

UK Extractive Industries Transparency Initiative Multi-Stakeholder Group
Minutes of the 4th Meeting-Tuesday 8th April

Attendance

<p>Jenny Willott-EITI Champion Lisa Smyth- Acting Private Secretary to the Minister</p> <p><u>Chair</u> Marie-Anne Mackenzie- Department for Business Innovation & Skills</p> <p><u>Secretariat</u> Margaret Sutherland- Department for Business Innovation & Skills Vina Krishnarajah - Department for Business Innovation & Skills</p> <p><u>International Secretariat</u> Eddie Rich- via teleconference</p> <p><u>Industry</u> Dr Patrick Foster- Camborne School of Mines-University of Exeter- via teleconference Andrew Enever- Shell Stephen Blythe- BP Michael Barron – BG Group</p> <p><u>Civil Society</u> Miles Litvinoff-Publish What You Pay Eric Joyce MP Rachel Davies- Transparency International Brendan O ‘Donnell- Global Witness (Alternate for Gavin Hayman)</p>	<p><u>Government</u> Mike Earp- Department of Energy & Climate Change Alan Tume- HM Revenue & Customs Jenna Percival- Scottish Government</p> <p><u>Observers</u> Ashley Shackleton-Oil & Gas UK Jerry McLaughlin- Mineral Products Association Colin Tinto- Global Witness Joe Williams- Revenue Watch Institute Laura Kiddoo- HM Treasury Justine de Davila- Department for International Development</p> <p><u>Experts</u> Joseph Stead- Christian Aid</p> <p><u>Nominated people</u> Dr Silke Albin- EITI Implementation-Germany Alison Hills- ExxonMobil Will Austin- Oil & Gas UK</p> <p><u>Apologies</u> Sandra Johnson-Blake- Department for Business Innovation & Skills</p>
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Summary of Proceedings

1. Following introductions the chair confirmed that the BIS representative for the Multi Stakeholder Group is moving post and a replacement will be sought.

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2. The Chair welcomed Dr Silke Albin from Germany to the meeting who explained that Germany has committed to testing EITI in a pilot region and a feasibility study is underway.
3. She explained that EITI implementation in Germany is in the early stages but the intention is to make a public announcement in due course.

Agreement of Minutes

4. The Chair highlighted that significant changes were made to the minutes from the February meeting to introduce more detail of the discussions that took place at the request of MSG members.
5. Paragraphs 44-46 on beneficial ownership were discussed in detail. Jenny Willott (EITI Champion) confirmed that an announcement on Government plans to legislate on beneficial ownership is expected shortly.
6. A pilot on beneficial ownership is being undertaken by the International Secretariat and is due to be completed in 2016. International Secretariat confirmed that Terms of Reference had been circulated for the pilot.
7. Civil Society confirmed that guidance on how to implement beneficial ownership for those countries involved in the pilot will be issued shortly. Technical groups and International EITI sub-committees have discussed and commented on it over the past months at length.
8. This guidance will provide a steer to MSGs on how they can implement beneficial ownership reporting in their pilots, and is the guidance that the MSG should take into consideration.
9. After some discussion the minutes were agreed subject to a minor amendment.
10. Civil society suggested that when decisions are agreed at meetings this should be made very clear in the minutes.

EITI Objectives

11. Secretariat explained that the aim of the draft objectives is to influence the work-plan which will form a key element of the UK candidacy application.
12. International Secretariat confirmed that each country's work-plan should derive from the country's EITI objectives rather than the EITI Standard. The EITI objectives should set out why a country has chosen to implement EITI.
13. MSG members asked what announcements the Government had already made on EITI and Government representatives summarised these with mention of the Prime Minister's commitment to join EITI at the Sydney conference in May 2013.
14. Civil society stated that in drafting the objectives it would be helpful to see a copy of the summary from the EITI training workshop which took place in November 2013.
15. Industry explained that some concerns had been raised by constituency members on the draft wording of the objectives and that each objective should include outcomes.

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16. Mining representatives highlighted that regulatory processes are already in place to ensure accountability in the minerals sector but it was not clear if the public were aware of this.
17. After some discussion the MSG agreed that more consultation was needed across constituencies to approve the wording of the EITI objectives.
18. A sub group would be set up and if necessary an extraordinary meeting would be called in May to get the objectives agreed to ensure that the UK candidacy application is not delayed.

Mining Scoping Paper

19. Government presented a paper recommending that mining should be excluded from the first EITI report on an interim basis. This is because payments made by mining companies to the UK Government are not believed to be material even in aggregate.
20. Once Chapter 10 of the EU Accounting Directive is implemented it will be clearer which companies are reporting payments to the UK Government.
21. It is expected that payments for licenses will be reported.
22. The identification of how much corporation tax is paid by companies in relation to their UK mining activities is likely to be problematic as these companies are not subject to any special fiscal regime (unlike oil and gas companies).
23. Therefore mining companies make one payment to the Government of corporation tax covering both upstream and downstream activity
24. Because of this, and the fact that many companies may undertake a diverse range of activity along with their mining interests, it would be difficult to identify which companies should be within scope for EITI.
25. Civil Society representatives explained that in other EITI implementing countries such as Zambia and Tanzania both upstream and downstream payments for mining are reported and payments are not broken down.
26. The Accounting Directive and Dodd Frank require companies to report on upstream activities. Dodd Frank does cover downstream payments concerned with processing and export.
27. Under Dodd-Frank there is no specific requirement that upstream and downstream elements of resource extraction payments are separated.
28. EITI may disclose downstream payments as detailed in the EITI Standard but it is ultimately up to the MSG to decide.
29. Civil Society expressed concern about omitting mining from UK EITI as a key subsector; this would not fit with having a gold standard and providing leadership to other countries.
30. Industry representatives highlighted that under EITI practice globally the first report should keep things simple. Kazakhstan was cited as an example.
31. Mining-related taxes are not ringfenced, and in some cases permission to conduct mining activities is granted primarily via the planning system. One way of identifying the mining companies would be to find out which companies report under the Accounting Directive.
32. The Chair highlighted that reporting on total corporation tax payments for mining companies would distort the overall picture of UK EITI.

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33. International Secretariat explained that some implementing countries decide not to cover anything other than hydrocarbon but that to pass compliance, they either have to include mining, demonstrate that it is not material, or seek adapted implementation.
34. It is up to the MSG to decide the scope of the first report. However, when the UK goes through validation (within 2.5 years of being admitted as a candidate) it will have to follow one of the three options above.
35. If the first report is used as the basis for validation and mining is excluded, this will count as adapted implementation. However, the first EITI report does not have to be the report on which the UK hope to be found compliant. Two reports can be published in the 2 ½ years from candidacy.
36. Therefore the second UK EITI report will need to include sound information on mining with credible figures as this will form the basis of validation.
37. If separating upstream and downstream payments for mining is not possible, both could be reported with a narrative explaining why.
38. Civil Society raised concerns that excluding mining because it was too difficult to breakdown payments was not a valid reason which would have to be dealt with at validation.
39. Civil Society also highlighted that the first EITI report should go as far as possible in providing some figures from companies where mining is the main business with the acknowledgment that the data is not comprehensive.
40. The MSG agreed that mining should be included within UK EITI to avoid adapted implementation, however further work is needed to scope out the sector in the UK and research who the main mining companies are, with a view to establishing the scope of mining activity which can be covered in the first report.

Concept Paper

41. Sub group members met to discuss the concept paper written by civil society representatives suggesting further areas of reporting under UK EITI that could help meet tax transparency and resource management transparency objectives.
42. Civil Society highlighted that the aim of the concept paper which discusses country by country reporting was not to take the place of other initiatives but to explore the unique opportunities EITI provides to discuss areas important to the extractive industries' role in the UK.
43. Civil Society explained that it was a good idea to start these discussions early on as it would enable potential new standards for both EITI and beyond to be developed through a constructive multi-stakeholder dialogue.
44. Industry representatives emphasised that the contextual section of the EITI report should be made relevant to recent Government announcements on the Wood Review and the recent budget announcement.

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45. Industry also confirmed that more extensive country by country reporting has been rejected but the scope of payments included in reports under the Accounting Directive would be reviewed in 2018.
46. The group did agree that industry would discuss with their constituency the possibility of including a worked example of companies' tax calculations in the EITI report.
47. The issues raised in the concept paper would remain an area of continued interest. The group agreed that the contextual information sub group would take forward some of the ideas raised in the discussions.
48. Members agreed that the meeting had been constructive and useful and it was helpful that the MSG could be used as a forum to have these types of discussions.

Reconciliation sub group

49. The sub group highlighted that legislation is needed to give HMRC a function to participate in EITI. Government are currently seeking a suitable bill in which to introduce this legislation.
50. The sub group discussed disclosure and the various options for addressing taxpayer confidentiality.
51. Subject to industry consultation the sub group recommended using the taxpayer waiver option where companies can waive their rights to confidentiality and privacy. This is the option adopted in most EITI compliant countries.
52. The sub group also agreed to keep the taxpayer waiver "work-around" option in reserve. This option would involve the companies requesting their records from HMRC which they would then make available to the independent administrator.
53. Civil society explained that this was a sensible option but raised concerns that companies may try to negotiate their own terms for what is disclosable and what is not.
54. Industry stressed that standard consent wording for all companies would be preferable to make it very clear what would need to be disclosed under the EITI process.
55. Subject to industry consultation, the MSG agreed to use the taxpayer waiver option with a preference for a standard waiver to address taxpayer confidentiality under UK EITI.
56. The reconciliation sub group committed to continue working on this area and report back at the next MSG meeting in June.

Communications sub group

57. Secretariat explained that this sub group will continue to meet throughout EITI implementation and went through the objectives that the group agreed.
58. Some of the key points raised in the first meeting included the importance of ensuring that by the end of 2014 all companies that fall into the scope of UK EITI are made aware of their role in reporting.

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59. It was also highlighted that current civil society interest in EITI is limited to the NGOs represented on the MSG who fully support the key objective of providing international leadership.
60. However, a domestic emphasis is also required under the global standard. To get more interest from wider civil society it may be necessary to wait until the first EITI report has been published, but targeted outreach with civil society is still necessary.
61. Civil Society stressed that Government also has a part to play in raising awareness of EITI within other Government departments.
62. Industry representatives explained that universities have indicated an interest in EITI.
63. The sub group also highlighted that there is confusion about the differences between EITI and Chapter 10 of the Accounting Directive. In future communications it would make sense to refer to both of these complementary initiatives which include similar audiences. However, the priority for the MSG should be to focus in EITI.
64. Mining representatives highlighted that the EITI event for mining stakeholders is in its early stages but the date has been confirmed as the 12th June and it will take place at the Institute of Materials, Minerals and Mining. All MSG members are welcome to attend the event and ideas are welcome.
65. Secretariat explained that they are currently developing the EITI communications plan and the intention is to discuss this at the next communications sub group meeting at the start of May. Thereafter, this will be circulated to MSG members for comment.
66. The MSG agreed that individual organisations are at liberty to communicate about decisions made by the UK EITI once the minutes are published. However, any communications on behalf of the MSG should await the agreement of the communications plan.

Any other business

PRT Reporting

67. Industry representatives explained that some parts of their constituency had concern about the agreement reached at the previous MSG meeting on reporting Petroleum Revenue Tax (PRT) by project level. Civil Society representatives expressed strong commitment to the agreement that had been reached.
68. Government representatives confirmed the agreement reflected the way tax is collected in the UK.
The Chair brought the conversation to a close by stating that the Industry and Civil Society positions had been noted and that the matter would not be re-opened. There would likely be further discussions relating to the content of the first report in due course.
Terms of Reference

69. Industry highlighted that the MSG would need to update the decision making rules in their Terms of Reference following advice from the International EITI Secretariat.

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Consultation on Chapter 10 of the Accounting Directive

70. The Chair explained that the consultation was launched on Friday 28th March and will close on Friday 16th May.

71. Meetings are being organised to talk to industry and civil society about the consultation process before and after the Easter break, any queries should be taken up with the Chair.

Actions agreed at this meeting

72. At the fourth meeting of the EITI the MSG agreed the following:

- The MSG agreed that mining should be included within UK EITI to avoid adapted implementation, however further work is needed to scope out the sector in the UK and research who the main mining companies are and what a realistic materiality threshold for mining would look like. Work is also needed on how mining will be addressed in the first EITI report.
- The MSG agreed that the contextual information sub group would take forward some of the ideas raised in the civil society concept paper on country by country reporting.
- Subject to industry consultation, the MSG agreed to use the taxpayer waiver option (option 4) with a preference for a standard waiver to address taxpayer confidentiality under UK EITI. The taxpayer waiver “work-around” option would be kept in reserve.
- The MSG agreed that communications on behalf of the MSG should take a structured approach and be detailed in the communications plan.

Summary of actions

Action	Status
Secretariat to amend the minutes from the third MSG meeting and re circulate for agreement. They will then be published on the EITI Multi Stakeholder Group Webpage.	Complete
Secretariat to circulate the notes from the training delivered by Eddie Rich in November 2013.	Complete
Secretariat to circulate the text from the range of Government announcements on EITI.	Complete
MSG representatives to email	Complete

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<p>comments on the EITI objectives to Secretariat by 4pm on Wednesday 16 April alongside names of volunteers for a sub group. An extraordinary meeting may be necessary in May to agree the EITI objectives.</p>	
<p>Dr Foster/Jerry Mclaughlin in preparation for your June event, are you happy to approach the main mining/aggregates companies in the UK to carry out some scoping? This includes the main companies who pay taxes to the UK Government to get an idea of what level of payments they make in the form of taxes.</p>	<p>Complete</p>
<p>Industry MSG members to liaise with their constituency to gain agreement for the taxpayer waiver option for reconciliation with the taxpayer waiver work around option in reserve.</p>	
<p>Mike Earp to work with the reconciliation sub group, looking specifically at license payments and how these will be published.</p>	
<p>Contextual sub group to take up recommendations from the concept paper sub group. Industry to discuss with their constituency the possibility of including a worked example of a companies tax calculations for the first EITI report.</p>	
<p>Secretariat to circulate the communications calendar for MSG representatives to add to/comment on.</p>	<p>Complete</p>
<p>All ideas/assistance welcome for the mining event on the 12 June taking place at the Institute for Materials, Minerals & Mining. Please liaise with Dr Foster.</p>	
<p>Secretariat to circulate the</p>	<p>Complete</p>

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communications plan shortly after the 7 th May, when the next communications sub group meeting is taking place.	
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