

18<sup>TH</sup> EITI BOARD MEETING, JAKARTA/ PANGKALPINANG, 25-26 OCTOBER 2011

# Minutes

**EITI International Secretariat** Oslo, 2 December 2011

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# MINUTES OF THE 18<sup>TH</sup> EITI BOARD MEETING

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*Hotel Mulia, Jakarta, 25 October 2011 – Novotel, Pangkalpinang, 26 October 2011*

## 18-1 Welcome by the Chair and adoption of agenda

Clare Short welcomed Board members and observers to the meeting. She proposed that the Board membership of Christian Mambu be discussed under Any Other Business. The agenda was accepted.

## 18-2 Report from the Head of Secretariat

Jonas Moberg briefed the Board on the activities carried out by Secretariat staff since the last Board meeting. Using the occasion of a Board meeting in Indonesia, he reminded the Board of the enormity of the challenge of implementation in large countries. Jonas confirmed that with more and better EITI reports, data was becoming more accessible and readable. He introduced the Secretariat's publication "Extracting data: An overview of EITI Reports (2005-Oct 2011)". Jonas noted that several training events had been held, the new rules had almost completely been rolled-out to implementing countries, and new publications had been produced. Committees were active, above all the Validation, Governance, Finance and Outreach and Candidature Committees.

## 18-3 Implementation Progress Report, including progress with transition to EITI Rules 2011 edition

Jonas reminded the Board of the new format of the Implementation Progress Report (IPR). It was now split into two parts: a summary version that was included in the Board papers and a more detailed version available on the internal area of the EITI website. He encouraged Board members to use the report. Jonas announced challenging reporting exercises coming up in Iraq, Afghanistan, Togo and Indonesia. He pointed at recent developments, including the production of several good summary reports. Jonas reported on recent trips by the Chair or the Secretariat.

Jelte Van Wieren raised a concern about the reported lack of stakeholder commitment - particularly from the government - in Kazakhstan and Chad. The Board discussed the situation in Kazakhstan. The Chair agreed to write a letter to the Presidents of Chad and Kazakhstan. Diarmid O'Sullivan asked that the Board be kept informed about improvements in EITI reporting in Nigeria. The Chair proposed that partners (e.g. the World Bank) discuss how support to the Nigerian MSG could be improved.

Michel Okoko clarified that implementation in Gabon and Congo was ongoing and that this was not well expressed in the Implementation Progress Report. He also requested that statements in the IPR about the legitimacy of governments in implementing countries be made with care. Anthony Richter pointed at the difficult security situation in Afghanistan and asked whether international technical assistance under such circumstances could at least be justified by progress being made. Jonas announced that this would be discussed with the World Bank. Keith Ruddock inquired how the Open Government Partnership (OGP) could leverage the EITI, to which Jonas replied that it was a significant opportunity for outreach to its member countries. Alfredo Pires suggested that the World Bank should assist countries even more with slipping progress, and encouraged South-South mentoring. Jonas noted that slippages were recorded on the EITI website but offered to highlight them in future Board circulars. Alfredo passed a message from São Tomé e Príncipe (STP) that felt discriminated against because Nigeria became compliant without including the Joint Development Zone (JDZ) with STP in its scope for EITI reporting. Jean-Claude Katende asked whether the EITI had taken action on the temporary arrests in September of civil society activists in the Central African Republic, to which Tim Bittiger replied that the case had been closely

monitored but that no stakeholder had identified a linkage to the EITI. Jean-Claude proposed that the Chair write a letter to the government of CAR. Dorjdari Namkhajantsan reminded Board members of the need to inform stakeholders about the 2011 version of the EITI Rules, and the Chair underlined that the Secretariat should not underestimate this need. Hannah Owusu-Koranteng asked what happened with compliant countries with governance issues and limited CSO liberties. The Chair referred to the existing mechanisms but acknowledged the limits these had in covering governance weaknesses. Tony Hodge suggested that the IPR identify implementation issues that needed addressing and where support from specific EITI international stakeholders needs to be mobilised. Jonas suggested that this would be too long for the summary IPR but reminded the Board that the full online IPR contained this information. . Tony Hodge also reminded the meeting that in Amsterdam the Secretariat had been asked to bring forward a paper at each Board meeting tracking the performance of candidate countries against the requirements of the 2011 rules so as to forestall a crisis developing in the second half of 2012.

### Actions

The Chair to write to the President of Chad to seek confirmation of government commitment.

The Chair to write to the President of Kazakhstan to express concern about the lack of stakeholder commitment.

The Secretariat to review support to Nigeria with the World Bank and other partners.

The Secretariat to review support to Afghanistan with the World Bank.

The Secretariat to highlight implementation slippages in future Board circulars.

The Secretariat to propose a way to deal with the September CSO arrests in the Central African Republic.

### 18-4 Report from the Outreach and Candidacy Committee

Committee chair Anthony Richter reported on the work of the Committee. He noted that it had received no new applications and did not expect any before the first Board meeting in 2012. However, he said the Committee was in the process of determining a mechanism for how to deal with upcoming applications, including developing guidelines on the five sign-up requirements. He announced that the Committee's ToRs would be circulated to the Board soon. Anthony stated that no significant outreach achievements had been made with priority countries as identified in the 2011 workplan, but that there were developments with other countries. He drew the conclusion that resources for outreach should be better oriented. He questioned whether the Secretariat budget for outreach was sufficient. He also called for Implementing Countries to play a greater role in outreach. Anthony identified OGP as an opening for outreach. He also saw opportunities in North Africa but warned that these should be demand-driven and that things were still in flux in the region. Anthony appealed to partners to submit their outreach strategies to the Committee to allow better coordination and to keep the Board informed.

The Chair alerted the Board to the increasing trend of countries implementing their own "EITI" processes without being an implementing country. Ethiopia and Zimbabwe. Anthony proposed that the Committee monitor these "EITI-like" processes. The Chair also underlined the need for equal and consistent treatment of countries in the sign-up phase as regards their treatment of civil society, rather than being led by the views of individual Board members. Tony Hodge appealed for a long-term approach to outreach by assessing the global scope in all countries and then assess whether and how the EITI could meet the identified demand. Julie McDowell proposed to include a section on "work with partners" in the Country Outreach Update. Board members saw the need for more Northern countries and emerging economies such as South Africa implementing the EITI. Stuart Brooks pointed at Poland and other Central and Eastern European countries with newly discovered shale gas deposits as outreach targets. Roosevelt Jayjay proposed that the United Nations (UN) help propel outreach. Jonas underlined that following the 2008 General Assembly resolution, a firmer commitment from the UN should be sought and

proposed to sketch next steps for the Board.

### Actions

The Outreach and Candidacy Committee to circulate its ToRs to the Board.

Stakeholders and supporters to submit their outreach strategies to the Committee.

The Chair to write a letter to the Government of Poland to propose EITI implementation there.

The Secretariat to include a section on “work with partners” in the Country Outreach Update.

The Secretariat to sketch next steps towards a firmer UN commitment to the EITI.

## 18-5 Report from the Validation Committee

On behalf of the Validation Committee, its chair Julie McDowell presented several recommendations by the Validation Committee or by the Secretariat where the Committee had not come to a recommendation. These were discussed by the Board.

### 18-5-A Final Validation report from Albania

The Board considered the validation of Albania. It concluded that Albania had made meaningful progress in implementing the EITI. The Board agreed that Albania would retain its status as a Candidate country. Retaining this status would be subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation. In accordance with the transition procedures for the 2011 edition of the EITI Rules, the Board agreed that Albania would have its candidacy renewed for 18 months (i.e. until 25 April 2013), by the end of which it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI Rules, including requirement 5(e) regarding regular and timely reporting. If Albania did not achieve Compliant status by this deadline it would be de-listed. The Board agreed to specifically monitor the implementation of Requirements 5 and 6.

### 18-5-B Final Validation report from Burkina Faso

The Board considered the Validation of Burkina Faso. It concluded that Burkina Faso had made meaningful progress in implementing the EITI, the Board agreed that Burkina Faso would retain its status as a Candidate country. Retaining this status would be subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation. In accordance with the transition procedures for the 2011 edition of the EITI Rules, the Board agreed that Burkina Faso would have its candidacy renewed for 18 months (i.e. until 25 April 2013), by the end of which it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI Rules, including requirement 5(e) regarding regular and timely reporting. If Burkina Faso did not achieve Compliant status by this deadline it would be de-listed.

### 18-5-C Final Validation report from Côte d'Ivoire

The Board considered the Validation of Côte d'Ivoire. It concluded that Côte d'Ivoire had made meaningful progress in implementing the EITI. The Board agreed that Côte d'Ivoire would retain its status as a Candidate country. Retaining this status would be subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation. In accordance with the transition procedures for the 2011 Edition of the EITI Rules, the Board agreed that Côte d'Ivoire would have its candidacy renewed for 18 months (i.e. until 25 April 2013), by the end of which it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI Rules, including requirement 5(e) regarding regular and timely reporting. If Côte d'Ivoire did not achieve Compliant status by this deadline it would be de-listed. The Board emphasised the need to concentrate resources to helping Côte d'Ivoire with implementation.

### 18-5-D Request for Secretariat review from Mauritania

The Board considered the request for a secretariat review by Mauritania and the Secretariat recommendation. The Board noted that Mauritania had a deadline of 12 June 2011 to complete four remedial actions and request a Secretariat review. The 2007-2008 EITI Report was not finalised and published until July 2011. The Board noted that Mauritania had nevertheless requested a Secretariat review. The Validation Committee had considered this request in accordance with the transition procedures for the 2011 edition of the EITI Rules but had not reached a consensus on a recommendation to the EITI Board. The Board decided to allow the Secretariat review to take place, noting that the review will provide the Board with a detailed assessment of EITI implementation, including an assessment of the quality of the recently published reports.

### 18-5-E Secretariat review for final decisions on compliance from Cameroon

The Board considered the secretariat review of the EITI process in Cameroon. The Board noted that Cameroon had met the deadline of 19 April 2011, submitting a supplementary note detailing the five remedial actions taken and requesting a Secretariat review. Committee chair Julie McDowell reported that the Secretariat had completed the Secretariat Review and that the Validation Committee had discussed the case but had not reached a consensus on whether all remedial actions had been completed. In its discussion, the Board noted that the Secretariat Review was not able to clearly establish whether the 2006-2008 report covered all material payments and revenues. The Board noted that not all the information was publically accessible in one place (in the EITI reports), and that sometimes contradictory information had been presented by the MSG. Particular concern had been created by the transposition of a \$2.5 million payment by Glencore to a figure of less than \$5,000 in one version of the report, for which no credible explanation had yet been forthcoming from the MSG. The Board decided that Cameroon would remain a candidate until the continuing Secretariat review has clarified whether all material payments had been included in the 2006-08 report. The purpose of this review, assisted by the World Bank, is to enable the Board to determine whether or not all remedial actions had been completed by the deadline – specifically, whether all material payments had in fact been disclosed - and thus to decide whether Cameroon should become Compliant or have its Candidacy renewed. The Secretariat will make a recommendation to the Board based on the findings of its review.

The Board welcomed the offer made by Paolo de Sa on behalf of the World Bank to assist Cameroon to compile the various documents with data on the years 2006-2008 into a single document, for approval by the MSG and public dissemination. Board also took note of a recent article with a critical analysis of the EITI process in Cameroon (Bernard Gauthier and Albert Zeufack: Governance and Oil Revenues in Cameroon, in: Paul Collier and Tony J. Venables (eds.): Plundered Nations? Successes and Failures in Natural Resource Extraction, London 2011).

### Action

The Secretariat to convey the Board's decisions to the governments of Albania, Burkina Faso, Côte d'Ivoire and Cameroon, and to monitor progress in the countries closely.

The Secretariat, assisted by the World Bank, to further review Cameroon's EITI reporting and determine whether all material payments have been reported to the EITI, then make a recommendation to the Board.

## 18-6 Report from the Governance Committee

### 18-6-A Governance Committee: Terms of Reference - Secretariat Recommendation

The Board decided to review the terms of reference of the Governance Committee once more to clarify its tasks (18-6-A).

### 18-6-B Board Committees

Committee chair Baiba Rubesa questioned whether Board Committees were functioning well and pointed at the low participation and the lack of quorum in many recent Committee meetings. The Board requested that in the interest of better planning, the Secretariat establish a calendar of committee meetings well in advance, specifically

taking into account the time and logistical constraints of Board members from implementing countries. It also decided that each committee should publish an annual report, listing the attendance of committee members, and asked the Secretariat to have a permanent attendance list on the internal section of the EITI website. The Board proposed that members evaluate on how many committees they could realistically sit, and if necessary reduce the number to better focus their time and resources.

The Board approved paper 18-6-B on Board Committees. Some board members suggested that smaller committees may make committee members take greater individual responsibility.

#### 18-6-C EITI Policy on engaging with EITI implementing countries with governments whose recognition is disputed - Secretariat Recommendation

#### 18-6-D Engaging with EITI implementing countries with governments whose recognition is disputed: Madagascar – Secretariat Recommendation

Baiba announced that the Governance Committee had considered Secretariat Recommendation 18-6-C on engaging with EITI implementing countries with governments whose recognition is disputed, and suggested that the paper was withdrawn.

The Board discussed the specific case of Madagascar. At the Board meeting in Amsterdam, the Board agreed to grant an extension to Madagascar until 30 September 2011, making it clear that it would in parallel consider how the EITI would deal with implementation in countries with disputed or unrecognised governments. In terms of the extension, Eddie Rich informed that Board that Madagascar met its validation deadline and, despite some problems, its implementation process was improving.

Some Board members pointed at the illegitimacy of the government of Madagascar and pointed at the fact that several multilateral organisations and States had suspended relations with it. Edward Bickham expressed concern that a radically different recommendation was being before the Board from that contained in the draft Secretariat paper. He reflected the opinions of some Board members by arguing against the suspension of Madagascar in the light of the recent political progress. He especially pointed at the consistent progress which had been achieved through co-operation between industry and civil society. The EITI Board concluded that it did not believe that the relationships necessary for effective EITI implementation in Madagascar was currently possible and capable of being sustained. The Board, therefore, suspended the Government of Madagascar until the current international situation was resolved. The Board expressed its trust, however, that on a national level the MSG would continue as best possible until then.

#### Actions

The Governance Committee to review its draft Terms of Reference and to submit to the Board for decision by circular.

The Secretariat to convey the Board's decisions to the stakeholders in Madagascar, and to monitor progress in the country closely.

#### 18-7 Report from the Finance Committee

Tony Hodge reported on the extensive revenue review the Finance Committee had conducted in collaboration with the Secretariat and listed eight recommendations for further improvements (see Board paper 18-7-A1 EITI Revenue Review – Report to the Board by the EITI Finance Committee):

1. The Board re-affirm the seven April 2007 Funding Principles.
2. An eighth Funding Principle be added that reads: (8) Multi-year contributions should be sought whenever possible and appropriate; these should be documented in a formal "memorandum of agreement."



3. The Secretariat draft for Finance Committee review and Board approval, generic wording for use in designing such multi-year agreements (*to be completed by 30 July 2012*).
4. The Secretariat develop a detailed assessment of and strategy for funding, using professional advice as appropriate (*to be completed by 30 July 2012*).
5. Every two years, the Finance Committee report to the Board on the nature and size of legal liabilities being carried by EITI and the adequacy of the reserve fund.
6. The Secretariat complete an annual cash flow profile that shows any typical expenditure patterns (*to be completed by 28 February 2012*).
7. The Secretariat identify and describe the available very low risk investment options (for example, interest-bearing savings accounts) and provide to the Finance Committee: (1) an assessment of the appropriateness of using such options for EITI; (2) a draft policy for ascertaining when such investments should be used; and (3) a clear decision-making protocol for the Finance Committee and approval by the Board (*to be completed by 30 July 2012*).
8. The Secretariat complete a report for review by the Finance Committee, that describes the issues that it faces related to changing currency values along with any suggestions for adjusting the approach to managing such fluctuations. In completing this review the Secretariat should seek professional advice as appropriate (*to be completed by 30 July 2012*).

The Board adopted all eight recommendations.

Board members welcomed the suggestion for longer-term commitments of three years, but pointed to the fact that adjustments may need to be made for donors that have specific funding cycles or procedures. Donors could include independent trusts and foundations. Anthony Richter and Hannah Owusu-Koranteng proposed to better define expectations of what civil society should be contributing. Alfredo Pires proposed that implementing countries could make small contributions. Jelte Van Wieren pointed at the high costs of biennial EITI Conferences and encouraged the Board to reconsider the frequency of and alternatives to such events.

## 18-8 2012 Secretariat Workplan

Jonas Moberg introduced the Workplan confirming that the main direction remained the same as for 2011. Jonas said that relations with implementing countries would continue to be given highest priority, but that this required consultations and more resources. A priority for implementation would be the analysis and understanding of EITI reports. Their number and quality had increased over the past twelve months. The Secretariat needed support in developing better techniques to use the figures from reports. As the Secretariat continued to grow, the need to strengthen the accounting analysis and capacity was acknowledged. Jonas confirmed a greater emphasis on training. He announced that the current number of twelve staff would be increased to around 16 persons, including a Regional Director for Asia, a Conference Manager, and some further recruitment. Jonas invited secondments of additional staff. He noted that financial planning was made rather difficult by the unpredictable costs of Global Conferences and currency fluctuations.

Board members underlined the importance of organising regular national coordinator meetings. The Chair invited the Board to make further comments on the Workplan but warned that changes may have budgetary implications. Following any revisions in light of comments provided, a final Workplan would be submitted through circular for approval.

## Actions

Board members to provide further comments on the Workplan to the Secretariat for inclusion into a final version.



## 18-9 EITI Board Planning 2012

Jonas proposed that the Board hold three meetings in 2012. He reported that the dates for the first meeting in Abuja had been fixed for 14-15 February 2012. In light of the attack on the United Nations in Abuja in August this year some Board members expressed concern about potential security exposures in relation to holding the next Board meeting in Abuja. It was confirmed that the security situation would be closely reviewed by both the Secretariat and Board members.

The Board also agreed to hold the second meeting on 22-24 May 2012 in a European location such as Oslo or London. A third meeting should take place on 2-4 or 23-25 October 2012. The Secretariat offered to confirm dates and locations for the latter two meetings.

### Actions

The Secretariat and Board members to monitor and assess the security situation in Abuja for the 14-15 February 2012 Board meeting.

The Secretariat to confirm dates and locations for the second and third Board meetings in 2012.

## Any other business

### Membership of Christian Mambu

Jonas reported that Board member Christian Mambu from the government of the Democratic Republic of Congo had been removed from his role as national coordinator. This followed Christian's decision to run for a seat in the National Assembly and the revelation of mismanagement of funds. The Chair informed the Board that she had received a letter from Christian asking for financial support for his campaign. Jonas informed Board members that two audits (one by the World Bank) had revealed mismanagement of funds under Christian's responsibility. Jean-Claude Katende confirmed that the DRC EITI Executive Committee had discussed the mismanagement during an evaluation meeting in September 2011. The Board was informed that the Chair had written to Minister of Planning and EITI Champion Olivier Kamitatu to obtain confirmation that the Government of DRC considered not only Christian's nomination as national coordinator but also as Board member, terminated. Jonas has also written to Christian informing him that it would be inappropriate to continue his Board membership in light of his political activity.

The Chair noted that the letter to the Government of DRC would be followed up and asked the Governance Committee to assess the powers of the Board for removing Board members.

### Actions

The Secretariat to follow up the letter to the Government of DRC about Christian Mambu's nomination as Board member.

The Governance Committee to assess the powers of the Board for removing Board members.

## 18-10 Strategy discussion (26 October 2011, Pangkalpinang)

The Chair welcomed Board members and observers and stated the agenda for the day, which was to look into strategic directions for the EITI. She mentioned that a public consultation was launched a few months ago and that a number of contributions from different stakeholders had been received. After reviewing strengths and weaknesses of the EITI, as well as progress and achievements, Board members and observers offered extensive comments on the EITI strategic directions for the future. The Board did not come to any conclusions and the below section registers the views that were expressed by contributors and the issues that were highlighted.

While some contributions emphasized the need for strengthening the EITI by improving the quality and reach of EITI Reports, other proposals highlighted the importance of broadening the objectives and scope of the Standard.

The following strategic areas were identified:

### 1. **Managing risks and expectations**

It was observed that the Board could have a structured approach to shifting/transitioning from the EITI's current state to a future state including assessing risks and benefits. Therefore, a key question is whether the best investment is to improve or expand the EITI. In addition, some stakeholders have argued that the EITI is yet to demonstrate concrete impact at the national/international level, and needs to address a number of burning issues:

- Usefulness, standardisation and quality of EITI Reports.
- How does the EITI ensure continuous progress in compliant countries?
- The EITI should not appear to give a stamp of approval to countries that are widely perceived as corrupt.
- The EITI has not according to some views greatly enhanced accountability.
- The EITI has not delivered on its broader principles.
- The EITI does not have a theory of change.

Some Board members argued that at an operational level, there is a need to preserve the Board stability and mitigate the imbalance between the three main stakeholders. Resources and technical capacity and modalities for the Board and the Secretariat to undertake their work should be considered as part of the strategic review.

### 2. **Strengthening the EITI**

**Board members expressed various views about how to strengthen the EITI: some of these views are mutually compatible and others are alternatives. These views are summarized below.**

#### **The EITI should remain voluntary**

It was argued that the EITI is a young and voluntary initiative with many implementing countries being on a learning curve. The structure and narrow focus of the EITI should not be altered. It was emphasized that the EITI should continue to play a key role in providing a platform for dialogue between stakeholders with different interests and from different cultures, and offering a safe space for civil society to discuss wider issues.

#### **Placing a stronger focus ~~should be placed~~ on improving understanding of the EITI Rules and benefits of implementation**

Some Board members observed that the strategic review presents a unique opportunity to address issues arising from implementation including improving countries' understanding of the rules and translating the EITI's rules based approach into appropriate legislation at the national level. In the mid term, priorities should include improving reporting, dissemination, and validation, and incentivising countries. It was noted that the current validation model might not be sustainable in the long. The model has led to convoluted processes in a number of countries, and has failed to fully capture progress and innovations at country level. On the other hand, a number of Board members expressed a desire to retain the pass-fail element inherent in the current model. There is room for reform, including looking at the possibility of 'rating' compliance through a scoring system, though such

changes would have to be carefully weighed against the drawbacks of creating a new assessment model from scratch. This would enable the Board to better assess country progress against the national EITI workplan and to encourage innovations. In addition, the reporting and validation timelines should be as consistent as possible with timings for budget approval. Outreach efforts should focus on major emerging economies and OECD countries and the EITI messaging should better articulate benefits of implementation for these countries.

### **Encouraging innovations and triggering broader reforms**

Countries should be encouraged to use the EITI as a tool to improve governance and extend its principles to other sectors and issues. However, the EITI itself should not move the goalposts by introducing new requirements that go beyond revenue transparency. Timor Leste was highlighted as an example of a country where the implementation of the current Standard had led to broader reforms including the creation of a Petroleum Fund, and increased budget transparency.

### **3. Expanding the EITI**

It was remarked that the EITI has achieved a lot in a short period of time, but expectations on its ability to deliver on its principles and criteria and address new problems are rising, making the status quo untenable. The current standard is too narrow to achieve the broader goals. Hence, the EITI can and should do more.

#### **Broadening the EITI scope to include upstream and downstream issues**

Some members argued that the EITI scope should widen to include transparency of licences and contracts. Others argued that the most important issue for the credibility of the process in the eyes of citizens is a greater focus on the management of government budgets and how resources are spent. EITI reporting should expand horizontally to cover other sectors that are crucial to the economy of developing countries, such natural resource transportation and transit, downstream oil and metals processing to forestry, fisheries or agricultural commodities.

#### **Making EITI reporting more comprehensive and detailed**

A number of Board members expressed the view that EITI reports should be in disaggregated form to enable civil society groups to better understand the data and hold companies and the government to account. . It was suggested that since confidentiality is enshrined in the tax laws of a number of countries, it might be necessary to make any such stipulation subject to a 'comply or explain' regime rather than such a requirement being mandatory. Other key information might also be reported, including profits, figures for revenue flows to subnational levels of government, "social and environmental payments" from industry, figures on extractive companies' costs and production, and assets. The Chair raised the issue of the quality of the data in EITI reports.

#### **Towards a firmer legal basis and synergies, nationally and internationally**

Some contributors advocated that the EITI needs to be enshrined in national legislation in implementing countries as a way of ensuring financial and political commitment. Encouraging linkages and developing synergies with other initiatives and instruments such as the UN Convention against Corruption, the APRM mechanism, PEFA, etc., and relevant national institutions is important. The EITI should also discuss complementarity with regulatory mechanisms by for instance setting up a dedicated Board working group. A suggestion was made that a particular focus for looking at the future of EITI should be how to increase its effectiveness against corruption. One possibility might be to extend the disclosure required of companies so as to reveal the ownership of entities or concessions.

#### **Engaging local communities in the EITI more effectively**

Several Board members felt that communities affected by resource extraction should have a greater say and visibility in implementation because they receive little benefit from resource extraction and have to suffer its worst impacts. This can include ensuring that community representatives sit on the multi-stakeholder groups, at the

national or subnational level, and contribute to making the EITI more relevant for them through reporting on the environmental and social impacts of resource extraction and financial flows at the local level.

It was pointed out that increasing the implementation of sub-national reporting was a mechanism through which the EITI process could be brought closer to communities in regions where the extractive sector is dominant.

The Board agreed that the Chair would convene a small group of representatives that will prepare a short options paper, drawing on all submissions. This paper would be considered at the Board-only retreat planned for Abuja in February 2011. The paper would be finalised for publication after the retreat, to enable wider consultations and decision-making.

### Action

The Chair to convene a small group of representatives to prepare a short options paper for consideration at the Abuja retreat.

Board members and observers to share their submissions with the Secretariat for publication on the EITI website.

### Summary of actions

The Chair to write to the President of Chad to seek confirmation of government commitment.

The Chair to write to the President of Kazakhstan to express concern about the lack of stakeholder commitment.

The Secretariat to review support to Nigeria with the World Bank and other partners.

The Secretariat to review support to Afghanistan with the World Bank.

The Secretariat to highlight implementation slippages in future Board circulars.

The Secretariat to propose a way to deal with the September CSO arrests in the Central African Republic.

The Outreach and Candidacy Committee to circulate its ToRs to the Board.

Stakeholders and supporters to submit their outreach strategies to the Committee.

The Chair to write a letter to the Government of Poland to propose EITI implementation there.

The Secretariat to include a section on "work with partners" in the Country Outreach Update.

The Secretariat to sketch next steps towards a firmer UN commitment to the EITI.

The Secretariat to convey the Board's decisions to the governments of Albania, Burkina Faso, Côte d'Ivoire and Cameroon, and to monitor progress in the countries closely.

The Secretariat, assisted by the World Bank, to further review Cameroon's EITI reporting and determine whether all material payments have been reported to the EITI, then make a recommendation to the Board.

The Governance Committee to review its draft Terms of Reference and to submit to the Board for decision by circular.

The Secretariat to convey the Board's decisions to the stakeholders in Madagascar, and to monitor progress in the country closely.

Board members to provide further comments on the Workplan to the Secretariat for inclusion into a final version.

The Secretariat and Board members to monitor and assess the security situation in Abuja for the 14-15 February

2012 Board meeting.

The Secretariat to confirm dates and a locations for the second and third Board meetings in 2012.

The Secretariat to follow up the letter to the Government of DRC about Christian Mambu's nomination as Board member.

The Governance Committee to assess the powers of the Board for removing Board members.

The Chair to convene a small group of representatives to prepare a short options paper for consideration at the Abuja retreat.

Board members and observers to share their submissions with the Secretariat for publication on the EITI website.

## Board members

### Chair

**The Rt. Hon. Clare SHORT**

## Countries

### Implementing Countries

**Mr Abdoul Aziz ASKIA**, Permanent Secretary, EITI Niger

Alt: **Mr Sidi OULD ZEÏNE**, Chairman of National Committee, EITI Mauritania (present on 26 October 2011)

**Mr Florent Michel OKOKO**, Chairman of the Executive Committee, EITI Congo

**Mr Roosevelt Gasolin JAYJAY**, Minister of Lands, Mines & Energy, Liberia

**Mr Alfredo PIRES**, Secretary of State for Natural Resources, Timor-Leste

**Mr Erry Riyana HARDJAPAMEKAS**, Head of the Interim Secretariat, EITI Indonesia

### Supporting Countries

**Mr Stephen GALLOGLY**, Director for International Energy and Commodity Policy, State Dept., United States

**Ms Sarah COOKE**, Head of the Growth and Resilience Department, Department for International Development, United Kingdom

**Mr Jelte VAN WIEREN**, Head Good Governance Division, Ministry of Foreign Affairs, Netherlands

## Civil Society Organisations

**Mr Dorjdari NAMKHAJANTSAN**, Open Society Forum, Mongolia

Alt: **Mr Mericio J. DOS REIS "Akara"**, Luta Hamutuk Institute, Timor-Leste

**Ms Hannah OWUSU-KORANTENG**, Wacam, Ghana

Alt: **Mr Sabit BAGIROV**, Center for Economic and Political Research, Azerbaijan

**Mr Jean Claude KATENDE**, Association Africaine de Défense des Droits de l'Homme, coordinateur PCQVP, Democratic Republic of Congo

Alt: **Mr Ali IDRISSE**, Réseau pour la Transparence et l'Analyse Budgétaire (PCQVP), Niger

**Mr Diarmid O'SULLIVAN**, Global Witness, United Kingdom

Alt: **Mr Eelco DE GROOT**, Cordaid, The Netherlands

**Mr Anthony RICHTER**, Revenue Watch Institute, United States

Alt: **Mr Epifanio BACA TUPAYACHI**, Grupo Propuesta Ciudadana, Peru

## Companies including Investors

**Ms Baiba RUBESA**, Manager of Corporate Social Responsibility, Statoil ASA

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

Alt: **Guillermo GARCIA**, Transparency Manager, ExxonMobil Corporation

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

**Mr R. Anthony HODGE**, President, International Council on Mining and Metals

Alt: **Mr Edward BICKHAM**, Advisor, International Council on Mining and Metals

**Mr Keith RUDDOCK**, General Counsel, Exploration & Production, Royal Dutch Shell

**Ms Julie McDOWELL**, Head of SRI, Standard Life Investments

Alt: **Mr David DIAMOND**, Head of SRI, Allianz GI Europe

### Board Secretary

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

### Observers

**Ms Maryati ABDULLAH**, Pattiro, Indonesia

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

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

**Ms Päivi ALATALO**, Deputy Head of Mission, Embassy of Finland, Jakarta

**Mr Manpreet ANAND**, Chevron

**Mr Humphrey ASSOBIE**, NEITI Nigeria

**Mr Francisco BATALLER-MARTIN**, Head of Sector Public Finance, European Commission

**Mr Wouter BIESTERBOS**, Senior Policy Officer, Good Governance Division, Ministry of Foreign Affairs, The Netherlands

**Mr Olivier BOVET**, Programme Manager Trade Promotion, State Secretariat for Economic Affairs, Switzerland

**Ms Almira CEMMELL**, Global Witness

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

**Mr Hervé CRONEL**, Conseiller spécial, Chargé de l'Economie et du Développement durable, International Organisation of the Francophonie

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

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

**Mr Fernando FERNÁNDEZ-AGUAYO**, Deputy Head of Mission, Embassy of Spain, Jakarta

**Ms Alexandra GILLIES**, Revenue Watch Institute

**Ms Carlos Alberto FLORINDO**, Transparency Coalition, Timor-Leste

**Ms Sophia HARDING**, Programme Officer, Publish What You Pay (PWYP)

**Ms Florentina HATMI**, VP for Finance and Support Services, ExxonMobil Oil, Indonesia

**Mr Rovshan ISMAYILOV**, Economist, Oil Contracts Department, State Oil Fund, Azerbaijan

**Mr Daniel JOHANSSON**, Deputy Head of Mission, Embassy of Sweden, Jakarta

**Mr. Yoshinori KEINO**, Second Secretary of Embassy of Japan, Jakarta

**Mr Jan KLAWITTER**, Head of Mining & Metals Industry, World Economic Forum, Geneva

**Mr Ridaya LAODENKOWE**, Coordinator PWYP, Indonesia

**Mr Jean-François LASSALLE**, Directeur Affaires publiques, Total, France

**Mr Ron LYEN**, Senior Policy Advisor, International Affairs Division, Natural Resources, Canada

**Mr Carlo MERLA**, PWYP Africa Regional Coordinator

**Ms Isabel MUNILLA**, Director, Publish What You Pay, USA

**Mr Pierre NOYER**, General Manager, Weda Bay Nickel (Eramet)



**Ms Ewa POLANO**, Ambassador, Embassy of Sweden, Jakarta

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

**Mr John RICHARDSON**, DFAT, Australia

**Ms Marinke van RIET**, PWYP International Director

**Ms Noora RIKALAINEN**, Second Secretary, Embassy of Finland, Jakarta

**Mr Michael RÖSCH**, Deputy Programme Manager - Public Finance, Administrative Reform and Transparency Initiatives, GIZ

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

**Mr Jannick SAEGERT**, Federal Ministry for Economic Cooperation & Development, Germany

**Mr Rafael Conde de SARO**, Ambassador, Embassy of Spain, Jakarta

**Ms Claire SPOORS**, Coordinator, PWYP, Australia

**Mr Harald TOLLAN**, Senior Advisor, Multilateral Bank and Finance Section, Ministry of Foreign Affairs, Norway

**Ms Jacqui VINCENT**, Department of Resources, Energy and Tourism, Australia

**Ms Zakiyah WASINGATU**, IDEA, Indonesia

**Mr Lodewijk Gualtherie van WEEZEL**, Legal Counsel, Shell International BV

**Mr Joe WILLIAMS**, PWYP International Secretariat

### **EITI International Secretariat**

**Mr Sam BARTLETT**, Regional Director

**Mr Tim BITTIGER**, Regional Director

**Ms Marie-Ange KALENGA**, Regional Director

**Ms Leah KROGSUND**, Executive Secretary

**Mr Francisco PARIS**, Regional Director

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

**Ms Dyveke ROGAN**, Policy Advisor

**Mr Anders KRÅKENES**, Communications Manager

# ANNEX: SUMMARY OF BOARD DECISIONS ON VALIDATION – JAKARTA 25 OCTOBER 2011

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## Board decision on Albania

**The Board concludes that Albania has made meaningful progress in implementing the EITI. The Board agreed that Albania would retain its status as a Candidate country, subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation.**

The Board congratulates the government, companies and civil society organisations in Albania for the progress made in implementing the EITI. The Board also wishes to congratulate the validator and all stakeholders involved in the validation process. The Board noted that Albania is already taking steps to address the issues identified by the validator.

The validator found that Albania has not met a number of the validation indicators. The validator expressed concerns related to the functioning of the Working Group, the participation of civil society and the failure of companies and government entities to disclose all material payments and revenues.

In all decisions on Validation the Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI brand. The Board reviewed the validator's report in detail. On several issues, the Board shares the validator's concerns. The Board also disagreed with the validator's assessments on a number of indicators. For indicators 9, 11, 12, 13, 14 and 15, the Board did not find sufficient information to establish that the indicators were met. Accordingly, the Board established the following corrective actions that need to be addressed in order for Albania to achieve compliance:

1. The Working Group should demonstrate that it has a clear and comprehensive definition of "material payments and revenues" (indicator 9). This should specifically include a detailed assessment of the materiality of payments by small companies and payments by companies to local government authorities.
2. The Working Group should demonstrate that all entities that make or receive material payments are participating in the reporting process (indicator 11).
3. The Working Group should clarify its approach for ensuring that company and government disclosures to the reconciler are based on audited accounts to international standards (indicators 12 & 13);
4. In accordance with the agreed definition of materiality (see point 1, above), the Working Group should ensure and demonstrate that all material oil, gas and mining payments by companies to government have been disclosed to the reconciler and incorporated into the EITI Report (indicator 14);
5. In accordance with the agreed definition of materiality (see point 1, above), the Working Group should ensure and demonstrate that all material oil, gas and mining revenues received by the government have been disclosed to the reconciler and incorporated into the EITI Report (indicator 15);

Compliance with these indicators and corrective actions may be demonstrated with reference to the first EITI Report (2009), or following the publication of the second report (2010).

In accordance with the transition procedures for the 2011 Edition of the EITI Rules<sup>1</sup>, The Board agreed that Albania

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<sup>1</sup> [http://eiti.org/files/Minutes\\_17th\\_Meeting\\_EITI\\_Board\\_Amsterdam.pdf](http://eiti.org/files/Minutes_17th_Meeting_EITI_Board_Amsterdam.pdf)

will have its candidacy renewed for 18 months (i.e. until 25 April 2013), by the end of which it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI rules, including requirement 5(e) regarding regular and timely reporting. If Albania does not achieve Compliant status by this deadline it will be de-listed.

The Working Group should agree and publish a new workplan within three months (by 25 January 2012) that addresses the corrective actions agreed by the Board, sets out the actions needed to achieve compliance with the 2011 edition of the EITI rules, and includes a schedule for a new validation to be completed by 25 April 2013. The Board recommended that the Working Group ensures that the new workplan is in line with Requirement 5 of the 2011 edition of the EITI Rules and that it contains specific actions towards increasing company and civil society engagement in the EITI process, including capacity building activities. The Board also recommends that the Working Group ensures that the recently adopted ToRs of the Working Group are in accordance with requirement 4 of the 2011 edition of the EITI Rules.

The Working Group may request a waiver from the requirement to undergo a second Validation on the grounds that the remedial actions necessary for achieving compliance are not complex and can be undertaken quickly. It will be within the discretion of the Board to determine whether to grant the waiver request. If the waiver request is made in 2011 and subsequently granted, the secretariat review will be conducted in accordance with the previous edition of the EITI Rules regardless of the date of the Board decision. At a later date, it will follow the 2011 edition of the EITI Rules.

## Board decision on Burkina Faso

**The Board concludes that Burkina Faso has made meaningful progress in implementing the EITI. The Board agreed that Burkina Faso would retain its status as a Candidate country, subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation.**

The Board congratulates the government, companies and civil society organizations in Burkina Faso for the progress made in implementing the EITI. The Board also wishes to congratulate the validator and all stakeholders involved in the validation process on a clear and comprehensive report.

The validator found that Burkina Faso did not meet a number of the validation indicators. In all decisions on Validation the Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI brand. The Board reviewed the validator's report in detail. The validator concluded that indicators 14, 15, 16 and 17 were not met. The Board shared the validator's concerns regarding indicators 14, 15 and 16. However the Board was satisfied that the remaining indicators are met. The Board recommended the following corrective actions in order for Burkina Faso to achieve compliance:

1. In accordance with the agreed definition of materiality, the Comité de pilotage should ensure that all material oil, gas and mining payments by companies to government are disclosed to the reconciler and incorporated into the second EITI Report.
2. In accordance with the agreed definition of materiality, the Comité de pilotage should ensure that all material oil, gas and mining revenues received by the government are disclosed to the reconciler and incorporated into the second EITI Report.
3. The government and Comité de pilotage should take step to ensure that reporting entities have a proper understanding of the EITI reporting requirements through appropriate guidance and adequate preparation.
4. Take steps to ensure that the Comité de pilotage is content that the organization contracted to reconcile the company and government figures does so satisfactorily.

In accordance with the transition procedures for the 2011 Edition of the EITI Rules<sup>2</sup>, the Board agreed that Burkina Faso will have its candidacy renewed for 18 months (i.e. until 25 April 2013), by which it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI Rules, including requirement 5(e) regarding regular and timely reporting. If Burkina Faso does not achieve Compliant status by this deadline it will be de-listed.

The Burkina Faso Comité de pilotage should agree and publish a new workplan within three months (by 25 January 2012) that addresses the corrective actions agreed by the Board, sets out the actions needed to achieve compliance with the 2011 edition of the EITI rules, and includes a schedule for a new validation to be completed by 25 April 2013.

The Comité de pilotage may request a waiver from the requirement to undergo a second Validation on the grounds that the remedial actions necessary for achieving compliance are not complex and can be undertaken quickly. It will be within the discretion of the Board to determine whether to grant the waiver request. If the waiver request is made in 2011 and subsequently granted, the secretariat review will be conducted in accordance with the previous edition of the EITI Rules regardless of the date of the Board decision.

## Board decision on Côte d'Ivoire

**The Board concludes that Côte d'Ivoire has made meaningful progress in implementing the EITI. The Board agreed that Côte d'Ivoire would retain its status as a Candidate country, subject to a clearly defined and agreed work plan for achieving Compliant status, including a schedule for its next Validation.**

The Board congratulates the government, companies and civil society organisations in Côte d'Ivoire for the progress made in implementing the EITI, and for striving to continue implementation during the recent political crisis. The Board notes the production of the first EITI Report in March 2010. It acknowledges that the second EITI Report was started but interrupted due to the political crisis, and it notes recent efforts to restart the process.

A final validation report, endorsed by the National Council, was submitted in November 2010. The validator found that "... the progress made by the National Initiative is undeniable. The National Initiative must undoubtedly still advance in order to guarantee the participation by the country's main extractive company in the process of data reconciliation. Certain major steps ahead must nevertheless be implemented in order to reach Compliance. These steps include namely the elaboration of quality EITI Reports leading to the publication of the country's EITI data, based on a reconciliation process in line with the principles of the EITI". The validator concluded that indicators 14, 15, 16, 17 and 18 are "unmet".

In all decisions on Validation the Board places a priority on the need for comparable treatment between countries and the need to protect the integrity of the EITI brand. Having reviewed the report after receipt in November 2010, the Validation Committee noted that there was insufficient information to conclude its assessment. Some of the validator's conclusions were predicated on the publication of the second EITI report, was subsequently delayed due to the crisis and has to date not been published. The National Council and the reconciler recently agreed to re-launch the second reporting process. As the findings are not expected for some time, the Board agreed to process the validation report based on the information currently available.

On several issues, the Board shares the validator's concerns. However, the Board also disagrees with some of the validator's conclusions. Taking into account supplementary information provided by the EITI International Secretariat, the Board agreed that indicators 7, 9, 11, 14, 15, and 16 are unmet, and agreed the following corrective

<sup>2</sup> [http://eiti.org/files/Minutes\\_17th\\_Meeting\\_EITI\\_Board\\_Amsterdam.pdf](http://eiti.org/files/Minutes_17th_Meeting_EITI_Board_Amsterdam.pdf)

actions needed in order for Côte d'Ivoire to achieve compliance:

6. Publication of the 2008-2009 EITI Reports.
7. The National Council should agree a timetable for ensuring adherence to EITI Requirement 5(e) regarding regular and timely reporting.
8. Ensure that companies are effectively engaged in the implementation of the EITI.
9. Ensure that all relevant companies and government entities participate in the reporting process.
10. Ensure that companies comprehensively disclose all material payments in accordance with the agreed reporting templates.
11. Ensure that government agencies comprehensively disclose all material revenues in accordance with the agreed reporting templates.
12. Ensure that the multi-stakeholder group must be content that the organisation contracted to reconcile the company and government figures did so satisfactorily

In accordance with the transition procedures for the 2011 Edition of the EITI Rules<sup>3</sup>, the Board agreed that Côte d'Ivoire will have its candidacy renewed for 18 months (i.e. until 25 April 2013), by which time it must have completed a Validation that demonstrates compliance with the 2011 edition of the EITI Rules, including requirement 5(e) regarding regular and timely reporting. If Côte d'Ivoire does not achieve Compliant status by this deadline it will be de-listed.

The Côte d'Ivoire National Council should agree and publish a new workplan within three months (by 25 January 2012) that addresses the corrective actions agreed by the Board, sets out the actions needed to achieve compliance with the 2011 edition of the EITI rules, and includes a schedule for a new validation to be completed by 25 April 2013.

The National Council may request a waiver from the requirement to undergo a second Validation on the grounds that the remedial actions necessary for achieving compliance are not complex and can be undertaken quickly. It will be within the discretion of the Board to determine whether to grant the waiver request. If the waiver request is made in 2011 and subsequently granted, the secretariat review will be conducted in accordance with the previous edition of the EITI Rules regardless of the date of the Board decision.

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<sup>3</sup> [http://eiti.org/files/Minutes\\_17th\\_Meeting\\_EITI\\_Board\\_Amsterdam.pdf](http://eiti.org/files/Minutes_17th_Meeting_EITI_Board_Amsterdam.pdf)