

## TIMOR-LESTE'S EITI NATIONAL WORKING GROUP

### **Minutes of the Second EITI National Working Group Meeting 13 June 2007, 9.00 a.m. -12.30 p.m, Ministry of Natural Resources and Energy Policy Dili, Timor-Leste**

#### **Participants**

##### *Members\*:*

Carlos Florindo, Program Coordinator, ETADEP

James Kernaghan, External Relations and Communications Manager, Eni Australia

Angelo Lay, Finance Officer, Timor Sea Designated Authority (on behalf of Andrew Caddy, Managing Director, Finance)

Manuel de Lemos, Director, Timor Sea Office

Vicente Pinto, Director for Geology and Mineral Resources, Alternate for Director of Oil, Gas and Minerals

Carlos Soares, Alternate representative for Ministry of Natural Resources, Minerals and Energy Policy

Venancio Alves Maria, Executive Director, Banking and Payments Authority

Mark Sherwill, Country Manager, Conoco Phillips Timor-Leste, SA

Santina Soares, Researcher, La'o Hamutuk

\*Again the Ministry of Planning and Finance (MoPF) was absent from this meeting. The group noted with concern the absence of MoPF and TSO again agreed to follow up with the Vice Minister to ensure MoPF participation at the next meeting.

##### *Observers:*

Catherine Anderson, Operations Analyst, Governance, World Bank (Dili)

Tobias Rasmussen, Resident Representative, IMF (Dili)

Roger White, Petroleum Adviser, Ministry of Natural Resources, Minerals and Energy Policy

- 1. Minutes of First Meeting.** The Group reviewed the minutes of inaugural EITI National Working Group Meeting on 15 May 2007. An amendment to the section titled 'Memorandum of Understanding' was proposed as follows, "Members queried the need for companies to sign an MoU with Government. The World Bank informed that this was the case in the early days of EITI but not so much now". Members agreed to reflect this amendment.
- 2. Review Comments and Agree Terms of Reference (ToRs).** Participants reviewed the Group's draft ToR, including comments that had been received since the last meeting. The following issues were discussed:
  - **Mining.** The Group discussed whether to include a reference to mining in the ToR at this stage. While there is currently no mining activity in Timor-Leste, a draft law to regulate the mining industry is under consideration in the Council of Ministers (currently, mining is managed according to a ministerial directive). Group members indicated that the Group should not go beyond the existing legal framework and should not commit government to EITI for mining before government has taken such a decision. Other Group members noted that EITI covers mining and thus inclusion of a reference to mining as part of the ToR would provide an incentive for the government to work seriously and finalise soon the mining law. The Group wondered

whether Timor-Leste would be deemed EITI compliant if mining were not included. Ultimately, the Group agreed to include ‘Establish a program of work to include the mining industry under the EITI framework when the mining sector is established’ in the objectives of ToR.

- ***Proposal to Include “Raising Civil Society’s Awareness” as Part of the Working Group’s Objectives.*** Members noted that the distinct role of CSOs is to monitor petroleum sector revenues so this point deserves specific mention in the ToR.
- ***Work Plan Development.*** The Group discussed who should be responsible for the development of the work plan. Some members felt it should be the government since many of the EITI related activities are the government’s responsibility (e.g., publication of Petroleum Fund reports). On the other hand, EITI related activities are not only the government’s responsibility (e.g., publication of company payments). Thus, the Group agreed that it should be responsible to develop and follow up on the work plan with each entity. The Group wondered what would happen to Group after the EITI work plan was developed and validation completed. The Group agreed that it shall continue working, particularly since EITI validation will take place at least every two years. The last bullet point on the ToR will make reference to this fact.
- ***Publish What You Pay.*** Bullet point two proposed inclusion of reference ‘by Government and companies that operate in TL’ Audit reports from the government should be published, and this Group can work to ensure this happens, though strictly speaking the Working Group is responsible for ensuring that the EITI audit/report is published. Regarding companies, the Group agreed that the principle of ‘publish what you pay’ applies to companies to publish what they have paid to the government. This is basic EITI principle... While this matter was thought already to be reflected in this bullet, Members agreed that more explicit reference to this can be made if desired.
- ***Public Expenditure.*** The Group discussed what, if any, role it should play in monitoring public expenditures. Some Group members indicated that this is not the responsibility of the EITI Working Group since EITI covers petroleum/extractives industries revenues, but does not extend to expenditures. Some members of the Group wondered whether all entities that derive revenues from the Fund should be audited. Others indicated that since petroleum revenues and other revenues are mixed, it would be difficult only to audit petroleum revenues received by government entities In regard to audits, the Petroleum Fund Act requires an independent audit of the Petroleum Fund (it is the responsibility of MoPF to ensure that this is done). The first audit was completed on 23 January 2007, and the process is now beginning for second audit. There is also a separate audit for BPA, and BPA’s website contains all of the audit reports (it was noted that government websites are rarely updated). There is also an external audit for the whole of government expenditure. In the end, the Group agreed that EITI is focused only on extractive industry revenues—from the wellhead to the Treasury (including, one day, payments from Australia to Timor-Leste for Greater Sunrise)—and not government expenditure as a whole. There are other mechanisms and oversight groups for tracking government expenditures.
- ***Aggregated/Disaggregated Reporting of Payments and Receipts.*** The Group noted that the appropriate level depends on the amount of detail being sought. BPA reports perhaps do not offer enough detail, for instance it could be important to indicate how much money is received from each taxpayer. There were differing views on this, with BPA indicating that this may be too much, but some members suggesting it is helpful. BPA is confident that the Petroleum Fund reports are EITI plus; providing a list of payments by company is not standard practice. The (observer) representative of the IMF noted another way that information could be presented.

Previously quarterly budget execution reports included a breakdown of revenues by VAT and different tax categories, but this is no longer the case. While revenue collection agencies provide annual information on such disaggregated tax payments, quarterly breakdowns are no longer available. The Petroleum Fund report could thus provide information on payments by tax category. Some members view is that commercial sensitivity needs to be respected, thus disaggregation would not be supported. Instead it should be sufficient to know that what is paid has been audited. As the Working Group must agree the scope of the ToR, it was agreed that the solution would be to ensure a format of reporting that protects commercial confidentiality without compromising the public's right of access to information.

- **Monitoring of TSDA Payments.** It was noted that payments from TSDA to the Petroleum Fund are already reflected in the audit of the Petroleum Fund (the international auditor, Deloitte, reconciled TSDA payments to Petroleum Fund as part of the Petroleum Fund audit).
- **EITI Working Group Membership.** The Group noted that each member shall consult with and fairly represent the interests of others within their respective stakeholder pillar (i.e., government, civil society, industry). In the absence of a mining representative, the Group discussed whether it would be appropriate to have the Chamber of Commerce represented. The Group also wondered about inclusion of other future industry representative and whether all extractive industry operators should be represented. This could perhaps been done through an operators association. Other representatives that could possibly be included were the private sector (business), and the Consultative Council. TSO agreed to follow up on possible recommendation to the Minister of Natural Resources for additional members, taking into account the need for balance among the three stakeholder groups. The need to establish a link between the Working Group and the Consultative Council and to better understand the distinction between the role of the Consultative Council and that of the EITI Working Group was reiterated.
- **Role of Observers.** It was agreed that 'Observers' should identify themselves at the start of each meeting and that, when required or at the discretion of the Chair, 'Observers' would leave the room during decision-making or voting.
- **Frequency of Meetings.** Members agreed that the Group should meet monthly until the work plan is prepared and validation is achieved. There would then be a review of the schedule for meetings.
- **Confidentiality.** The Group agreed that all Members and Observers present are subject to confidentiality in regard to commercially sensitive information as some contracts have commercially sensitive material that would give others an unfair advantage. Such measures and building of trust in this way is of benefit to the Working Group as this will encourage more free and frank exchange of ideas and information. Members would welcome definition of 'commercially sensitive' to enable them to confer with their colleagues on the meeting sessions as part of establishing agreed position. Members indicated that it will be difficult to come up with a definition, however it would likely cover contracts and will arise, for example, when the group discusses templates for reporting. Perhaps, during meetings, material required to be kept confidential should be stated to be 'commercially sensitive' from which point this information will remain subject to confidentiality within the Working Group. Another example cited was when competitor company information was discussed. In this case, Members would be required to keep such information confidential. Also, since Group membership may change in the future, it would be important for members to continue to keep information shared with the Group confidential.

- **Consensus Building.** All members agreed that it would be important to ensure efforts are taken to resolve differences before any major decisions are adopted.

**The draft ToR, revised to take into account the above comments, will be circulated and agreed as part of the agenda for next meeting.**

**3. Discussion of Work Plan.** This was deferred to the next meeting.

**4. EITI Funding and EITI Secretariat.**

- **EITI Multi-donor Trust Fund (MDTF).** The Group asked the World Bank to prepare draft materials for a proposed grant from the MDTF for consideration by the Working Group.
- **EITI Secretariat Recruitments.** The Group requested additional information on how recruitment for EITI secretariat staff would be handled, who would manage the secretariat staff, etc. The World Bank agreed to provide more information at the next meeting. The Group indicated that a secretariat coordinator would need to speak Tetum, English, and Portuguese.

**5. IMF/BPA Presentation on Timor-Leste's Petroleum Revenue Management Arrangements.** This was deferred to the next meeting.

**6. Other Business.**

- i. Absence of MoPF: a letter has already been sent from the Minister of Natural Resources, Minerals and Energy Policy to the Vice Minister of MoPF. TSO has followed up on several occasions. Additional follow-up is warranted to ensure that MoPF is aware of the importance of their participation, particularly in regard to auditing.
- ii. Need for translation; no resolution yet determined.

**7. Next Meeting.**

The Group's next meeting will take place from 9.00 a.m. – 5.00 p.m. 18<sup>th</sup> July, at the World Bank's office. Industry will Chair. Venancio Alves Maria, BPA, will be absent, thus the alternate will attend.