

Timor-Leste EITI National Working Group

MINUTES

13 April 2011

10:00 – 12:22

Secretary of State for Natural Resources Office
1st Floor Fomento Building Mandarin

Participants

Members*

Manuel de Lemos	National Coordinator EITI
João Demetrio Xavier	Petroleum Tax Division MoF
Carlos Florindo	ETADEP, CSO Representative
Mericio Akara	CSO Representative Luta Hamutuk
Angelo Lay	ANP
Jose Lobato	Deputy Country Manager ConocoPhillips Timor-Leste

Alternatives, Non-Voting, and Observers

Nuno Alves	ANP
Remigio Viera Laka, Alternate	CSO Representative FSG
Elda Guterres da Silva	Secretariat EITI, Finance and Administration Officer
Trifonio Flor Sarmento	Assistant Outreach Coordinator & Finance and Administration Officer for Secretariat EITI
Laurentino Alves	CSO Luta Hamutuk
David Hook	World Bank

Absent:

Abdur Rahman Khan	Advisor, Petroleum Tax Audit
Filipe Nery Bernardo, Alternate	Petroleum Fund Analyst- MoF
Bobby Boye	National Division Petroleum Revenue
Tony Heynen	Eni Timor-Leste, Country Representative
Brendan Augustin	Country Manager for Sunrise (Woodside)
Martinha da Silva	Director FHF
Fernando da Silva, Alternate	Chief Accountant –BPA
Venancio Alves Maria	Executive Director, Banking and Payments Authority (BPA)

Chair By: Manuel Lemos National Coordinator EITI

Agenda for Discussion

- 1) Introduction
- 2) Review of the Minutes 30 November 2010
- 3) Comments by the Industry on the draft MoU
- 4) Update on Paris Conference by Mericio Akara
- 5) Preparation the socialization for TL-EITI II report
- 6) Update Timor-Leste EITI Work plan
- 7) Other Business

- EITI Regional Conference beyond EITI: Timor-Leste Transparency Modal

1. Introduction

The WG welcomed Mr. Jose Lobato, successor of Mr. Peter Smith as representative from ConocoPhillips Timor-Leste and Ms. Angelina Branco as Alternate representative from Eni Timor-Leste as well as two representatives from PWYP as observer in the TL EITI Working Group.

2. Meeting of the Minutes on 30 November 2010

The minutes of meeting on 30 November 2010 was not approved due to new representative from Industry, ie. from CoP and Eni, were not attending the previous meeting, hence, they requested the WG to allow them to clarify the content of the minutes with their respective predecessors and to provide comments. The WG agreed to circulate the minutes on 30 November 2010 through email for further comments and discuss it again in the next meeting.

3. Comments by the Industry on the draft MoU

Industry: It was noted that in the previous meeting WG has not reached any consensus about the need of having an MoU on EITI implementation in Timor-Leste. The Industry understood the view that the MoU will be a basis for all companies to provide information to the will be appointed Aggregator Body (AB) in the future and reiterated that in the other years which involve other industry then it is mandatory to provide information. However, the Industry think that for this year (2010) report, the WG don't need to have MoU to appoint AB through opening tender as the Industry has commitment to fulfill all the requirement of the EITI implementation.

The Industry requested the WG to allow them to discuss this matter internally before further discussion in the next meeting.

CS: reaffirmed their position to have either an MoU, agreement or regulation between MSG to have more binding. This is not necessary to have a legal basis but at least to ensure commitment and cooperation of all pillars. CS reiterated the importance of having such MoU to serve as basis for WG to ensure commitment from new company in the future to engage in the EITI implementation. As declared in Paris Conference industry will continue their involvement to support EITI.

It was noted that the current EITI implementation in TL is going well because of the voluntary commitment of each pillar, however, WG need to have a guidance and mechanism to ensure future commitment as things can change eg. new government formation, company and CS Representative replacement, who may not have same commitment and spirit as the current WG.

CS reminded that in the previous meeting the WG had agreed for opening tender after launch of EITI 2008 and 2009 reports as well as discussion on MoU and other relevant issues. The idea of having MoU is to have a competitive tender. CS will not accept the appointment of an AB through a single award process. This is also in-line with recommendation in the validation report. It will be good for Timor-Leste if WG adopt to the opening tender.

CS believes that there is a need for strong legal basis for EITI implementation that goes beyond ToR. Therefore, they suggested to the WG to consider about creating National Law for EITI whether a Decree Law, Presidential law or a law established by the Parliament where the WG has the legal basis to ensure that EITI implementation process in Timor-Leste.

The government process is already transparent in terms of appointment of AB. For the 2010 report, the AB need to start its work in the month of June or July 2011 and to launch the 3rd report on time. For CS, with both WG's ToR as legal basis to operate and by having MoU, this should be sufficed to appoint AB. MoUs from other countries (Azerbaijan and Mongolia) had been circulated to WG for review.

The most important is as long as the WG is contented with the appointment of the auditor for EITI report as previously conducted for production of the 1st and 2nd report, however WG should aware that the opening tender was just recommendation from validator.

CS : emphasized that WG need to improve its performance and reminded that WG have agreed with recommendation by validator to conduct opening tender after the 2nd report and that WG had reached consensus for opening tender for auditor to produce 3rd report. Therefore, CS proposed to WG to continue to discuss what the obstacle for opening tender is. CS concerned with the fact that the State budget, EITI report and PF were audited by Deloitte and that WG should think of using other auditor.

GE: If WG decided to appoint other auditor without basis how do WG ensure that the Industry will have same commitment to provide data to the auditor? The Article 34 of the Petroleum Fund Law required that the Industry to provide information requested by the independent auditor of the Petroleum Fund, which is currently done Deloitte. This was the basis of WG agreement to appoint Deloitte to produce the first two of EITI report.

The WG finally decided not to use the draft MoU. The WG agreed to review the ToR for Auditor which will be prepared by GE as the basis of appointment of the AB for 3rd EITI report through an open tender process once it has been reviewed, commented and approved by WG.

On this decision, the Industry requested to be given oneweek to consider whether they content or not to go for opening tender with writing consent without using MoU. And they look forward to see the draft ToR for Auditor which will be jointly prepared by SERN, MoF and WB for further comments.

WG agreed to discuss ToR for WG on 28 April 2011 whether the current WG's membership can continue or to be replaced as stated in ToR that WG membership only for 2-year term. Therefore NGO forum, Government and Industry Representative required to do new selection for members in writing consent.

Chair also informed WG that to be eligible as a candidate status, WG need to have either ToR or MoU which is recognized by EITI International Secretariat

WB: summarized the discussion into two issues: 1) Issue about whether their ToR still relevant or need to be changed; 2) Issue whether there is a need to have a strong legal basis for EITI.

Government is entitle to legislate and to accommodate CS concern GE suggested NGO forum to write a letter to Secretary of State for Natural Resources (SSNR) stating their intention to establish an Act on the EITI implementation in Timor-Leste. During this process, SSNR should make public consultation. . It was accepted that this issue should be outside of WG discussion.

It was informed to WG that Government is very keen to legislate Timor-Leste EITI implementation in the future, however it takes time as it requires involvement from all parties as well such as SSRN, relevant Minister, Parliament etc.

On this matter, the Industry questioning how do other EITI implementation countries have legislated its EITI implementation;

As reference for WG, Nigeria have an act and Indonesia have Prepres, and it is not voluntary but it mandatory to participate in EITI.

4. Update on Paris Conference by Mericio Akara

Mericio is board members alternate represent CS in Asia Pacific

Issus to be discuss in Global Conference Paris during 3 days:

- 1) In principle all Pillars are committed to continue EITI implementation
- 2) Development countries and companies Continue their support
- 3) Determine a countries candidate and compliant status, up to date 24 remain candidate and 11 have reach compliant countries. Board members noted that Trinidad and Tobago have WG but the CS is represent form Business Association and Yemen have political social arrest and conflict
- 4) Policy issues how to interpret transparency into accountability, board need to think about what beyond EITI such as expenditure.
- 5) Discuss the idea of mandatory financial report base on dodd frank section, which requires country-by-country and project-by-project reporting of payments for companies engaged in the commercial development of oil, gas and minerals.
- 6) Ensure the EIT I sustainability and durable
- 7) Edition EITI rules 20011 the idea how to have more rigorous and strong standard
- 8) Validation process in Nigeria limit of consultation and interview.
- 9) Governance committee the objectives is to discuss day by day how to discuss standard regulation depend on countries complain and ideas.

It means that EITI implementation getting more progress after Doha conference, some of these issues above will continue to discussion in Amsterdam by board members.

5. Preparation the socialization for TL-EITI II report

2nd TL-EITI report was launched on 25 March 2011, hence, it is obligation to do socialization to the district level which expected to be held in late May and early June. WG has decided to use the same format as previous socialization ie. regional seminar. It also responded to the WB query regarding to grant expenditure plan. It was accepted.

6. Update Timor-Leste EITI Work plan + other business

SSNR had discussed with Council of Minister to hold EITI Regional Conference beyond EITI: Timor-Leste Transparency Model tentatively on 25-27 August. It is expected to invite countries of ASEAN, CPLP, g7+, Development Partner in Timor-Leste, Multilateral Institutions and Regional Civil Society Organization. RWI will confirm one of the speakers to talk on assessment of Transparency. It was accepted by WG to add it into the Work plan.

As noted by CS beyond EITI is not expenditure but also need to considering the fisheries, forestry and agriculture.