up a working group to explore and deliver recommendations to the Implementation Committee on **civil society participation**. Board Members agreed to this, and suggested that recommendations are reviewed in the Governance Committee as well as in the Implementation Committee. Marinke van Riet informed the Board that the civil society board members are looking further into the issue of the "enabling environment" for civil society, and have commissioned the International Centre for Not-For-Profit Law (ICNL) to produce a checklist that can be used to assess the enabling environment at moment of candidature, during implementation as well as validation

### **Actions**

The Secretariat to indicate in future Implementation Progress Reports what support is suggested in countries rated as "red".

Further consideration should be given by the Governance Committee to how to manage potential conflicts of interest in that the Secretariat both coaches and supports candidate countries and carries out Secretariat Reviews.

The Implementation Committee and Governance Committee to consider the draft ToR for a civil society participation working group and to make a recommendation to the Board.

## **25-4 Brief report from the World Bank MDTF**

Noting the leading role that the World Bank played in providing technical and financial assistance in

implementing countries, Clare invited Paulo de Sa to hold a permanent non-voting seat around the Board meeting table, as an observer in accordance with Article 11 of the Articles of Association. De Sa updated the Board on the World Bank's work since its meeting in Sydney. He noted that the World Bank had been more active in the pre-candidature phase, provided assistance in developing guidance notes, had developed an EITI implementation assessment tool, was providing financing for training on the EITI Standard, and outlined foreseen longer-term funding needs.

## 25-5 Report from the Validation Committee

### Cameroon

Eelco de Groot, Chair of the Validation Committee, introduced the Board paper on the Validation report from **Cameroon**. The Validator concluded that Cameroon had met the requirements. The Validation Committee had reviewed the report and agreed with the Validator's conclusion. Eelco de Groot noted that some concerns had emerged in the lead up to the Board meeting regarding MSG governance and civil society participation.

Ali Idrissa and Marinke van Riet elaborated on these concerns, in particular regarding the procedures for the appointment of civil society representatives, the 'exorbitant' per diems and perceived conflicts of interest. The Secretariat noted that these issues had been considered during the validation process, and that the Secretariat maintained its assessment that the requirements were met. The Secretariat had also been active in suggesting reforms to the governance arrangements in line with the EITI Standard, including: hiring permanent staff, the publication of the budget, and an external audit of the technical Secretariat. The Board approved the Validation Committee's recommendation to designate Cameroon as EITI Compliant as of 17 October 2013. The full decision is attached in annex A.

### Indonesia

Eelco de Groot presented the Board paper on the Validation report from **Indonesia**. The Validator had found some requirements unmet. The Validation Committee, taking additional information from the Secretariat into account, disagreed with some of the Validator's findings, and agreed with the conclusion that further corrective actions were needed. The Committee had noted the complexity of the extractive industries in Indonesia, and the steps taken in the first report to cover issues not required under the EITI Rules.

However the first report from 2009 published in 2013 did not meet the EITI's requirements for timely reporting, and the 2010 and 2011 Reports were also substantially behind schedule due to amongst others procurement challenges. Moreover, additional work was needed to clarify the scope of the reporting process, and to ensure coverage of all material payment and revenues. The Committee recommended corrective actions on requirements 5, 9, 11, 14 and 15. The Board approved Validation Committee's recommendation. The full decision is attached in annex A.

### Kazakhstan

The Board considered the final Validation report for **Kazakhstan** (Board paper 25-5-C), and concluded that Kazakhstan be designated EITI Compliant. In accordance with the EITI Standard, Kazakhstan must be revalidated within three years (i.e. Validation will commence on 17 October 2016). The full decision is attached in annex A.

Gubad Bayramov stressed that the environment for civil society remained challenging in Kazakhstan, both in terms of ensuring collaboration between the many civil society organisations working on transparency and natural resource governance – especially those that are on the MSG – and in terms of freedom of expression.

Jim Miller drew attention to the number of occasions on which the conclusions drawn by independent validators and by the International Secretariat differed – occasionally fundamentally. This could be problematic and risked calling into question the effectiveness of the validation procedure. The Secretariat noted that all Validation board papers included a requirement-by-requirement assessment, highlighting any differences between the validator’s conclusion and the Validation Committee’s recommendation. In line with the EITI Rules, the Committee had placed a priority on the need for comparable treatment between countries. In some cases, the Committee had found that validation reports lacked sufficiently detail, especially on potential weaknesses in EITI implementation, even when the Validation Committee has specifically requested additional information on these issues when reviewing draft validation reports. The Committee had therefore often requested supplementary information from MSGs and analysis by the International Secretariat. In some instances, the Committee had taken into account work undertaken by the MSG following validation. More broadly, during the strategy review the Committee had noted that there was a significant risk that the approach for financing validation may incentivise validators to offer a sympathetic assessment. The Committee also reviewed the performance of individual Validators. The revised Validation procedure in the EITI Standard was expected to significantly strengthen the process. The Secretariat noted that new procedures for the procurement of validators and a standardised format for validation reports would be developed by the Validation Committee in 2014. Jim Miller suggested that development of these new procedures should be included in the 2014 Secretariat Workplan.

### **Actions**

The International Secretariat to inform Cameroon, Indonesia and Kazakhstan about the Board’s decisions.

The International Secretariat to provide additional information about Indonesia’s EITI process, particularly in relation to the comprehensiveness of the 2009 EITI Report, and to undertake a Secretariat Review of Indonesia by 15 January 2015.

## **25-6 Report from the Outreach and Candidature Committee**

Marinke van Riet presented the Terms of Reference for the Outreach and Candidature Committee (Board paper 25-6-A). The Board approved the Terms of Reference.

Marinke van Riet introduced the EITI Outreach Strategy 2013-2014 (Board paper 25-6-B) and EITI Outreach Progress Report July-September 2013 (Board paper 25-6-C), and invited the board to discuss and to reflect on the priority countries. The Outreach and Candidature Committee recommended the EITI Secretariat to further reflect on the priority countries and come back with a refined list at its next meeting. In addition it was requested that travel to outreach countries was shared with the Outreach and Candidature Committee members for coordination and information purposes.

Jonas Moberg provided a brief update on **Ethiopia**. After the recent mission to the country by Jean Claude Katende and Jonas, an application for candidature was received on 9 October. This application would be assessed by the Outreach and Candidature Committee before a recommendation was made to the Board.

Debra Valentine noted that a number of potential candidate countries may be planning to apply to

participate in EITI on the basis of 'adapted implementation' and suggested that at the next Board meeting there should be a discussion, in principle, of how the Board might exercise its discretion. Other members noted that 'adapted implementation' should be the exception rather than the rule.

### Senegal

Marinke van Riet presented Board paper 25-6-D Candidature Assessment: **Senegal**. The candidature application was received on 23 July 2013. The application had been assessed by the International Secretariat and reviewed by the Outreach and Candidature Committee. The Committee recommended that the Board admit Senegal as a Candidate. The Board approved the Committee's recommendation, and Senegal was admitted as an EITI candidate. The full decision is attached in annex A.

### Ukraine

Marinke van Riet presented Board paper 25-6-E Candidature Assessment: **Ukraine**. The candidature application was received on 23 July 2013. The application had been assessed by the International Secretariat and reviewed by the Outreach and Candidature Committee. The Secretariat highlighted that the MSG plans to include the iron ore and coal sectors in the second EITI Report before commencing Validation. The Outreach and Candidature Committee had considered this matter, and recommended that the Board emphasise that compliance requires coverage of all material oil, gas and mining industries and that achieving compliance will require coverage of these sectors unless the MSG can demonstrate that they are not material. The Committee recommended that the Board admit Ukraine as a Candidate. The Board approved the Committee's recommendation, and Ukraine was admitted as an EITI candidate. The full decision is attached in annex A. The Board also expressed its thanks to the companies, civil society and the Open Government Partnership for the outreach efforts leading up to Ukraine's candidature application.

## 25-7 Report from the Governance Committee

Alan McLean presented the Terms of Reference for the Governance Committee (Board paper 25-7-A). The Board approved the Terms of Reference.

He went on to present Board paper 25-7-B **Draft Code of Conduct**. He noted that the Code explicitly states that it is not intended to be legally binding, but that any failures to follow it would be reviewed by the Governance Committee.

Board members made suggestions that the Governance Committee would make a final review before circulating the **Code of conduct** for final approval via Board Circular. The suggestions included a review of whether article "15.6 Conflicts of Interest" should also cover board members serving as consultants to national MSGs, a clarification of the term "any third-party interest" and a change from "objective and impartial" behaviour to "correct" behaviour.

Alan McLean reported that the Governance Committee will soon suggest to the Board that a review of the EITI Secretariat and board is undertaken.

### Actions

That the Governance Committee, assisted by the Secretariat, makes a final submission for approval of the Code of conduct and submits draft terms of reference to the Board for a Secretariat review.

## 25-8 2014 Workplan

Jonas introduced the Draft 2014 **Secretariat Workplan**, noting that it was provided here for discussion and would go to the Governance Committee before circulating to the Board for approval.

Board members asked for the workplan to include planning of upcoming validations before the new procurement procedures come into force, to include work with G8 fast-track partnerships, academia and parliaments, a table showing the evolution of the Secretariat's staffing, as well as a clarification of how senior staff members would be recruited.

Jonas Moberg said that the Secretariat would address these comments and circulate a reminder asking for final comments before it was submitted to the Governance Committee and then for final approval by the Board.

### Actions

The Secretariat to circulate a reminder for comments to the workplan.

## 25-9 Report from the Finance Committee

David Diamond updated the Board on the January to June 2013 accounts. He noted that the Budget of the EITI International Management continued to be in a healthy state and that the Committee considered expenditure for 2013 to be on track. The various Conference costs somewhat skewed the pattern of spending at the half-year point with a lot of expenditure on communications and the Conference itself and less on implementation. In addition, the Finance Committee has performed a light-touch review of income and expenditure for the 2011 Paris Conference and the 2013 Sydney Conference. The Finance Committee noted the uncertain nature of conference funding, and that the differences in funding and expenses between the 2011 and 2013 Conferences were clearly explained.

He added that the Finance Committee aimed to conduct a review of the financial situation of the EITI international management. This would take into account a number of questions that the EITI International Management would need to consider including management of the carry-over; validation after 2015; and further additional staff for the EITI International Secretariat. He noted that some people would like to see prudence with regard to the use of carry-over. Others would like to see that allocated directly today to the roll-out of the standard.

He suggested that the Board consider the Secretariat's Budget paper as a discussion paper only. Procedurally, the Committee would only make a recommendation of the 2014 budget once the Board had given a stronger steer on the 2014 workplan. He noted that the paper needs to give more visibility of medium and long-term tasks, with indicative multi-year budget proposals.

## 25-10 2014 Board Meetings

Jonas Moberg informed the Board that the United States had offered to host the next board meeting to be held in February, in the week starting 3<sup>rd</sup> or 10<sup>th</sup>. Since it is likely that the US candidature application will be discussed at this meeting, holding the meeting in the US would be a breach of the established practice that the Board should, as far as possible, avoid taking decisions about the status of a country whilst meeting on its territory.

An alternative that would be explored was to hold the meeting in conjunction with the Mining Indaba in Cape Town, South Africa.

## **Actions**

The Secretariat to explore options and revert with a proposal for the date and location of the next board meeting.

## **24-11 Any Other Business**

Mark Pearson updated the Board on the implementation of Canada's mandatory reporting standard. Since the announcement, they had consulted with industry, including over 100 companies and associations. There was much support and collaboration with PWYP Canada and RWI, and an expressed wish for alignment with similar provisions in Dodd-Frank and the EU directives.

## Implementation session 1: Report from the country visits to Democratic Republic of Congo, Guinea, Ghana and Nigeria

### Democratic Republic of Congo

Professor Mack Dumba, Jim Miller, Ali Idrissa and Jean Claude Ketende reported on the visit of the Board delegation to DRC from 13-14 October. The delegation included representatives from companies, governments, civil society, investors, and the International Secretariat.

The delegation held high-level meetings including: with Mr Leon Kendo Wadondo, President of the Senate, Mr Aubin Minaku President of the national assembly and his cabinet, Mr Daniel Mokoko Samba, Vice-Prime Minister, in charge of the budget, Mr Celestin Vunabandi, Minister of Plan and Chair of the MSG, Mr Crispin Atama, Minister of Hydrocarbon. The government and all stakeholders met reaffirmed their strong commitment to the EITI process.

The delegation noted significant progress in the preparation of the 2011 Report, but there was also a wide recognition that the 31 December deadline for the publication of the Report remains challenging. The MSG has debated extensively the scope of the Report to ensure its comprehensiveness, and improve data reliability. It has also agreed to publish two separate reports, one for the oil and gas sector (a first draft is due by the end of October), and another for the mining sector (a draft report is due on 15 December).

The Board delegation observed a well-attended meeting, where representatives from all constituencies were present to discuss the achievements of the EITI process, the challenges in meeting the 31 December 2013 deadline and the potential for the implementation of the new Standard. The Board delegation took note of the strong commitment of all stakeholders involved in the EITI process, the lively debate among the MSG representatives, and the role of EITI as a unique platform for wider reforms in the DRC. As part of the EITI process, stakeholders are openly discussing, often for the first time, key issues including:

- (i) deals concluded in secrecy, such as the Sino-Congo agreement known as the "Sicomines project";
- (ii) investigations of revenues collected by state entities that are not entering the state budget;
- (iii) weak licensing mechanisms and the sale of state assets at an undervalued price;
- (iv) unusual payments in the period leading up to the 2011 elections that will now be included in the 2011 Report;
- (v) local taxes directly paid by mining companies to finance infrastructure projects identified as part of the scoping study;
- (vi) weaknesses in the legal and regulatory framework, such as weak environmental safeguards and transparency clauses in the draft hydrocarbon law;

Stakeholders highlighted: the difficult context of a post conflict environment; the complexities and the multitude of actors in the mining sector; the progress made under these difficult circumstances and expressed hope that the Board will take these issues into consideration in determining the status of EITI implementation in the DRC.

The delegation members were Bady Balde (EITI International Secretariat), Gubad Ibadoglu Bayramov (Economic Research Center, Azerbaijan), Elco de Groot (Cordaid, the Netherlands), David Diamond (Allizanz GI Europe), Gbehzohngar Findley (Senator and MSG member, Liberia), Ali Idrissa (PCQVP Niger), Jean-Claude Katende (PWYP DRC), John Kanyoni (EITI International Secretariat), Jim Miller (Freeport-McMoRan), Jonas Moberg (EITI International Secretariat), Harald Tollan (MFA, Norway), Marinke van Riet (PWYP), Natalya Yantsen (MSG member, Kazakhstan).

## Nigeria

Faith Nwadishi and Alan McLean outlined the outcomes of the EITI delegation to Abuja, Nigeria. The delegation met with President Goodluck Jonathan, Anyim Pius Anyim, Secretary to the Government of the Federation, Musa Mohammed Sada, Minister of Mines and Steel Development, the NEITI Board and members of NEITI Secretariat, the Inter-Ministerial Task Team, civil society representatives, industry, media and members of the international community.

The following observations and conclusions were drawn from the visit and meetings:

- The visit was an excellent opportunity to give NEITI recognition for its achievements so far, including the publication of 13 financial years of oil and gas financial, physical and process audits; recent progress with coverage of the mining sector; on-going work on the fiscal allocation and statutory disbursement audit; strong stakeholder engagement; and contributions to wider discussions such as the Petroleum Industry Bill, fuel subsidies, and oil theft.
- The EITI Standard was regarded by NEITI as “an opportunity to ask questions that we haven’t been able to ask before”, including having discussions about disclosure of beneficial ownership and contracts. It appeared unlikely that NEITI will have any difficulties transitioning to the EITI Standard.
- While NEITI is identifying large loopholes, discrepancies and weaknesses in sector management, follow up on NEITI’s findings and recommendations remain slow and limits NEITI’s impact on policy reform. The reconstitution and follow-up by the Inter-Ministerial Task Team, established by President Goodluck Jonathan to take forward NEITI recommendations, will be essential for NEITI to contribute to reform and greater accountability.
- NEITI has been at the forefront of analysing and using EITI data. However more work is needed to make sure that this analysis is clear, concise and understandable so that citizens can know what reforms they need to advocate for. Civil society organisations engaged in the EITI process play a crucial role in making sure that this information reaches the broader public, including communities that are most affected by oil, gas and mining activity.

An article from the visit is available from: <http://eiti.org/news/billions-stake-nigeria-seeks-more-accountability>

Delegation members included Clare Short (EITI Chair, head of delegation), Manuel Adamini (SNS Asset Management, alternate EITI Board member), Douglas Climan (U.S. Embassy Abuja), Diana Corbin (World Bank), Amanda Lumun Feese (World Bank), Jurriaan Jongsma (Royal Dutch Shell), Anders Tunold Kråkenes (EITI International Secretariat), Alan McLean (Royal Dutch Shell, EITI Board member), Pascal Médieu (Department of Foreign Affairs, Trade and Development Canada), Faith Nwadishi (Koyenum Immalah Foundation/ PWYP Nigeria, EITI Board member), Dyveke Rogan (EITI International Secretariat) and Robert Wong (U.S. Embassy Abuja).

## Ghana

Olivier Bovet outlined the outcomes of the EITI delegation to Accra, Ghana. The delegation was accompanied by the World Bank and the EITI International Secretariat. Delegation members were Jonathan Atkinson (DFID), Olivier Bovet (SECO, Board member), Umesha da Silva (CIDA), Jana Leutner (GIZ), Francisco Paris (EITI Secretariat), Eddie Rich (Deputy Head, EITI Secretariat) and Andrew Schloeffel (World Bank).

Olivier noted that Ghana was traditionally a mining country with a high predominance on gold, of which it is the second largest producer in Africa. Oil production started in 2011 and as of 2012 oil revenues surpassed mining receipts. Today, extractives accounted for over 50% of exports and over 10% of GDP.

There was extensive existing legislation in Ghana on revenue management in the oil and mining sectors. The Cabinet was currently discussing an Exploration and Production Bill on oil, and first steps had been made towards an EITI Bill.

Ghana had implemented the EITI since 2013. In 2011, it became the second EITI Compliant country in Africa. In 2011, it joined the Open Government Partnership and in 2013 committed to the G8 Fast Track Partnership on extractives with the UK. Ghana had published EITI reports covering eight years of revenues from mining (2003-11). The 2010 and 2011 reports included revenues from oil and gas. These were all great achievement placing Ghana well on the EITI landscape.

He noted that the EITI delegation had five meetings with: the government, EITI stakeholders, companies, CSOs and donors.

The following observations and conclusions were drawn from the visit and meetings.

- The Ghanaian EITI process had blazed a trail in many ways: Ghana was the first country to do mining reporting; Ghana was the first country to do sub-national reporting; Ghana was also the first mining country to include production costs, and to integrate oil and gas in the EITI process.
- There would be no difficulty in implementing the EITI Standard adopted in May 2013.
- The Government showed commitment to the EITI: the Minister of Lands and Natural Resources, the Deputy Minister of Finance and Economic Planning and the Chief of Cabinet in the Ministry of Finance and Economic Planning expressed their ownership for and interest in the process.
- All stakeholders in the MSG demonstrated ownership for and were satisfied with the EITI.

Nevertheless, there remain less bright sides to the EITI process in Ghana:

- Stakeholders outside the MSG were less satisfied and some felt that the process was rather complacent.
- Whereas civil society was publicly demanding more data, such as publication of contracts, it was clear that they were not extracting the full potential of information and stories from the existing EITI reports. A back-of-the-envelope calculation showed about 10% government take from the mining sector and around 15% from oil and gas. These seemingly modest returns might be explained by production costs for companies. The World Bank pointed out it is more instructive to look at profit rather than turnover when making these calculations. After allowing for operating expenses and investment the government and the industry were probably making about 50% each. More analyses could be done.

- Civil society also had demands that the EITI was probably not best designed to address, such as environmental and social assessments. Interestingly enough, the Chamber of Mines had the same expectation.

As oil and gas were becoming predominant contributors in GDP, numerous concerns expressed were expressed about management of the sector; yet, when asked about 2014, the national secretariat declared that the GHEITI workplan would be "as usual".

The delegation concluded that in Ghana an EITI process that has been going quite satisfactorily over 10 years and that has found its place and been entrenched into the country's system so well that it has become a routine process, with all its pros and cons.

It was the view of the delegation that the process needed to be boosted to meet its full potential. It was not yet significantly influencing public debate and policy about the extractive sector. The fact that many of the same stakeholders had been around the EITI over 10 years, linked to a lack of a reward system for improvements beyond the basic Standard, led to the rather modest results of a decade of EITI implementation. Also the politicisation of CSOs might have hampered disseminating results.

The delegation welcomed the proposal of the GHEITI Secretariat to work with GIZ on an impact assessment of the ten years of GHEITI. They were confident that such an exercise would help bridge the political commitment of the process, the dedicated efforts of the stakeholders, with the ambition of the wider community for the process.

## Guinea

Jonas Moberg gave the board an overview of the situation in Guinea and the upcoming board delegation visit straight after the board meeting on 17-18 October 2013.

He noted that Guinea was currently addressing the remedial actions requested by the Board following its validation in 2012. Since the election of President Alpha Condé in December 2010, the country had undergone a series of reforms. The new mining code, adopted in September 2011 was regarded as a significant improvement in terms of transparency, anti-corruption and environmental safeguards.

The Board delegation visit to Guinea would be a good opportunity to study how the EITI could be integrated and linked to these efforts. The Board would meet President Alpha Condé and encourage the government to make better use of the EITI process and reports so that it doesn't remain disconnected from wider governance and extractive sector reforms.

The Board would also meet the Prime Minister Mohamed Said Fofana, the Minister of Mines Lamine Fofana, CSO, Chamber of Mines, the EITI steering committee and donor's community.

## Implementation session 2: Understanding oil contracts

Des Crichton, Associate Counsel at Shell and Johnny West, Open Oil, presented the key features of petroleum regimes and the most common types of contracts between governments and extractive companies. Given the limited time available, the session aimed to give the Board a brief overview which could possibly be followed up with a more in-depth session. Jean Francois Lassalle also offered to provide more training to civil society in implementing countries noting that these types of conversations helped reduce misunderstandings between stakeholders.

The presentations were followed by case studies from Liberia, Norway and the Republic of the Congo.

Senator Findley explained that in Liberia, LEITI hosts a database of all concessions, contracts and agreements related to the oil, mining, agriculture and forestry sectors. The LEITI Act required that all contracts must be published. Contracts also had to be ratified by the Parliament. Carine Smith Ihenacho from Statoil explained Norway's licensing system, which was based on a tax/royalty regime with the financial terms set out in the Petroleum Law. Florent Michel Okoko explained that since 1994, the oil sector was governed by Production Sharing Contracts. These were presented to the Parliament for approval and then published in the official gazette.

In discussion it was suggested that the mining sector might be asked to make a presentation at a future meeting on key aspects of the business model and lifecycle for mining projects.

For further information, please see the presentations available from [www.eiti.org](http://www.eiti.org).

### Implementation session 3: Outlook for the EITI in francophone Africa

Eddie Rich introduced this session, highlighting how EITI work plans would have a more central role in implementation of the revised EITI Standard, and gave stakeholders the opportunity to use the process to address whatever challenges they wished rather than be a plan for simply meeting the EITI requirements. A work plan should be seen as a living document.

Workplans from Côte d'Ivoire (Mr Julien Tingain), Togo (Mr Didier Kokou Agbemadon) and Chad (Dr Gilbert Maoundonodji) were presented and discussed. Also on the basis of the experience gathered during the workshop, these work plans would be adapted further to better reflect the EITI Standard.

### Implementation session 4: Implementing the EITI Standard

Faith Nwadishi moderated the session, which focused on examples of EITI implementation in line with some of the new elements of the EITI Standard. Sam Bartlett provided a brief update on the development of the guidance notes, and the International Secretariat's role in providing advice and support.

Zainab Ahmed provided a briefing on the Nigeria's analysis of oil sales through the EITI process (an issue addressed in requirement 4.1c). This work had identified reporting discrepancies in a number of areas, and gaps where reliable information was not available. NEITI had been successful in utilising this analysis to press for wide ranging reforms.

Sam Tokpah from Liberia EITI provided an update on Liberia's "post-award process audit", highlighting that the majority of contracts in the oil, mining, agricultural and forestry sectors were not compliant with national requirements, albeit this problem was most pronounced in the agricultural and forestry sectors. Several other countries expressed an interest in conducting similar assessments, building on requirement 3.12 which encouraged implementing countries publicly to disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals.

Atteib Abdelsalam from Chad EITI and Solange Ondigui from Cameroon EITI provided an update on the coverage of transit fees associated with the Chad-Cameroon pipeline, the first examples to date of implementing countries addressing requirement 4.1(f), which required MSGs to address these issues, where revenues from the transportation of oil, gas and minerals constituted one of the largest revenue

streams.

Sam Bartlett closed by noting that a pilot had begun to address issues of beneficial ownership (requirement 3.11). The EITI Secretariat has asked implementing countries for their interest in taking part in this pilot., Further he noted that template Terms of Reference for Independent Administrators had been drafted, which were expected to significantly improve the consistency of EITI reporting.

## Participant List

### Chair

**The Rt. Hon. Clare SHORT**

### Countries

#### Implementing Countries

**Mr Abdoul Aziz ASKIA**, Permanent Secretary, Niger (he only showed up on day 2 due to Tabaski)  
Alt: **Mr Didier Vincent Kokou AGBEMADON**, National Coordinator, Togo

**Mr Florent Michel OKOKO**, Chairman of the Executive Committee, Republic of Congo  
Alt: **Mr Jeremy Mack DUMBA**, National Coordinator, Democratic Republic of Congo

**Mr Gbehzohngar M FINDLEY**, MSG Member, President Pro Tempore of the Liberian Senate, Liberia

**Mr Bazarbaj NURABAEV**, Chairman, Committee of Geology and Subsoil Use, Ministry of Industry and New Technologies, Kazakhstan  
(wasn't there)

#### Supporting Countries

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

**Mr Kåre STORMARK**, Deputy Director General, Ministry of Foreign Affairs, Norway

**Mr Olivier BOVET**, Senior Programme Manager Trade Promotion, State Secretariat for Economic Affairs (SECO), Switzerland

#### Civil Society Organisations

**Mr Gubad BAYRAMOV**, Senior Researcher, Economic Research Center, Azerbaijan  
Alt: **Ms Natalia YANTSEN**, Director, PA "Tax Standards Formation", member of the NSG Kazakhstan from dialogue platform of NGOs and NGO Coalition "Oil revenues - under the control of society", Kazakhstan

**Ms Faith NWADISHI**, Executive Director, Koyenum Immalah Foundation/National Coordinator Publish What You Pay, Nigeria  
Alt: **Ms Corinna GILFILLAN**, Head, Global Witness, USA

**Mr Ali IDRISSE**, Coordinateur National du ROTAB PCQVP, Niger  
Alt: **Mr Jean Claude KATENDE**, Président National de l'ASADHO, Association Africaine de Défense des Droits de l'Homme, coordinateur PCQVP, Democratic Republic of Congo

**Mr Eelco DE GROOT**, Senior Policy Officer, Cordaid, the Netherlands  
Alt: **Mr Fabby TUMIWA**, Executive Director, Institute for Essential Services Reform (IESR), Indonesia

**Ms Marinke van RIET**, International Director, Publish What You Pay (PWYP)

#### Companies including Investors

**Mr Jean-François LASSALLE**, Directeur Affaires Publiques, Total

Alt: **Ms Carine Smith IHENACHO**, Vice President Legal, Statoil

**Mr Stuart BROOKS**, Manager, International Relations, Chevron

Alt: **Mr Guillermo GARCIA**, Head of Revenue Transparency, ExxonMobil

**Mr Jim MILLER**, Vice President, Environmental Affairs, Freeport-McMoRan, Copper&Gold Inc.

**Ms Debra VALENTINE**, Group Executive, Legal & External Affairs, Rio Tinto

**Mr Alan McLEAN**, Executive Vice President, Tax and Corporate Structure, Royal Dutch Shell

Alt: **Ms Elodie GRANT GOODEY**, Head of Societal Issues and Relationships, BP

**Mr David DIAMOND**, Director Global Co-Head of ESG, Allianz Global Investors

Alt: **Mr Manuel ADAMINI**, Head of ESG-research, SNS Asset Management

### Board Secretary

**Mr Jonas MOBERG**, Head of EITI Secretariat, Oslo

### Observers

**Mr Javier AGUILAR**, Deputy Program Manager, World Bank

**Ms Zainab AHMED**, EITI Nigeria (NEITI) National Coordinator, Nigeria

**Mr Jon ATKINSON**, Extractives adviser, Growth and Resilience Department, Policy Division, Department for International Development (DFID), UK

**Mr Edward BICKHAM**, Advisor, International Council on Mining and Metals (ICMM)

**Ms Brigitte BOUCOUM**, Senior Mining Specialist, World Bank

**Ms Diana CORBIN**, Operations Officer, Donor Relations EITI, World Bank

**Mr Desmond CRICHTON**, Associate Counsel, Shell

**Mr Farid FARZALIYEV**, State Oil Fund, Azerbaijan

**Mr Uwe WOLFF**, Desk Officer, BMZ, Germany

**Ms Laetitia GADEGBEKU**, Trade Commissioner, Embassy of Canada, Côte D'Ivoire

**Ms Laurel GREEN**, Chief Adviser Policy, External Affairs, Rio Tinto

**Mr Thomas HAYES**, Economic Officer at the US Embassy, Abidjan

**Mr Jurriaan J. JONGSMA**, Legal Counsel, Shell

**Mr N'Dri KOFFI**, President, EITI Secretariat, Côte D'Ivoire

**Mr Damir KYZYR**, Chief GIS Engineer, Kazakhstan

**Mr Christopher MACLENNAN**, Director General, Multilateral Development Institutions, Department of Foreign Affairs, Trade and Development, Canada

**Mr Ismaila MADIOR FALL**, Professor, Faculty of Law and Political Science, Cheikh Anta Diop University, Senegal

**Mr Junji GOMAKUBO**, Counsellor, Embassy of Japan, Côte D'Ivoire

Mr Peter HUYGHEBAERT, Ambassador, Embassy of Belgium, Côte D'Ivoire

**Mr Carlo MERLA**, Africa Programme Manager, Publish What You Pay (PWYP)

**Mr Ousamane MEY**, Minister of Finance, Cameroon

**Ms Zabeta MOUTAFIS**, Head of Development Cooperation West Africa, Australian Agency for International Development (AusAID)

**Ms Clare MURPHY**, Transparency and Governance Advisor, US State Department, US

**Mr Aaron PADILLA**, Senior Advisor Policy, Government and Public Affairs, Chevron

**Mr Paulo De SA**, Manager, Oil, Gas and Mining Policy Division, World Bank

**Mr Andrew SCHLOEFFEL**, Consultant, Sustainable Energy, Oil, Gas and Mining Unit (SEGOM), World Bank

**Ms Elda Guterres da SILVA**, TL-EITI National Coordinator, Timor Leste

**Ms Umesha de SILVA**, Policy Analyst, Natural Resource Governance, Thematic and Sectoral Policy, International Development, Canada

**Mr Samson TOKPAH**, National Coordinator, EITI Liberia

**Mr Cheikh Tidiane TOURE**, Senegal

**Mr Harald TOLLAN**, Senior Advisor, Ministry of Foreign Affairs, Norway

**Mr Tharcisse URAYENEZA**, Bureau regional d'Afrique de l'Oues (BRAO), International Organisation of the Francophonie, Lome, Togo

**Mr Michel YOBOUE**, PCQVP Cote D'Ivoire

**Ms Chantal de VARENNES**, Ambassador, Embassy of Canada, Côte d'Ivoire

**Mr Johnny WEST**, Open Oil

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

#### **EITI International Secretariat**

**Mr Bady BALDE**, Country Manager

**Mr Sam BARTLETT**, Technical Director

**Mr Wouter BIESTERBOS**, Regional Director

**Ms Siri FARSTAD**, Regional Director

**Ms Souad HARVEY**, French Coordinator

**Mr John KANYONI**, Country Manager

**Ms Leah KROGSUND**, Administrative Manager

**Mr Anders KRÅKENES**, Communications Manager

**Mr Francisco PARIS**, Regional Director

**Mr Eddie RICH**, Deputy Head of Secretariat

**Ms Dyveke ROGAN**, Regional Director

## Annex A

### EITI Board decision on Cameroon

The EITI Board designates Cameroon as EITI Compliant as of 17 October 2013. In accordance with the EITI Standard:

1. Cameroon must be revalidated within 3 years, i.e. Validation will commence on 17 October 2016, or earlier upon request of the EITI Follow-up Committee. Validation will be conducted in accordance with the EITI Standard.
2. Stakeholders in the process may call for a new Validation at any time within that period if they think the process needs reviewing.
3. Where valid concerns exist that a country has become EITI Compliant, but its implementation of the EITI has subsequently fallen below the standard required for Compliance, the Board reserves the right to require the country to undergo a new Validation or face delisting from the EITI.
4. In accordance with the EITI Standard, Cameroon is expected to produce EITI Reports annually in accordance with EITI requirements. To maintain Compliant status, the 2012 EITI Report must be published by 31 December 2014 in accordance with the EITI Standard.
5. In accordance with Requirement 7.2, Cameroon is required to publish an annual report on the previous year's activities, detailing progress in implementing the EITI. The annual report for 2013 should be published by 1 July 2014.
6. In accordance with the transition procedures for the EITI Standard, Cameroon is expected to publish an updated workplan aligned with requirement 1.4 of the EITI Standard by 31 December 2013.

In all decisions on Validation, the Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI brand. The Board reviewed the Validator's report in detail. The Board agreed with the Validator's assessments on all requirements.

The Board congratulates the Government of Cameroon for its sustained commitment and leadership in the implementation of the EITI process. The Board welcomed Cameroon's effort to implement the new Standard with the publication in the 2011 Report of information on licensing, state ownership, production data transit fees and transfers to local government. The Board also congratulates Cameroon's EITI Follow-up Committee, its Technical Secretariat and all stakeholders involved for their efforts and effective leadership in EITI implementation.

### EITI Board decision on Indonesia

Having assessed Indonesia's final validation report dated 17 July 2013, the Board finds that Indonesia is not compliant but has made meaningful progress in implementing the EITI. The Board has agreed corrective actions regarding requirements 5, 9, 11, 14 and 15. In accordance with the transitional procedures for the EITI Standard, the Board tasks the International Secretariat with undertaking a Secretariat Review, assessing compliance with required corrective actions and outstanding requirements,

within 15 months (i.e., by 15 January 2015). Failure to achieve compliance by this date will result in suspension or delisting in accordance with the EITI Standard.

The Board congratulated the government, companies and civil society organisations in Indonesia for the progress made in implementing the EITI. The Board also thanked the Validator and all stakeholders involved in the validation process.

The Board took note of the complexity of the extractive industries in Indonesia, and the efforts by stakeholders to provide a comprehensive EITI report. The Board noted, in particular, the work to address issues not required by the EITI Rules, which have recently been addressed in the EITI Standard. The Board welcomed this work and the demonstrable commitment to achieving greater transparency.

The Validator found that Indonesia has not met requirements 12 and 13. In all decisions on Validation the Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI brand. The Board reviewed the Validator's report and the MSG's comments. On several issues, the Board tasked the International Secretariat to provide additional information, particularly in relation to the comprehensiveness of the 2009 EITI Report. The Board also took into account actions undertaken by the MSG during the validation process in relation to requirements 12 and 13.

The Board determined that requirements 5, 9, 11, 14, and 15, were not met, and established the following corrective actions that need to be addressed in order for Indonesia to achieve compliance:

1. The government and Multi-Stakeholder Group should take decisive action to address the delays that have characterized EITI implementation to date. The Multi-Stakeholder Group should agree and publish a detailed (time-bound and costed) work plan that addresses:
  - i. the publication and dissemination of the EITI Reports for 2010 – 2013 with a view to ensuring regular and timely EITI reporting (requirement 5e);
  - ii. the recommendations from the 2009 EITI Report and from the Validator; and
  - iii. the corrective actions highlighted below. In accordance with the transitional procedures for the EITI Standard.

Indonesia is expected to agree and publish a workplan for 2014 by 31 December 2013.

2. The MSG is required to agree a clearer definition of "material payments and revenues" and incorporate this definition into the reporting templates and procedures for the next EITI Report. This should specifically address the procedures for identifying all companies that have made material payments and the coverage of material payments to regional and local governments (Requirement 9).
3. Future EITI reports should clearly demonstrate that all entities that make or receive material payments are participating in the reporting process (requirement 11). The Board highlights the suggestion in requirement 11(b) that 'where a number of small operators pay revenues which are individually not material, but collectively material, the MSG may wish to request that the government discloses the combined benefit streams from such small operators', (see also requirement 4.2(b) in the EITI Standard).

4. In accordance with the agreed definition of materiality (see point 2, above), the Multi-Stakeholder Group should ensure that all material payments by companies to government have been disclosed to the reconciler and incorporated into the next EITI Report (requirement 14. The EITI Report should clearly state if any companies failed to participate in the reporting process, and assesses whether this is likely to have had a material impact on the stated figures. (see also requirement 5.3(c) and 5.3(d) in the EITI Standard));
5. In accordance with the agreed definition of materiality (see point 2, above), the Steering Committee should ensure that all material revenues received by the government have been disclosed to the reconciler and incorporated into the next EITI Report (requirement 15). The EITI Report should clearly state if any government entities failed to participate in the reporting process, and assesses whether this is likely to have had a material impact on the stated figures. (see also requirement 5.3(c) and 5.3(d) in the EITI Standard);

Furthermore, the Multi-Stakeholder Group should ensure that the agreed approach for assuring the data submitted by companies and government entities is implemented, and that any gaps or weaknesses in reporting to the Independent Administrator are comprehensively disclosed in the must be disclosed in the EITI Report.

The Secretariat Review will be undertaken in accordance with the EITI Rules. In addressing these corrective actions, the MSG is encouraged to take steps towards achieving compliance with the EITI Standard. In accordance with the transitional procedures for the EITI Standard, Indonesia is required to publish a 2013 annual activity report by 1 July 2014.

#### EITI Board decision on Kazakhstan

The EITI Board designated Kazakhstan as EITI Compliant as of 17 October 2013. In accordance with the EITI Standard:

1. Kazakhstan must be revalidated within 3 years, i.e. Validation will commence on 17 October 2016, or earlier upon the request of the National Stakeholder Council. Validation will be conducted in accordance with the EITI Standard;
2. Stakeholders in the process may call for a new validation at any time within that period if they think the process needs reviewing;
3. Where valid concerns exist that a country has become EITI Compliant, but its implementation of the EITI has subsequently fallen below the standard required for Compliance, then the Board reserves the right to require the country to undergo a new Validation or face delisting from the EITI;
4. In accordance with the EITI Standard, Kazakhstan is expected to produce EITI Reports annually in accordance with EITI requirements. To maintain Compliant status the 2012 EITI Report must be published by 31 December 2014 in accordance with the EITI Rules, and the 2013 Report by 31 December 2015 in accordance with the EITI Standard;
5. In accordance with requirement 7.2, Kazakhstan is required to publish an annual report on the previous year's activities, detailing progress in implementing the EITI. The annual report for 2013 should be published by 1 July 2014; and

6. In accordance with the transition procedures for the EITI Standard, Kazakhstan is expected to publish an updated workplan aligned with requirement 1.4 of the EITI Standard by 31 December 2013.

In all decisions on Validation the Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI. The Board reviewed the Validator's report in detail. The Validator found that Kazakhstan did not meet requirements 5 and 18. The Board took note of the Validator's assessment but considered that there was sufficient evidence to demonstrate that these requirements were met.

The Board congratulates the government, companies and civil society organisations in Kazakhstan for the progress made in implementing the EITI. The Board also thanks the Validator and all stakeholders involved in the Validation process, and calls on the government and the National Stakeholders Council to ensure that the recommendations in the Validation report are implemented.

### EITI Board decision on Senegal

The EITI Board admits Senegal as an EITI Candidate country on 17 October 2013. In accordance with the EITI Standard and associated transitional arrangements, Senegal is required to publish its first EITI Report within two years of becoming a Candidate (by 17 October 2015). If the EITI Report is not published by this deadline, Senegal will be suspended. Validation will commence within three years of becoming a Candidate (by 17 October 2016).

### EITI Board decision on Ukraine

The EITI Board admits Ukraine as an EITI Candidate country on 17 October 2013. In accordance with the EITI Standard and associated transitional arrangements, Ukraine is required to publish its first EITI Report within two years of becoming a Candidate (by 17 October 2015). If the EITI Report is not published by this deadline, Ukraine will be suspended. Validation will commence within three years of becoming a Candidate (by 17 October 2016).

The Board noted that the MSG plans to include the iron ore and coal sectors in the second EITI Report before commencing Validation. The Board considers this approach sub-optimal given the importance of these industries, and emphasised that compliance requires coverage of all material oil, gas and mining industries. Achieving compliance will require coverage of these sectors unless the MSG can demonstrate that they are not material.