

Attendance

<p><u>Ministerial</u>          Jo Swinson-EITI Champion          Tracy Barker- Private Secretary to the Minister</p> <p><u>Chair</u>          Marie-Anne Mackenzie-          Department for Business          Innovation &amp; Skills</p> <p><u>International Secretariat</u>          Eddie Rich</p> <p><u>Secretariat</u>          Margaret Sutherland- Department          for Business Innovation &amp; Skills          Vina Krishnarajah - Department for          Business Innovation &amp; Skills</p> <p><u>Industry</u>          Dr Patrick Foster- Camborne          School of Mines-University of          Exeter          Stephen Blythe- BP          Andrew Enever- Shell</p> <p><u>Civil Society</u>          Miles Litvinoff-Publish What You          Pay          Colin Tinto-Global Witness          Eric Joyce MP          Yannick Vuylsteke-Transparency          International</p>	<p><u>Government</u>          Alan Tume- HM Revenue &amp; Customs          Mike Earp- Department of Energy &amp;          Climate Change</p> <p><u>Observers</u>          Jerry McLaughlin-Mineral Products          Association          Joe Williams- Natural Resource          Governance Institute-          Donovan Ingram- ExxonMobil</p> <p><u>Nominated People</u>          Robert Le Clerc- CBI Minerals Group          Taras Fedirko- Durham University          Jennifer Dunn-Oil &amp; Gas UK          Alison Hills- ExxonMobil</p> <p><u>Experts</u>          Tom Mayne- Global Witness</p> <p><u>Apologies</u>          Claire Ralph-Oil &amp; Gas UK          Jon Atkinson/Justine De Davila-          Department for International          Development          Brendan O Donnell- Global Witness          Jenna Williamson-Scottish          Government          Carolinn Booth- HM Revenue &amp;          Customs          Natalie Reeder- HM Treasury          John Bowater- Aggregate Industries</p>
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Summary of proceedings

1. Jo Swinson opened the MSG meeting, thanking representatives for their attendance.
2. The minutes from the 9<sup>th</sup> MSG meeting were agreed.

### Reconciliation sub group

3. HMRC thanked the MSG for agreeing the reconciliation methodology for the oil and gas sector before Christmas. It was highlighted that this was a huge undertaking and the MSG's flexibility was praised.
4. HMRC summarised the agreed methodology: that they will advise the Independent Administrator (IA) of all payments received in accordance with businesses listed in the waiver and if businesses choose to make any downstream payments separately (typically where there is a GPA) then HMRC will notify these separate payments to the IA as well.
5. Businesses will advise the IA of both upstream and downstream payments. The IA will publish the total payments received by HMRC but not any downstream payments that are made separately and will reconcile these with the upstream payments notified by businesses and comment on any differences.
6. The IA may contact the businesses where there are differences or HMRC in order to complete the reconciliation.
7. Industry was thanked for producing the guidance document so swiftly and circulating it to their stakeholders, the speed at which this was done was essential as companies made their first tax payment in January 2015.

### Waiver

8. HMRC confirmed that good progress was made on the waiver and it was close to being finalised. All companies names will be listed in an annex and as a matter of routine HMRC will only provide details of payments or repayments to the IA. Further tax information will only be provided to the IA to assist the reconciliation if necessary.
9. Companies that only undertake downstream activities and are not part of a GPA involving upstream companies may be excluded.

### Template

10. The template was near completion; new tabs were being added for mining and beneficial ownership.

### Thresholds

11. HMRC will provide details of all tax payments regardless of a threshold and businesses may prefer to do this as well to avoid too much complexity. The same may apply to licences.

### Interest

12. Interest and Penalties appear to be excluded from the Accounting Directive. Businesses are understandably keen to mirror the arrangements and HMRC explained there would be no objection to this from their perspective.
13. They went on to stress that whilst interest for many companies will be minimal there can be occasions when it is very significant due to the way the tax system operates (a technical disagreement can go on for years i.e. litigation), resulting in significant interest payments.
14. In addition Petroleum Revenue Tax (PRT) repayments can be made due to decommissioning.
15. Civil society asked for further information about how interest arose and HMRC agreed to produce a paper for the MSG to look into this in more detail.

### Guidance

16. HMRC explained that at present, businesses can contact them to check what payments they have made in a reporting year. They were concerned about providing this information before companies submitted details of their payments to the Independent Administrator and suggested they push back on such requests.
17. This might help to avoid being potentially non-compliant with EITI. HMRC will need to check if there are any legal barriers to choosing not to provide this information to companies.
18. The Chair explained that the Government will have to meet its legal obligations under freedom of information legislation. Therefore, it may be possible to have an end date on the above restrictions, for instance, after the companies had reported their information to the Independent Administrator.
19. Civil society explained that if payments by companies were made on an online account (government portal) then they could source the figures anyway.
20. International Secretariat confirmed that the EITI process did not aim to make existing systems in place in the UK more difficult. The sign off from the senior company official of the template should attest that the figures provided by companies and Government are accurate.

### Mining

21. The MPA, with the help of other mining representatives on the MSG has agreed to provide a list of mining companies that will constitute over 90% of production of UK mining and quarrying in the UK. This is nearly complete.
22. There is no distinct tax regime for mining and quarrying so these companies pay a single Corporation Tax that will include extraction activity as well as any other activities. HMRC will report the total Corporation Tax (CT) paid by these

- businesses where a waiver is provided. The suggestion is that businesses also report the total amount of CT to avoid any arbitrary apportionment.
23. Payments to Crown estates and the Coal Authority (CA) will also be reported. Secretariat confirmed that they were due to have a telephone call with the CA shortly.
  24. HMRC confirmed that payments for Infrastructure projects (S106 payments) requested by local authorities as a condition for gaining planning permission will not be included in the first year by Government. The sub-group will provide further advice on how to account for these payments.
  25. There was uncertainty whether separate records are kept by local authorities or whether, similar to Planning Permission, these are not directly related to extraction activities (indirect) and should be excluded.
  26. Government confirmed that they would have difficulty in reconciling payments on S106. Government also wondered whether these would be in scope in any case-are they directly related to extraction? Any type of business (e.g. a supermarket) may have to make these payments if they want to use the land.
  27. International Secretariat confirmed that payments relating to infrastructure provision, social expenditure and sub national payments would need to be reported where they were material and that it seems that S106 payment should be in scope.
  28. Once further analysis is done we will be able to gauge whether these payments are material. Even if not, they would need to be explained as part of the Report.  
International Secretariat went on to explain that if companies can disclose the figures on 106 but Government is unable to then this should still be reported in the first report with a detailed narrative on the difficulties for Government. This will give a good idea on how much these payments are.
  29. Mining representatives explained that further work was being done with the quarries to see how many would be caught under EITI; in some cases this would involve contacting individual quarries directly.
  30. They confirmed that Northern Ireland was covered in their data sources.
  31. The sub group confirmed that the next meeting was due to take place on the 6<sup>th</sup> February.
  32. Civil society asked how useful the mining reconciliation would be if it was reconciling CT as a whole especially if this did not relate to extractive activities.
  33. International Secretariat emphasised that more focus should be placed on the narrative on how the sector works and the flow of payments to increase general understanding.

### Crown Estates

34. Secretariat explained that the Crown Estates were conducting a practice run of their report and would report back on progress shortly.
35. Civil society stressed that an element of Crown Estates receipts are devolved and there is a separate process in place in Scotland.

### Independent Administrator (IA) sub group

36. Secretariat thanked the sub-group for all their work in producing the Terms of Reference (ToR) and the evaluation questions for the IA.
37. Secretariat highlighted that the MSG had raised some important issues which were taken into account when finalising both documents. The MSG was thanked for agreeing the ToR and evaluation questions within a tight deadline.
38. Secretariat confirmed that the competition for the procurement of the IA went live on Friday 23<sup>rd</sup> January and was due to close on Wednesday 11<sup>th</sup> February.
39. Six representatives (2 from each constituency) had volunteered to sift and appoint the IA. The appointment panel would make a recommendation to the MSG during the week commencing 16 February.
40. Secretariat confirmed that the appointment panel was working to a tight timetable but aimed to have the contract signed by Friday 20<sup>th</sup> February. The speedy delivery was to ensure that the Administrator would get sufficient opportunity to feed into the template before circulation to companies and government bodies.
41. Industry asked whether there had been any interest expressed by any of the nine firms who were eligible to bid and Secretariat confirmed at least two of the firms had expressed an interest in bidding for the project.
42. Civil society explained that the minutes from the November MSG stated that the MSG will be given a summary for who had tendered for the role and the success criteria which were used.
43. Secretariat confirmed that this was correct; the appointment panel would sift and make a recommendation to the MSG who would make the final decision.
44. As the next MSG meeting was not until the 24 March, the recommendation would be circulated electronically, but Secretariat was happy to setup a conference call if requested by the MSG.
45. The contract for the IA was for three years.
46. Industry suggested that once the IA was appointed they should be invited to MSG meetings where possible.
47. Industry raised that further thought would need to be given to preparing the IA for the job they were being asked to do. The Chair suggested that the leaders

- of all sub groups should make themselves accessible to the IA to answer any questions or clarify anything once they are appointed.
48. Secretariat confirmed that some information is ready to be shared with the IA such as how the reconciliation of Oil & Gas will work and the MSG decision table can be updated to provide more detail.
  49. Civil society suggested that the ToR for the MSG should be updated to show that BIS is contracting the IA on behalf of the MSG. Secretariat confirmed they would circulate some suggested wording.
  50. Secretariat thanked civil society for their suggestions on amending the wording on who would own the Intellectual Property (IP) for EITI.
  51. This was an extremely important issue, under the standard terms and conditions for a government contract; the IP stays with the contractor who gives the government department the right to use the information. This would effectively prevent third parties from using the information in the EITI Report. This had now been amended so that the contract will vest IP rights in BIS, who will make this information freely available to all.

#### Contextual information sub group

52. The Chair of the sub group confirmed that at their last meeting they had discussed the first draft of the contextual information chapter which was produced by the Department for Energy and Climate Change.
53. More work on the chapter was essential to make it more readable and comprehensive.
54. Industry representatives raised concern that at the sub group meeting too much focus was placed upon ensuring the contextual information chapter met the EITI requirements, however the context should be broader than this.
55. International secretariat suggested a good example to look at was the Philippines 2014 report. They also suggested that the UK should consider appointing a designer to assist with info graphics.
56. International Secretariat went on to explain that the contextual chapter should tell the story of the extractives sector in the UK and explain complex information in an understandable way.
57. Industry explained that when including information on the legislative framework it would be beneficial to include basic information on mineral ownership and the process of licensing regulation.
58. After discussion some MSG members asked whether there was any money in the budget for the IA to provide some oversight/formatting on the contextual information. Secretariat said they would check, however, the competition was now live therefore it would not be possible to deviate away from the agreed ToR.

59. The Chair explained that finalising the contextual chapter would be an iterative process therefore a draft version would need to be circulated to the MSG.
60. After some discussion the MSG agreed that the second draft for circulation of the contextual chapter would be circulated to the MSG ahead of their March meeting.
61. The MSG agreed that the contextual chapter would also be a standing agenda item at future MSG meetings.
62. Civil society questioned what format the contextual information would be in before it is passed to the IA. Secretariat confirmed that the IA would not be required to do any further work on the contextual chapter.

#### Communications sub group

63. Secretariat explained that EITI communications had been a little muted over the last couple of months whilst the MSG was agreeing the methodology for the oil and gas reconciliation.
64. Industry colleagues were thanked for updating the industry guidance and circulating it in January so swiftly after the MSG agreed the reconciliation process for oil and gas. This was in time for company's first tax payment in January 2015.
65. Industry talked through the guidance document for oil and gas companies and highlighted that the payment arrangements had been updated with the agreed methodology and further information was also provided on the Accounting and Transparency Directives.
66. Following this, Secretariat explained that the communications plan and communications calendar for 2015 had been updated to reflect that the UK was now a candidate country. These documents would be circulated for comments/additions following the meeting.
67. At the last communications sub group meeting there was an agreement to concentrate on raising industry awareness before reporting templates are circulated in March/April and also continuing to raise civil society awareness.
68. Secretariat confirmed that the next communications meeting is at end of February.
69. Secretariat went on to highlight a few awareness raising pieces of UK EITI communications. Oil & Gas UK were thanked for securing the piece for Jo Swinson in their Wireline December issue.
70. Additionally in December, Jo Swinson met with the German EITI Champion to discuss implementation and share experiences. The Chair attended the lunch on the same day where Clare Short was also in attendance as well as extractive companies and the German EITI Champion. One area which was discussed was the benefits of EITI.

71. Mining representatives said it would be good to get an article by Jo Swinson into one of the trade magazines such as Quarry Management.
72. The Chair explained that in terms of UK Communications, she felt the MSG had now reached a place where members should feel comfortable to promote EITI where possible rather than agreeing with the MSG beforehand.
73. Industry representatives regularly spoke about EITI at their industry forums. They had communicated to industry that Petroleum Revenue Tax and licence fees would have to be disaggregated.
74. The next version of the industry guidance document would be circulated once the template was ready.
75. Civil society said a situation should be avoided where a company in scope of UK EITI simply receives a template without any prior communication.
76. The MSG also discussed wider communications with different stakeholders to ensure a strategy is in place once the first report is published to instigate debate on the first report.
77. Secretariat confirmed that they would need to give this further thought in the summer but communication opportunities were being taken advantage of such as an upcoming talk at Aberdeen University which was being finalised.
78. Additionally Secretariat spent a day shadowing at the Royal Society for the Protection of Birds (RSPB). There had been an interesting discussion about whether there would be value in setting out the regulatory environment in the UK for mining within the contextual information section of the EITI Report. This could then be used to share with other countries as an example of good practice.

#### Beneficial ownership sub group

79. Civil society opened by thanking all sub group members for the excellent engagement they had received on this area.
80. The sub group agreed to recommend to the MSG that the template supplied by the international secretariat for Beneficial Ownership (BO) disclosure is suitable for UK purposes with one or two very minor adjustments:
  - a. the full date of birth of beneficial owners should be collected but not be published, although the year and month should be
  - b. national identity numbers need not be collected
  - c. the columns splitting out 'information about how ownership is held or the control over the company is exercised' can be simplified so that a space is provided for the company to provide the information about 'means of control'
  - d. the effective 'means of contact' needs to be defined.



81. The Independent Administrator would need to collect BO information via the template that is due to be circulated to companies and ensure it has been signed off at the appropriate level in the company. The 'register' of beneficial owners as stipulated by the EITI Standard would then simply be this information tabulated and presented within the EITI report.
82. The sub group failed to reach consensus on the threshold for disclosure of beneficial ownership i.e. what proportion of a company a beneficial owner should control or own to require it to disclose that ownership.
83. Both Government and civil society presented papers supporting different approaches which can be summarised as:
  - Government's view is that disclosure should take place for beneficial owners holding over 25% share of the company in question while civil society's view is that disclosure should take place for BO's holding 5% or above
84. Secretariat highlighted that applying the over 25% threshold would ensure consistency with provisions in the Small Business, Enterprise and Employment (SBEE) Bill currently going through the legislative process. It was anticipated that in future EITI reports, to avoid duplication a link would be made to the public register.
85. Under UK Company Law, >25% interest would provide an individual with a blocking minority in certain company decision-making processes, therefore a >25% interest could provide an individual with 'significant control'.
86. EITI is not one size fits all – individual countries have to set standards that are appropriate for the context. Imposing burdens on UK business inspired by different conditions in other countries does not make sense.
87. It was confirmed that the SBEE Bill was due to be completed by March 2015 and the provisions relating to the public register would come into effect by 2016, therefore this may be later than the first EITI report.
88. International Secretariat asked whether the BO information provided by companies would relate to the time period being covered by the reconciliation i.e. 2014, or who the beneficial owners were at the time the template was completed. Either way an explanation would need to be provided in the report.
89. Civil society explained that there was no need for the UK to stick to the 25% threshold that was included in the legislation.
90. Civil society commented that the EITI was also set up because extractive companies present a greater corruption risk than other companies. The definition of beneficial ownership in the EITI should be stricter than what is proposed in the UK for all UK companies, to create both better accountability and curb potential corruption risk in this particular industry.

91. Some companies that operate or invest in the UK will also be active in other EITI countries that have already agreed to implement the beneficial ownership pilot using a definition lower than 25%. So if the disclosure threshold is not the same across the board, then there seems little reason why the UK has to stick to the “more than 25%” definition. The UK would be setting a lower standard than countries like Tajikistan.
92. Currently public listed companies were required to make their beneficial ownership information available at a threshold of 3% which was accessible through annual reports.
93. Therefore this only applied to private non listed companies. Civil society went on to state that there was public interest in this information and asking companies to go down to 10 or 5% was not a big ask.
94. Industry raised concerns of going beyond the UK legislation’s >25% threshold.
95. Government explained that aligning EITI to the legislation was important, as the analysis for the >25% threshold had already been carried out. There was also a discussion of sticking with the >25% threshold and looking at this again in future reports.
96. International Secretariat highlighted that the BO pilot was making slow progress and many of the countries were having difficulty providing information on BO.
97. International Secretariat expressed some doubt to whether this would become an EITI requirement from the 1<sup>st</sup> of January 2016.
98. The UK was leading the way with the legislation to set up a public register and mention was also made that the Ukraine was also considering something similar.

#### Politically Exposed Persons (PEPS)

99. Civil society explained that the ownership by PEPs is of unique public interest and as per the international guidance should not be subject to a threshold. The UK should follow the suggested best practice and not introduce a weaker standard.
100. Civil society believes that protecting some PEP ownership from disclosure will cause credibility problems for the UK EITI.
101. The MSG discussed whether PEPS should be included in the first report looking at the tight time frame and there was some confusion about the definition of a PEP and the current obligations on who had to disclose information on PEPs.
102. Secretariat highlighted that the anti-money laundering definition of a PEP was being updated and also explained that the UK legislation for the Register did not include any reporting on PEPS.

103. The debate at sub group centred on whether there should be a threshold for the proportion of share owned by PEPs to trigger disclosure or not. The approaches were:
- aligning with the international secretariats guidelines that PEPs should be disclosed whatever their holding.
  - a threshold of 25% so tied to a threshold for BO disclosure of 25%
104. Industry expressed concerns that the introduction of no threshold for PEPs would effectively over-ride the 25% BO threshold in relation to the enquiries that relevant companies would need to make regarding individual shareholders. Industry was also concerned about the UK being at the forefront in addressing PEPs. As the involvement of PEPs is a low risk matter for the UK, it might be better for the UK to await developments with the BO pilots.
105. There was some discussion around the definition of PEP and under current Anti-Money Laundering rules as UK PEPs are foreign political personalities. It was thought that this rule was due to be revised.
106. Concern was raised that information on PEPs could lead to EITI being used as a vehicle for journalists to take advantage of this information. This could also lead to some companies choosing not to comply.
107. International secretariat confirmed that although EITI was voluntary, the UK would fail validation if companies did not engage.
108. Government explained that further thought would need to be given to PEPs, and there was a risk that due to the tight timescales, this may not be included in the first report but rather in future reports.
109. Civil society summarised that the MSG's thoughts on the thresholds and PEPs were useful and they would now need to go back and organise another meeting to discuss some of these ideas in detail.
110. Secretariat highlighted that the timing was very tight and there was a risk that if a decision was not made ahead of the end of March, information on beneficial ownership would not be included in the reporting templates.

#### Any other business

111. On request, the MSG went through the EITI implementation timeline and the Secretariat agreed to make some minor updates.
112. International Secretariat highlighted that a workshop on beneficial ownership was being organised jointly by them and the Department for International Development. This was due to take place in London on the 17 March.

113. Secretariat explained that they were organising half day training for the MSG on the 27 April to focus on candidacy and the use of data etc. This would be delivered by Eddie Rich and the MSG was asked to let Secretariat know preferences for am or pm.
114. Civil society asked HMG to locate a representative to give a presentation to the MSG on fracking.

Actions agreed at the meeting

115. The MSG agreed that the second draft for circulation of the contextual chapter would be circulated to the MSG ahead of their March meeting.
116. The MSG agreed that the contextual chapter would also be a standing agenda item at future MSG meetings.
117. The IA will be invited to future MSG meetings where possible.

Next Meeting- Tuesday 19 May- BIS Conference Centre

Summary of Actions

Action	Status
Secretariat to publish the minutes from the 9 <sup>th</sup> MSG meeting in November.	Complete
Reconciliation sub group to produce a paper covering interest payments in time for the March MSG.	Complete
Mining reconciliation sub group to make a recommendation on section 106 payments.	Complete
Secretariat to give more thought to what preparation information should be made available to the IA once appointed.	Complete
Secretariat to ensure the IA is invited to future MSG meetings where possible.	Ongoing
Secretariat to check whether there is a budget for preparation of the report (infographics).	Complete
Secretariat to update and circulate text to amend the Terms of Reference to show	Complete

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that BIS is contracting the Independent Administrator on behalf of the MSG.	
Contextual sub group to share the second draft of the contextual information chapter ahead of the March MSG meeting. An update of the contextual information to be added as a standing agenda item for future MSG meetings.	Complete
Secretariat to circulate the updated communication plan and events calendar for comment.	Complete
Beneficial ownership sub group to finalise their recommendations to the MSG to ensure that the decision on beneficial ownership is made in time to be included in the template.	Ongoing
Secretariat to update the timeline (dates for EITI Board).	Ongoing
DECC to locate a representative from HMG to give a presentation to the MSG on fracking.	Ongoing
Secretariat to circulate the Philippine's annual report	Complete
MSG half day training confirmed for <b>Monday 27 April</b> . Members to confirm if they would prefer a morning or afternoon session. A room is booked in the BIS conference centre, but if someone else would like to host please contact Vina.	Complete