

Minutes

EITI International Secretariat

21 July 2014

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MINUTES OF THE 27TH EITI BOARD MEETING

Mexico, 1-2 July 2014

Tuesday 1 March

27th EITI Board meeting (informal session)

Country Spotlight – DRC

A delegation from the Democratic Republic of Congo presented the impact and challenges of the EITI process in the DRC. Professor Mack Dumba, EITI National Coordinator, introduced the delegation, which was led by Celestin Vunabandi, Minister of Planning and Chair of the EITI Executive Committee. Minister Vunabandi conveyed his government's commitment to use the EITI as part of its efforts to modernise the financial and taxation system. He explained how the EITI process had led to significant changes in the management of the sector and created a culture of accountability and due diligence that did not exist before. The practice of audit and certification as part of the EITI process has been widely adopted in other sectors of the economy. Discussions of complex contractual agreements, like the cooperation agreement between the government of the DRC and the government of China, were no longer taboo. Through the EITI process, stakeholders seek to bring transparency and accountability to the implementation of these agreements. With high-level participation of several Ministers in the Executive Committee, the DRC-EITI has contributed in improving the functioning of several government agencies, like the cadastre office and the tax collecting agencies.

Vunabandi informed the Board that oil exploration in the DRC had been suspended whilst the fiscal and allocation process were investigated.

Hon Nicolas Bulukungu, Member of Parliament, spoke passionately about how the DRC had taken control of the process to inform the public and parliamentary debate. Joseph Bobina, representing civil society and president of the Réseau Ressources Naturelles (part of PWYP-DRC), spoke about how there was no longer a culture of state secrecy and that debate about such sensitive topics as beneficial ownership were now taking place as part of the EITI process.

Faith Nwadishi, National Coordinator PWYP Nigeria inquired about possible challenges in implementing EITI in the DRC. The DRC delegation shared some implementation challenges including initial 'resistance' to making information available and lack of ownership of the EITI process by the government at the early stage of the implementation process. The delegation noted the following challenges going forward:

- Extension of the EITI reporting to the artisanal mining sector;
- Piloting the disclosure of the beneficial ownership;
- Increasing accountability of the state-owned enterprises; and
- Disclosure of reliable production figures and other contextual information as part of the implementation of the new Standard.

The Board commended the DRC delegation for its achievements and recommended sustained political commitment to address these challenges. Some concerns were expressed about ensuring that transparency safeguards and the elements of the EITI standard were incorporated into new draft legislation such as the hydrocarbon and mining laws. In response, Minister Vanabundi stated that the hydrocarbon law was still a bill and open for improvement.

Host country spotlight – the Mexican reforms

The Chair introduced Dr. Lourdes Melgar, Deputy Secretary of Energy for Hydrocarbons at the Ministry of Energy, thanking her for Mexico's hospitality in hosting the Board meeting. Jonas briefly summarised the workshop that was co-hosted between the EITI and the Mexican Government the day before. The event had provided examples of best practices in licensing, contracts and revenue management from around the world.

Dr. Melgar introduced the ongoing reforms in the oil and energy sector. The reforms build on the basic principle that the State is the sole owner of hydrocarbons and on the notion of free competition, the need to strengthening regulatory bodies, the need to transform SOEs into productive enterprises, the need for widespread transparency and clear accountability, and the need for sustainability and environmental protection. Among the subjects introduced were the allocation of entitlements and contracts for exploration and extraction; the contractual framework for oil and gas exploration and production; and the planned Mexican Petroleum Fund for Stabilization and Development. Dr. Melgar also introduced what midstream and downstream processes would look like, including pricing timetables, and the new natural gas and power industry models. Particular attention was given to transparency and accountability, not least the ways in which the reforms will institute mechanisms of monitoring tenders and contracts. The need for codes of conduct to be enforced and for commissioners and coordinated regulatory bodies to operate in a transparent manner was also discussed.

Board members expressed their interest and commended Dr. Melgar on the work so far.

Country spotlights – Peru and Colombia

Fernando Castillo Torres introduced some of the particularities of the EITI process in his country, especially the decentralisation of the EITI.

Three regions had been selected to pilot subnational EITI processes that mirror Peru's national process in the regions where the main natural resources are extracted. This allowed local governments to better understand where the revenues from natural resources ended up, while the process itself led to the different stakeholders increasing their interaction and mutual trust at a local level. Two of these regions had also decided to go ahead and publish payments that today are voluntary under the EITI rules, such as the decision to publish voluntary social and infrastructure contributions.

Fernando discussed the structure of the regional multi-stakeholder groups, highlighting their independence and regional representation. The model was still in its first stages and it was too early to judge results, but other regions had already expressed their interest in carrying out similar processes.

Fernando commended the companies operating in Peru for their willingness to go ahead and publish disaggregated payments. He also reflected on the challenges posed to a country's EITI process when a single company can refuse to publish information alongside its peers – as was currently the case.

Board members commended Fernando on Peru's progress and expressed their interest to learn from Peru's subnational approach in case it may be relevant for other EITI countries.

After Fernando's presentation, Vice-minister Cesar Diaz of Colombia's Ministry of Mines and Energy provided a brief summary of the process in his country. Among other things he briefed the Board on the progress toward submitting an EITI application. He highlighted that Colombian stakeholders have discussed including aspects related to social and environmental development in their EITI process. Although still at the conceptual stage, the Vice-Minister believed that innovations such as bringing the Ministry of the Environment to the EITI process and finding indicators for environmental standards could be important additions to the EITI Colombian process.

The Chair thanked the Vice-minister and encouraged him to continue to share the progress done in this area.

Subject spotlight – EITI laws and legal barriers to implementation

Sam Bartlett gave a brief presentation covering the different practices used to enable EITI implementation around the world. He differentiated between laws with different intents and degrees of integration with national legislation, from constitutional reform to voluntary agreements. He also introduced some of the most common barriers to implementation and some of the solutions – not necessarily legislative solutions – that could be used to get around them. For example, in a country where confidentiality or privacy provisions did not allow government bodies to disclose tax payments even with the company's explicit permission, it could be possible for Independent Administrators to nevertheless access the information they required by looking through documents *in situ* at the government body in question. This and other solutions were discussed by participants, who agreed on the importance of revisiting this subject in greater detail at a future Board meeting.

27th EITI Board meeting (formal session)

The Chair began by introducing the recent changes to the Board. Corinna Gilfillan had been replaced by Brendan O'Donnell, also from Global Witness. Daniel Kauffman was now a Board member, with Fabby Tumiwa as his alternate. Matthew Bliss of Cordaid was now Marinke van Riet's alternate. Suresh Rajapakse had left ArcelorMittal and Alan Knight, also from ArcelorMittal, had replaced him on the Board.

The Chair invited Eelco de Groot to share some parting thoughts with the Board and recommended that he also write them as a blog for the website.

27-1 Welcome and adoption of the agenda

27-1- Draft Agenda

The Chair welcomed the Board members and the agenda was adopted. A presentation of the Rapid Response Committee's discussion on Azerbaijan and a brief presentation on the Fiscal Allocation and Statutory Disbursement audit in Nigeria by Faith Nwadishi, were added to Any Other Business.

27-2 Report from the Head of the Secretariat

Jonas Moberg provided an update of Secretariat activities. He noted the following:

- The Secretariat was a different organisation than at the last Board meeting in March. Seven new employees had been recruited, bringing the total to the equivalent of 17 full time staff. There was also greater diversity in terms of skill sets, languages, and gender. The Secretariat was still looking for a Finance Manager (part or full-time).
- A number of country visits and conferences had taken place since the last Board meeting. Besides the Natural Resource Charter Conference, the International Energy Forum, the World Petroleum Council, and the Council on Foreign Relations, the EITI Chair and the International Secretariat staff visited Chad, Cameroon, Indonesia, Iraq, Kazakhstan, Kyrgyzstan, Mauritania, Mongolia, Mozambique, Myanmar, the Philippines, Senegal, Tanzania, the United States and Zambia, plus attended discussions in Beirut with the national coordinators from Iraq and Yemen. The Secretariat also received a number of visits including from Albania, Afghanistan and Mali, and continued to see visits from National Coordinators to Oslo as a helpful way to share experiences.
- Since the previous Board Meeting there had been several Board Committee teleconferences and an in-person meeting of the Implementation Committee in Paris. Besides supporting the Board and the different committees, the Secretariat spent considerable time assisting multi-stakeholder groups with the different stages of the EITI reporting cycle: scoping, drafting ToRs for Independent Administrators, procurement, data collection, reviewing draft and final EITI reports, and following up on the findings and recommendations of the reports.

- The Secretariat was considering a rework of the website to improve the means of using EITI data globally and in-country. The website registered 160,000 visits last year.
- The Secretariat was currently undergoing a Management Exercise and had hired a consultant to help management and staff improve as a team. Jonas reported that the exercise was going well so far and was considered useful by those involved.
- Jonas concluded by reflecting that implementation is becoming better, deeper and more meaningful. Although still insignificant in some countries, in many others the EITI was making progress towards becoming a real platform for reform.

David suggested that staff updates and other information concerning the Secretariat's activities in the future be presented separately from the Implementation Progress Report.

27-3 Report from the Implementation Committee

27-3 Implementation Progress Report Jan-Feb 2014, including brief report from the World Bank MDTF

Jonas introduced the Implementation Progress Report for March-May 2014, expressing the Secretariat's availability for more in-depth discussions and suggesting that views on format be presented to the Implementation Committee or to the Secretariat separately. Jonas explained that colours in the report were intended to illustrate the direction of progress on technical aspects, while impact was discussed in the narrative.

Jonas pointed out that the overall picture since the last meeting was positive, and fewer countries seemed to be struggling. The number of 'red' countries had gone down from eleven to four and all countries but one (Tajikistan) showed a positive and stable trajectory, while only two countries were currently suspended (Central African Republic and DRC). Jonas warned that this positive trend may nevertheless be due to the current stage on the reporting cycle, and that the situation might change as the end of year reporting deadlines approach.

As implementing countries prepare for their first report under the Standard, Jonas noted that many had completed scoping studies or gap analyses and were hiring Independent Administrators. Jonas pointed out that it still took about 10 months to produce an EITI report. Delays in commencing procurement were identified by the Secretariat as the key factor causing delays in reporting. The actual procurement and data collection however were generally quicker than anticipated.

The deadline for the publication of Annual Activity Reports was 1 July and almost 30 countries had published reports by then. Annual Activity Reports are intended to document progress and impact. The current reports were elaborated under the 2011 EITI Rules, and Jonas noted that there is still a long way to go from reporting on technical matters to reporting on impact. The reports were seen as a good starting point, and it was considered positive that so many countries had kept to the deadline.

On beneficial ownership, six out of fourteen countries that volunteered to carry out the pilot had started work on defining how to disclose beneficial ownership information. First results were expected towards the end of the year. The situation was deemed better than anticipated, but reporting on beneficial ownership would still be demanding for many countries. Stuart Brooks wondered whether one should not then concentrate the Secretariat's limited resources on the few countries that can produce the most useful pilots. Jonas noted that support for these pilots also came from other partners.

Jonas noted that capacity building on the Standard continued to be an important part of the Secretariat's work. The 18 guidance notes that had been developed were seen as useful in this regard, as were the gap assessments/value chain analyses that had been carried out together with NRGi in amongst others, Ghana, Nigeria, Tanzania, Burkina Faso, DR Congo, Zambia, and Iraq. Regional events for national coordinators were also planned for the coming months.

Alan McLean commended the Secretariat on the progress and quality of the progress report but suggested that it could contain clearer action points in order to trigger intervention from Board members, for example by

presenting more standardised and consistent information. Clare remarked on the difficulties of providing a full-blown assessment based on objective, rigid criteria. Jonas suggested instead providing targeted speaking points upon request to Board members for engagement.

Ian Wood commented on the situation in PNG, where a massive corruption scandal broke only a week after the country achieved Candidate status at the Board meeting in Oslo. Jonas had visited the country since then and confirmed that the situation is complex. It was decided that the Rapid Response Committee would assess the situation.

Mark Pearson made reference to the entry on Indonesia, which is red across the board, and wondered whether future IPRs could include a 'call for action' item or similar action point that could help measure change since the last report. He also wondered whether it could be possible to look at other initiatives going on in some of these countries in order to harmonise efforts. Jonas noted this and suggested again that Board members instead consider requesting targeted messages for engagement. The upcoming presidential elections meant that while there was technical progress with implementation, the lack of political support was a key factor affecting the EITI process.

Professor Mack Dumba requested that all translated Board Circulars immediately follow the English version. Jonas reflected on the high costs involved and the need for timely issuance of Board Circulars, concluding that current practices may be the limit of what is achievable.

Marinke van Riet noted that Ethiopia had six months to update its workplan, which they had done, and requested more information about progress on the enabling environment including funding commitments to support civil society. Eddie Rich commented briefly on the work plan and on the many challenges in Ethiopia – including the funding commitments – which everyone in the MSG was also well aware of. The Secretariat would be carrying out training there next month.

Paulo de Sa then presented the World Bank report. Clare requested that this be an independent item in the agenda for future Board meetings.

Paulo briefly introduced the organisational changes that the WB is undergoing as it moves from a geography-based organisation to a sector organisation. Paulo's team would from now on be in charge of managing and delivering the entire programme of extractives at the World Bank.

Paulo presented the MDTF, which today has 15 contributing countries. The MDTF had received US \$70 million from donors and so far extended grants worth US\$20 million. An additional US \$ 12.7 million had been allocated to be extended by the end of the current phase (December 2015). A further US \$7.5 million had been allocated for direct work while US \$2 million had been allocated to giving more focus to global knowledge programmes. The MDTF was also in the process of allocating US \$7 million dollars to work with civil society.

Regarding the joint EITI/MDTF technical assistance review, Paulo noted that Scanteam had been engaged to carry out an evaluation of the support provided by the International Secretariat and the MDTF. The consultants were expected to come up with suggested alternatives for how support should continue after the end of the current phase of the MDTF and should be able to present some ideas by the next Board meeting.

On global knowledge management and dissemination, Paulo presented two initiatives. The first was a Community of practice where all EITI stakeholders would be able to share information and best practices across a common platform. Eight pilot countries had been identified and a charter had been established. Paulo expected a demo to be ready by the next Board meeting. The second initiative was the standardisation of information on extractive industries and the automation of reports. Paulo informed the Board that the IMF has published a report that is currently under consultation and that is meant to define the methodology used in order to be able to clearly identify streams. Paulo noted that the WB and the IMF plan to compare global financial reporting systems against EITI reporting in a number of countries.

Clare highlighted the importance of this second initiative in particular. Marinke wondered whether the WB would also be reviewing grants given to civil society under its joint evaluation and whether stakeholders would be

engaged in this process. Paulo confirmed that the national and international impact of civil society capacity-building would be assessed independently and that the timeline would be the same as that of the joint review.

Actions

- The Rapid Response Committee to assess the situation in PNG.
- World Bank MDTF reports to be an independent item on future Board meeting agendas.

27-4 Report from the Implementation Committee

Daniel Kaufmann introduced the paper *Refining Validation*. He also noted that as many of the issues considered by the Implementation Committee (IC) also concerned other Committees, there was a need to ensure collaboration. This statement was echoed by Clare who also reminded the Board that the Committee's duty was to carry the Standard forward and stressed that decisions were taken by the Board, not by Committees.

Jonas recapped the process that led to the paper under discussion. He noted that the Standard would require a different Validation process than the Rules, not least because of its wider scope with more encouraged elements and focus on impact. Consequently the Committee had made six proposals for the Board to consider. The purpose of the Board's discussions was not to arrive at decisions but to give the Implementation Committee a steer for which proposals to take forward.

1. **Validation to focus on impact and entrenching the EITI into governments' own systems.** The Board discussed how to judge impact and entrenching without interfering, or being seen to interfere, with questions of national sovereignty or politics. Stuart Brooks suggested that Validators in the future report on facts in narrative form, leaving it up to the Board to make an assessment of whether requirements are met or not. The proposal and Stuart's suggestion received general support by all Board members, who also noted the importance of working towards entrenching transparency in government systems, thereby eliminating the need for expensive external Independent Administrators.
2. **Assessing civil society requirements.** Jonas reminded the Board of its previous discussion about the discrepancies between the absolute requirements in the Standard and how the requirements are assessed, especially related to civil society. As there appeared to be little support for changing the Standard, the Committee instead proposed drafting ToRs for Validators that set out the evidence that the Validator should expect to see in order to be able to judge whether the requirement had been met. Clare noted that this may require different assessments for outreach and validation. Marinke enquired as to whether this discussion referred only to civil society participation in the MSG or to the wider context of an enabling environment where transparency can be translated into accountability. Clare suggested revisiting these issues during the drafting and forthcoming Board discussions of the draft ToRs for Validators.
3. **Maximum candidature period.** Clare explained that there is currently a five year maximum candidature period which some stakeholders worried was too rigid. The Committee's proposal was that this provision be changed so that countries that demonstrate meaningful progress and a positive trajectory be given some flexibility. Stuart Brooks argued that most countries should and would get through the process in five years. He therefore suggested keeping the current candidature period but noted that, should there be specific cases where it would be counterproductive to not extend the five year limit, the Board could be pragmatic and extend the maximum candidature period. Board members agreed that five years was long enough but that the Board could exercise its discretion to extend this time limit if necessary.
4. **Usage of term 'Compliant' and other nomenclature.** Clare suggested that although the Standard did not need to be changed, the Board should avoid calling countries 'Compliant' when they are known to have particularly serious governance issues as this could affect the EITI's reputation. Debra Valentine and Alan McLean suggested instead using 'Validated country' or 'Validated as reporting under EITI requirements'. Jonas highlighted the importance of the word 'Compliant' as an incentive to many countries. Shahmar Movsumov noted that it would be impossible to keep countries from using the term 'Compliant' without changing the

terminology in the Standard itself. Faith argued that the word should be changed because compliance was understood as 'having achieved everything' rather than just 'reporting under the standard'. If the word had to be retained, she argued that it should be reserved for countries that had reached the highest level of transparency and good governance. Professor Mack Dumba asked whether 'Validated' was not the same as 'controlled', in which case candidate countries, which also undergo validation without achieving compliance, could be misunderstood as being 'Validated'. David suggested 'Transparent according to the EITI Standard' in order to illustrate that a country had achieved the means (transparency) but not yet the end (good governance). There was no consensus on alternative nomenclature. Clare suggested referring to Compliant countries as 'Compliant with the EITI requirements'.

5. **The role of the International Secretariat.** Clare noted the many roles of the Secretariat, including guiding countries, carrying out Secretariat Reviews, briefing the Validation Committee and, soon, selecting Validators. She suggested that the technical assistance review consider and present possible solutions to this by the next Board meeting, possibly including Chinese walls, specialisation of duties, etc. Clare requested that the reviewers also take into consideration the possible new role of the Board and the Secretariat under point one above, i.e. where the Validator may become an assessor with the Board determining whether requirements are met. The Board agreed that this was an important issue that needed clarity.
6. **On Validators.** The Board agreed that the kind of skills that would be required to assess country progress under the Standard would likely be different than those required by the current pool of validators. The Board recognised that the list of Validators should be reviewed once the ToRs for Validators are agreed to reflect points 1-5 above (first quarter of 2015).

Actions

- The Implementation Committee to consider ToRs for Validators in consultation with other Committees and to draft guidelines on how to assess sign-up criteria, including those referring to civil society participation and the enabling environment.
- The EITI is recommended to refer to Compliant countries as 'Compliant with the EITI requirements'.
- The Validation Committee to review the list of Validators once ToRs are agreed.

27-5 Report from the Outreach and Candidature Committee

27-5-A Outreach Progress Report March-May 2014

Bob Cekuta introduced the paper, noting significant progress in outreach since the last Board meeting in Oslo. He highlighted the need for continued engagement with emerging market economies like Brazil and South Africa. Equatorial Guinea, Gabon and Lebanon had made some progress toward candidature application. Advanced preparations had been made by Colombia and the United Kingdom. The OCC had reviewed the Candidature applications from Myanmar and Seychelles. The OCC considered the application from Seychelles at its meeting on 1st July 2014, and would soon make a recommendation to the Board via circular.

Despite the additional burden to the International Secretariat, the Chair of the OCC stressed the need for an open door policy to welcome all countries that are committed to the EITI process, even in cases where the extractive sector is relatively small, as in the case of the Seychelles and the Solomon Islands. Jonas Moberg reported that the German government had announced its commitment to implement the EITI on the same day. Olivier Bovet highlighted progress made by France and Italy as part of their G8 commitment to implement the EITI. Jean-Francois Lassalle reminded the Board about the motivations that led to the creation of the EITI and the risk of spreading too widely. Stuart Brooks suggested that there may be cases where the Board would need to need turned down applications because the sector was relatively insignificant. Bob Cekuta explained that countries where the sector was not fully developed as in the case of Lebanon, may apply as part of a strategy to develop its extractive sector. Professor Mack Dumba advocated for equal treatment across countries and stressed the importance for his country to be judged on the same standard as France and the United States. Alan McLean

cautioned against frequent requests for adapted implementation by OECD countries.

27-5 continued (Wednesday 2 July)

27-5-B Candidature assessment: Myanmar

Dr. Zaw Oo, National Coordinator for Myanmar, informed the Board that Myanmar had made great strides since the last year following decades of isolation. Dr. Zaw stressed that there remained many challenges, including lack of technical knowhow at all levels of society and in the MSG. There was also the need to mainstream the EITI into government programmes. Dr. Zaw noted that Myanmar saw the EITI as a tool for further reforms in the country. Dr. Zaw also noted that implementation at the subnational level would be difficult as their new constitution (from 2008) granted subnational political entities the right to use national resources in their territories. Challenges notwithstanding, Dr. Zaw said that Myanmar was ready to implement the EITI and had the ambition to decentralise it to the regional level. He also informed the Board that Myanmar would be chairing ASEAN this year and invited the Board to take advantage of this opportunity and hold its next meeting there.

Wong Aung, from Shwe Gas Movement and representing civil society on the Myanmar MSG, echoed Dr. Zaw's sentiments and requested that the EITI continue to pressure the government to deliver on its commitments to ensure an enabling environment for civil society to participate in the EITI and engage in public debate on natural resource governance.

Myanmar's representatives recused themselves from the discussion. Bob Cekuta commended the Secretariat on the quality of the report and of the work done on behalf of the OCC. Members of the Board and the Secretariat had visited Myanmar on a number of occasions and considered that the EITI could have a positive impact on future developments and reforms. At the same time Bob expressed concern about the way forward, not least regarding space for civil society and capacity challenges.

Bob Cekuta's sentiments were echoed by Dyveke Rogan and a number of Board members. Fernando Castillo Torres discussed the importance of differentiating between efforts and results, questioning whether Myanmar met the Standard in regards to an enabling environment for civil society despite important efforts. Michel Okoko reminded the Board that the question was whether Myanmar should be accepted as a candidate and that adherence to the requirements would be assessed during validation. Pekka Hukka noted that Myanmar would need a lot of support to implement and emphasised the need for beneficial ownership disclosure. Debra Valentine commented on the strong commitment shown by the government and the importance of accepting Myanmar's candidature to encourage further change. Clare noted that the EITI process had in some ways already shown results by bringing government officials and civil society representatives to the same table for the first time in fifty years.

Civil society representatives on the Board commended Myanmar on its commitment and effort but stressed the need to see progress on a number of fronts. Fabby Tumiwa noted that, when the Board visits Myanmar in October, it would be good for the Board to get an update on how discussions on the work plan, especially regarding beneficial ownership and contract disclosure, have progressed. He indicated that the Board should make it clear that the pilot on beneficial ownership is still open for Myanmar to participate. Brendan O'Donnell requested that the letter informing the government of the Board's decision include an encouragement to do more to reach out to local government officials, address contract transparency and beneficial ownership, and secure an enabling environment for civil society – especially in the regions. Marinke van Riet informed the Board that civil society had recently written to the Board, expressing concerns about the lack of awareness of the EITI among government representatives at regional and local level, security threats at local level (especially in extractive regions) and the need for publication of the notification letter establishing the MSG. Among other things, the letter asked the Board to encourage the government to disseminate notification letters that support the role of civil society. The letter from civil society was available from the internal part of the EITI website.

Dyveke noted that the MSG had agreed in its work plan to identify the beneficial owners of the companies operating in Myanmar and to explore contract transparency. Support to these activities would be welcome.

Awareness at subnational level was central for linking the EITI to discussions around revenue sharing and the peace process but, as in other countries, outreach to local and regional governments would take time. A number of outreach activities were planned for the coming months, including to Kachin and Karen States. Progress on these issues could be reported in the IPR. The notification letter establishing the MSG included a reference to requirement 1.3 and the commitment to work with civil society. This letter had been distributed to regional governments in Burmese and was available online and in hard copies.

Bob Cekuta summarised the discussion by highlighting the strong commitment demonstrated by the government and the important engagement of companies. It was proposed that the Board consider a field visit outside the capital when it meets in Myanmar in October to illustrate the importance of the EITI for the whole country.

The Board agreed unanimously that Myanmar should be welcomed as a Candidate Country and that some words encouraging progress with implementation and concerns around the enabling environment should be included in the letter notifying the government. The Board decision is set out in Annex A.

Actions

- The Chair to write to the Government of Myanmar to inform them of the Board's decision.

27-6 Report from the Validation Committee

Elodie Grant-Goodie informed the Board that the Committee had met four times since Oslo. Although the focus of the meetings had been on the Secretariat Reviews for Guinea and the DRC, the Committee was also reviewing the final Validation report for Trinidad and Tobago. Looking ahead, the Committee would also be looking at Chad, Afghanistan and Indonesia before moving on to the first validation under the Standard.

27-6-A Secretariat Review: Guinea

Elodie introduced the Secretariat Review for Guinea. The country became a Candidate in 2007 and applied for voluntary suspension during the period 2009-2011. Following Validation in 2012, the Board agreed on seven remedial actions. In December 2013 Guinea published reports covering 2011-2012. The Secretariat Review was based on these. The Secretariat's assessment was that the remedial actions had been addressed. The Board did not have any questions or concerns and agreed with the Committee's recommendation that Guinea be designated EITI Compliant. The Board decision is set out in Annex A.

27-6-B Secretariat Review: DRC

Elodie introduced the Secretariat Review for DRC. The country became a candidate in 2007 and published its first report in 2010. The first validation in 2011 led to some remedial actions. Reports for 2008 and 2009 were published in February 2012 and the 2010 report was published in December 2012. The DRC underwent a second validation in 2013 leading to new corrective actions and suspension by the Board. The DRC published its 2011 report in December 2013 and a supplementary report in April 2014. The Secretariat Review was based on these reports. The Secretariat's assessment was that all remedial actions had been addressed. The Validation Committee had discussed the secretariat's assessment in detail and recommended that the DRC be designated Compliant.

Questions were raised about data reliability for the Sicomines agreement. Sam Bartlett described the Sicomines agreement, which is a complex and unusual transaction involving a barter agreement whereby a consortium of Chinese companies obtained the rights to develop mineral resources (copper and cobalt) in the DRC, in exchange for the delivery of infrastructure projects (roads, schools and hospital), rather than paying taxes and royalties. The MSG had discussed the Sicomines agreement in detail in accordance with requirement 9f in the 2011 EITI Rules. The Secretariat had reviewed the information provided in the reports and the quality assurance process agreed by the MSG to ensure data reliability. In the Secretariat's view, the measures undertaken by the DRC were adequate.

Brendan suggested that the letter conveying the Board's decision should include language to caution the government against mismanagement of the natural resources, and to call for a better management of the state-

owned company, Gecamines. He argued that Gecamines was a highly opaque organisation with no audited accounts. He reminded everyone, as reported in international media, that Gecamines was allegedly involved in the sale of mining assets at prices below market value. The Secretariat noted that the supplementary work undertaken by the MSG included extensive work addressing data reliability, as outlined in the Secretariat Review.

Debra cautioned against requiring countries like DRC and Myanmar to make progress on issues such as contract transparency and beneficial ownership that are not required by the EITI.

Jonas noted that encouraging language could be included in the letter, but cautioned against conditional decisions by the Board.

On the basis of the Secretariat's assessment, the Committee's recommendation and the Board's discussion, the Board lifted the suspension of the DRC and designated DRC EITI Compliant. The Board decision is set out in Annex A.

Actions

- The Chair to write to the governments of DRC and Guinea to inform them of the Board's decisions.

27-7 Report from the Finance Committee

David Diamond reported on the work of the Finance Committee since Oslo.

The Finance Committee concluded in Oslo that there was a need to better plan expenditure, and that the Finance Committee would continue to carefully monitor developments with regard to the budget and expenditures. As part of these efforts, on 7-9 May Duncan Robertson, ICMM Director, Administration and Operations, was seconded to the Secretariat by ICMM to review the EITI's internal financial and administrative systems and provide recommendations to strengthen these. Duncan recommended using a different reporting format that would make reporting clearer and forecasting easier as well as the recruitment of a Finance Manager to further develop its financial systems. David thanked Duncan for his help and the Secretariat for embracing this process.

Regarding the quarterly accounts and budget forecasts, the Committee noted that the Secretariat was headed for a US \$0.3m overspend in 2014. This was largely due to salary costs, which were set to rise in 2014 due to staff recruitment. The Finance Committee noted that these costs were expected to be covered through revenues that are expected to come in higher than in the budget forecast.

Although satisfied with the reasons for this overspend, the Finance Committee recommended that the Board task the Secretariat with presenting a revised estimate budget with the Q1 and Q2 accounts in the second half of August for approval by the Board. Jonas informed the Board that the Secretariat welcomed this suggestion.

Actions

- Secretariat to present a revised estimate budget in the second half of August for approval by the Board.
- Secretariat to continue its efforts to recruit a Finance Manager.

27-8 Report from the Governance Committee

Alan McLean started with some reflections on the importance of ensuring that committees were quorate. Clare said that there might be a need for a policy whereby committee members lose their positions in committees following three absences.

Alan noted that the Committee was considering whether to introduce new requirements for supporting companies. These should balance the need for safeguarding the EITI's reputation with the importance of remaining open and inclusive.

Alan then introduced the several reviews that were underway, starting with the Management Exercise which was intended to help management and staff work together as a team in the face of changing demands. As for the joint

MDTF-EITI Technical Assistance Review, Alan noted the need for the consultants to take into account the changes that may arise from the Board's discussions on refining Validation. As concerns the Governance Review, the Committee noted the existence of numerous governing instruments (such as draft constituency guidelines, draft board guidelines and articles of association) and would work towards trying to bring these together into a more permanent set of governing instruments. Finally, the Committee discussed the possibility of carrying out a self-assessment of the effectiveness of the Board.

The Committee also discussed the possibility of streaming Board meetings live - a suggestion that was made in Oslo in order to increase transparency and reduce costs. A number of Board members had raised reservations about this as they feared that their statements could be recorded and presented in ways that were never intended. The Committee recognised that the decision was taken, and asked the Secretariat to present options around the existing technology. The Committee would then recommend to the Board whether to confirm the decision or to undo it.

The Committee welcomed the Code of Conduct and encouraged everyone to use and promote it actively. Alan then updated the Board on the situation in Yemen, where lack of funding had led the MSG to take company loans. YEITI was now aware of the existence of guidelines to this purpose and of the need to anchor any such decisions firmly in the MSG.

Members of the Committee had also expressed their discomfort with the decision to carry out a Country Spotlight on the DRC, the day before an important decision concerning the country. The Committee recommended that 'deep dives' into a country of this kind should not take place less than six months before a significant decision was to be taken on candidature or compliance.

Finally, Alan informed the Board that an independent review had been carried out by MSI Integrity – an independent research centre that was incubated at Harvard Law School - on the functioning of MSGs, particularly in regards to civil society selection processes and participation. In-country visits were undertaken in five countries, phone interviews in a further 15 countries were carried out and documentation from all implementing countries have been collected and assessed for this study. The review, currently in draft form, would be shared with the Board.

Marinke agreed to share with the Board the code of practice/MoU that governed the civil society constituency.

Actions

- Governance Committee to consider recommending a policy on Committee attendance.
- Governance Committee to make a proposal for the Board Governance Review.
- Secretariat to present options for streaming Board meetings.
- PWYP to share code of practice/MoU for the civil society Board constituency.

27-9 Any other business

Briefing on Nigeria's Fiscal Allocation and Statutory Disbursement Audit Report

Faith Nwadishi updated the Board on the Nigeria Fiscal Allocation and Statutory Disbursement Audit Report, which helps Nigerians understand the spending of oil and gas revenues by Nigerian states from 2007 to 2011.

Rapid Response Committee on Azerbaijan

Jonas briefed the Board on the discussions of the RRC, which had convened to discuss the situation for civil society in Azerbaijan. The discussion followed reports of concerns that civil society was being impeded from carrying out its EITI activities. Some members of the RRC had suggested that a first step should be for the Chair to write to the Government of Azerbaijan. Others did not think that a letter would resolve the situation, and proposed that a mission to gather further information would be necessary.

Before giving floor to representatives of Azerbaijan Claire Short asked Gubad Ibadoglu to clarify whether he was a

member of the opposition party in Azerbaijan, which Gubad confirmed.

Gubad Ibadoglu explained that while there were some positive developments within the MSG, the broader environment for civil society remained challenging. He highlighted cases of persecution of CSOs by governmental ministries, including home and office searches of multiple NGOs; inspections by the Ministry of Justice of grant registrations, freezing bank accounts of both NGOs and individual NGO leaders, NGO meeting minutes and other documents; the effect of the NGO legislation in terms of access to funding and meeting space, and media articles by the government seeking to discredit NGOs and their work. Shahmar Movsumov stressed that the government created all necessary conditions for full and active participation of Azerbaijani civil society in EITI. He also requested that a decision of some kind be made soon so that the discussion may be put to rest.

Gubad and Shahmar recused themselves from the Board's discussion.

The Board discussed a number of possible courses of action to address these questions while taking note that a previous letter to the Azeri government had gone unanswered. Board members discussed the importance of ensuring that any visit by the Board, its Chair or its representatives should not be perceived in political terms, be granted sufficient access, and be able to make an accurate picture of the situation on the ground. Daniel Kaufmann noted that this is not just about fact-finding on the circumstances in Azerbaijan, but also about the broader question of what sort of enabling environment is acceptable within the context of EITI.

The Board decided to send a delegation composed of the Secretariat and possibly a third party to Azerbaijan. The Chair opened for Board members to submit their views on the proposed mission.

Actions

- The Secretariat to visit Azerbaijan to gather stakeholders' views, possibly together with an independent third party.

Board meeting dates

Jonas suggested that the first meeting of 2015 take place in Northern Europe in February, followed by a meeting around June potentially taking place in Brazzaville and Kinshasa. These proposals would be agreed on by Board Circular.

Acknowledgement

The Board and its Chair extended a heartfelt thank you to Olivier Bovet and Eelco de Groot for their diligent participation and active contribution to the EITI.

Participant List

Chair

The Rt. Hon. Clare SHORT

Implementing Countries

Mr Abdoul Aziz ASKIA, Permanent Secretary, Niger

Alt: **Mr Didier Vincent Kokou AGBEMADON**, 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 Fernando CASTILLO TORRES, National Coordinator, Peru

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

Supporting Countries

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

Alt: **Mr Robert CEKUTA**, Principal Deputy Assistant Secretary, State Dept., USA

Mr Pekka HUKKA, Ambassador, Ministry of Foreign Affairs, Finland

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

Civil Society Organisations

Mr Gubad IBADOGLU, 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: **Mr Brendan O'DONNELL**, Oil Campaign Leader, Global Witness

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 Daniel KAUFMANN, President, Natural Resource Governance Institute (NRGI)

Alt: **Mr Fabby TUMIWA**, Executive Director, Institute for Essential Services Reform (IESR), Indonesia

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

Alt: **Mr Matthew BLISS**, Director Extractives, Cordaid, The Netherlands

Companies including Investors

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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 Ian WOOD, VP Sustainable Development, BHP Billiton

Alt. to: **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

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Mr Javier AGUILAR, Senior Operations Officer, World Bank

Mr Alejandro AMERENA, Director General International Affairs, Secretary of Energy, Mexico

Mrs Karen APARICIO, National Coordinator EITI Steering Committee, Colombia

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Mr Wong AUNG, Shwe Gas Movement, Myanmar

Mr Andrew BAUER, Economic Analyst, Natural Resource Governance Institute (NRGI)

Mr Joseph BOBIA, National Coordinator RRN, Member of the EITI-DRC Executive Committee, DRC

Mr Eduardo BOHORQUEZ, Executive Director, Transparencia Mexicana, Mexico

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Mrs Aroa DE LA FUENTE, Extractive Programme, FUNDAR, Mexico

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Mr Win HTEIN, Director General, Ministry of Mines, Myanmar

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Mr Francisco PARIS, Regional Director

Mr Eddie RICH, Deputy Head of Secretariat

Ms Dyveke ROGAN, Regional Director

Mr Pablo VALVERDE, Country Manager

Annex A: Board decisions on candidature and compliance

EITI Board decision on DRC

The EITI Board designates the Democratic Republic of Congo (DRC) as EITI Compliant and its suspension is lifted as of 2 July 2014. Having considered a review prepared by the International Secretariat, the Board agreed that the DRC had addressed the remedial actions required to meet the requirements as set out in the EITI Rules. The Board welcomed the work done by the MSG to address the Sicomines agreement in accordance with requirement 9f. The Board called on the MSG to ensure that the agreement is addressed in forthcoming EITI Reports in accordance with requirement 4.1.d of the EITI Standard. In accordance with the transitional arrangements, the DRC is encouraged to transition to the EITI Standard as soon as possible, including by updating their EITI workplan to address the necessary actions and in order to meet the deadlines set out below. In accordance with the EITI Standard:

- The DRC must be revalidated within three years i.e. Validation will commence on 2 July 2017 or earlier upon request of the multi-stakeholder group. Validation will be conducted in accordance with the EITI Standard.
- Stakeholders in the process may call for a new validation at any time within that period if they think the process needs reviewing. 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.
- In accordance with the EITI Standard, the DRC is expected to produce EITI reports annually. EITI Reports should cover data no older than the second to last complete accounting period. The DRC is required to produce the 2012 EITI Report by 31 December 2014 in accordance with the EITI Standard.
- In accordance with requirement 7.2, the DRC is required to publish an annual report on the previous year's activities, detailing progress in implementing the EITI. The annual report for 2014 should be published by 1 July 2015.

The Board congratulates the government of the DRC for its sustained commitment and leadership in the implementation of the EITI process. The Board also congratulates the DRC multi-stakeholder group for its efforts in promoting an informed debate for the management of the country's vast natural resources.

EITI Board decision on Guinea

The EITI Board designates Guinea as EITI Compliant as of 2 July 2014. In accordance with the EITI Standard:

- Guinea must be revalidated within three years i.e. Validation will commence on 2 July 2017 or earlier upon request of the Steering Committee. Validation will be conducted in accordance with the EITI Standard.
- Stakeholders in the process may call for a new validation at any time within that period if they think the process needs reviewing. 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.

- In accordance with the EITI Standard, Guinea is expected to produce EITI reports annually. EITI Reports should cover data no older than the second to last complete accounting period. Guinea is required to produce the 2013 EITI Report by 31 December 2015 in accordance with the EITI Standard.
- In accordance with requirement 7.2, Guinea 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.

The Board congratulates the government of Guinea for its sustained commitment and leadership of the EITI process. The Board also congratulates the EITI Guinea Steering Committee for its efforts and effective leadership in EITI implementation.

The Board takes note of the Steering Committee's efforts to develop a new workplan in accordance with requirement 1.4 of the EITI Standard, outlining objectives for EITI implementation reflecting the EITI Principles and national priorities for the extractive sector. As part of this work, the Board encourages the Steering Committee to ensure that its current composition is suitable to deliver on the workplan objectives and that the national EITI secretariat has the adequate human resources to support the Steering Committee's work.

EITI Board decision on Myanmar

The EITI Board admits Myanmar as an EITI Candidate country on 2 July 2014. In accordance with the EITI Standard, Myanmar is required to publish its first EITI Report within 18 months of becoming a Candidate, i.e. 2 January 2016. If the EITI Report is not published by this deadline, Myanmar will be suspended. Validation will commence within two and a half years of becoming a Candidate, i.e. 2 January 2017. In accordance with requirement 1.6c, the MEITI MSG is required to publish an annual activity report for 2014 by 1 July 2015.

The Board congratulates the government and the MEITI multi-stakeholder group for achieving this milestone, and for the commitment demonstrated by all stakeholders during preparations for candidature. The Board takes note of the plans to transition the MEITI Coordination Office to the Ministry of Finance and encourages the government to make quick progress with the transition in order for momentum to be sustained. In her letter to the government the Chair will welcome the efforts shown by the government to work with civil society so far and stress the importance of demonstrating further progress on the enabling environment, especially at the local level.