

**ETTI Working Group Minutes 24 July 2007**

**TIMOR-LESTE'S EITI NATIONAL WORKING GROUP**  
**Minutes of the Third EITI National Working Group Meeting**  
**24 July 2007, 9.00 — 12.30pm, World Bank Office,**  
**Dili, Timor-Leste**

**Participants**

Members \*.

Amandio Gusmao, Director, National Directorate of Oil, Gas and Minerals, Ministry of Natural Resources, Minerals and Energy Policy

Andrew Caddy, Finance Director, Timor Sea Designated Authority

Carlos Florindo, Program Coordinator, ETADEP

Domingos Maria, Director, National Directorate of Oil, Gas and Minerals, Ministry of Natural Resources, Minerals and Energy Policy (MNRMEP)

Fernando da Silva Carvalho, Alternate, Chief Accountant, Banking and Payments Authority

Manuel de Lemos, Director, Timor Sea Office (TSO)

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

Mario Araujo, Alternate for Civil Society, Advisory Officer, AMKV

Santina Soares, Researcher, La'õ Hamutuk

Vidar Ovesen, Fiscal Policy and Petroleum Fund Adviser, Ministry of Planning and Finance (MoPF)

Absent: James Kernaghan, External Relations and Communications Manager, ENI  
Australia Venancio Alves Maria, Executive Director, Banking and Payments Authority (BPA)

\*MOPF was initially absent from the meeting, but Vidar Ovesen, the newly appointed Fiscal and Petroleum Tax Adviser for MoPF, was called in to attend.

Observers:

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

Roger White, Petroleum Adviser, MNRMEP

Tobias Rasmussen, Resident Representative, IMF (Dili)

**1. Minutes of Previous Meeting** - Group members reviewed and agreed the minutes of their meeting on 24 June 2007, subject to amendment to accord with Chatham House Rules.

**2. Membership and Participation of MoPF** - Members expressed concern over MoPF's lack of participation given its important role in the petroleum sector. The EITI Coordinator will follow-up again with the Vice-Minister to ensure MoPF's full participation at future meetings.

**3. Presentation on Petroleum Fund and Economy** - In follow-up to a request by Group members at their first meeting in May 2007, Mr. Rasmussen and Mr. da Silva Carvalho delivered a presentation on the Petroleum Fund and the Economy (see Annex 1).

**4. Review Comments and Agree Terms of Reference (ToR)** - Participants again reviewed the Group's draft ToR. The following issues were discussed:

- **Membership.** Members sought to clarify whether the representative of the regulatory authority should be specified as TSDA (currently the case) given that there is a draft law under preparation to create a new National Regulatory Authority. Members agreed that since the law has not yet been promulgated, the TSDA designation would remain, but once the new law is passed, the designation would change accordingly.
- **Commercial Confidentiality.** Members again discussed how to define commercial sensitivity. Industry will consult with its partners and, within one month, propose an appropriate definition to the Working Group. Government agreed to present its own definition of 'commercially sensitive'.
- **Aggregation vs Disaggregation.** The draft ToR currently refer to the level of aggregation of EITI reports. Some members indicated that disaggregation should be the standard and that commercial sensitivity should not rule this out, while others prefer aggregation. A question of the extent of disaggregation was raised. How far does one take disaggregation? What is the appropriate balance between protecting what is sensitive while allowing appropriate access to particular information? It was noted that EITI reports in other countries, such as Nigeria, have been disaggregated. It was also observed that beyond confidentiality, there is also a question of the amount of detail that people can absorb and interpret. The question for the Working Group to consider is whether the disaggregation will provide value-added to the information versus aggregation. The World Bank agreed to collate material on countries' experience with aggregated vs. disaggregated EITI reports.

**5. Publication of an EITI Work Plan** - The following issues in regard to the EITI work plan were discussed:

- **Deadline to Meet EITI Sign-up Criteria.** The World Bank informed members that the deadline of 31 August 2007 set by the EITI Board for attainment of the four sign-up criteria is likely to be rigorously enforced. Timor-Leste only needs to publish an EITI work plan to have fulfilled the criteria. Should Timor-Leste not meet the deadline, the country risks being "de-listed" as an EITI implementing country until such time as the criteria are fulfilled. However, if the deadline is not met, Timor-Leste's reputation as being committed to petroleum sector transparency may suffer unduly in the international press. While it is important not to sacrifice quality or rush the process of work plan preparation simply to meet the deadline, members discussed how best to address the situation. One option put forth was to prepare and publish a draft, or indicative, work plan for public comment. Members agreed to work towards this objective, allowing the fullest consultation and discussion of the work plan before finalization. Given that the new government has not yet been formed, members noted that official sign-off by the government would not be secured by the deadline and thus only an indicative work plan could be published as the work plan would only be considered final once it was officially endorsed by the government.

- **EITI Work Plan.** In order to prepare a work plan, the Working Group needed to clarify the scope of work. The MNRMEP Adviser presented members with a chart of petroleum revenue activities that EITI might cover from the wellhead to the Treasury (see Annex 2). Members questioned whether such a scoping would suffice to meet the EITI Board's

requirement to publish a work plan by the end of August. Members agreed to further develop the scope of work and existing draft Work Plan and to work towards publication under an expedited timeframe.

- **Sources of Revenue.** Based on the chart, the Group discussed sources of extractive industry revenues currently coming to Timor-Leste. In accordance with Production Sharing Contracts (PSCs) in the Joint Petroleum Development Area (e.g., Bayu Undan), companies pay royalties and administrative fees to the regulatory authority (i.e., TSDA). Separately, companies pay corporate taxes to MoPF (this money goes into the Petroleum Fund). Subcontractors used by the petroleum companies are also taxed. Local content contributions are an additional form of “in-kind” revenue for society, and a quasi-fiscal tax for petroleum companies. While Greater Sunrise revenues will not come on stream for another 5-6 years, reimbursables are being paid. In terms of mining, companies will be granted licenses, but these are not governed by the Petroleum Law. Mining companies pay corporate taxes, which are currently collected by MoPF (and do not go into the Petroleum Fund), although a mining law is under preparation that may change how the sector is administered. One Observer posed the question, “does Timor-Leste need an agency to aggregate all revenues?” Members agreed to share the chart with their constituencies and propose amendments to the Group. Although EITI reports typically cover all extractive industry revenue in a given fiscal year (or years), one observer wondered whether, given the nature of the industry in Timor-Leste, EITI reports in Timor-Leste should be undertaken by source of revenue and/or by governing legal regime (e.g., a first report on Bayu Undan, second report on Greater Sunrise, etc.).
- **Local Content.;** While the Bayu Undan PSC does not obligate local content contributions, Bayu Undan partners have agreed to make such contributions (which are not donations). Local content contributions are not fiscal activities but quasi-fiscal activities (the “revenue” comes to Timor-Leste, but does not go into the Treasury). Under the PSCs for Timor-Leste's exclusive zone, local content contributions are required. EITI reports internationally try to capture such in-kind contributions.
- **Pipeline Concession Payments.** Members queried whether payments made to Timor-Leste by Australia in concession for the pipeline from Bayu Undan to Darwin (US\$8 million per year) are captured in the chart and whether such revenue would be captured by the EITI report. (The payments are compensation for taxes from the pipeline that go to Australia instead of Timor-Leste because of the pipeline's location.) The Memorandum of Understanding with Australia on the pipeline (signed in 2001) agreed that the payment from Australia would flow into the Petroleum Fund and thus it should be captured in Timor-Leste's petroleum revenues. This revenue will be added to chart.

- **Visit by Head of International EITI Secretariat.** Members were advised that Mr. Jonas Moberg, Head of the international EITI Secretariat, would attend the Publish What You Pay (PWYP) meeting in Bali in early August and may be available to travel to Dili to meet with the Working Group, upon request of the members. Members agreed to invite Mr. Moberg to Dili so that they could share the status of the Group's work and its outlook going forward. Members agreed to aim for the next EITI Meeting on August 14, subject to Mr. Moberg's schedule; following the meeting, Mr. Moberg's visit and the date of the Working Group's next meeting were set for 8 August at 3:00 p.m. at MNRMEP. While the main CSO members would still be at the PWYP event, an alternate would attend the meeting in Dili with Mr. Moberg. The World Bank agreed to try to secure an interpreter.
- **Petroleum Fund Quarterly Reports.** One Observer made a recommendation to BPA that a possible improvement for the next petroleum fund quarterly report might be to highlight which stream of income is coming through MoPF and which is coming straight to BPA. BPA informed the Group that this is already being done as the distinction between Article 6.1(a) the gross revenue, including Tax Revenue, of Timor-Leste from any Petroleum Operations, including prospecting or exploration for, and development, exploitation, transportation, sale or export of petroleum, and other activities relating thereto; and 6.1(b) any amount received by Timor-Leste from the Designated Authority pursuant to the Treaty; provides for this. Members also recommended that, in addition to Luta Hamutuk, BPA should send copies of the quarterly report to NGO Forum.
- **EITI National Secretariat.** Members agreed that support to the Working Group in the form of a local EITI Secretariat needs to be addressed urgently. Members considered the two sample ToRs prepared by the World Bank and provided the following comments:
  - Only one EITI staff person is required for the Secretariat, but an interpreter is also required. (the existing ToR should be revised accordingly and recirculated).
  - A recruitment process would need to be started; a recruitment panel from among Working Group members should be appointed to select the appropriate candidate. Members agreed that the panel should include the representatives of La'o Hamutuk, ConocoPhillips Timor-Leste SA, and the Director of the National Directorate of Oil, Gas and Minerals in MNRMEP.
  - Members agreed that TSO is best placed to house the Secretariat, and that the Secretariat would report to the Director, TSO.

Secretariat responsibilities, such as minute taking, will rotate amongst Group members until the Secretariat is established.

- **EITI Multi-Donor Trust Fund (MDTF).** Group members agreed that MDTF financing would provide a bridge for the early years, while more sustainable sources of funding (e.g., from government) could be secured. However, the work plan would need to be completed before an MDTF Grant Agreement could be finalized. Members agreed that TSO would be responsible for grant implementation, while MNRMEP would have secondary responsibility. Members agreed to prepare a two-year work plan and to aim to secure a two year budget and two-year grant (or perhaps one year with opportunity for extension).

- **Website.** Ministry of Transport has responsibility for government websites, but they are not proactive in maintaining them. The Group agreed to discuss the way forward on the web site at a later date and in the context of the work program.
- **Next Meeting.** In addition to the meeting with Mr. Moberg on August 8, 2007, a follow up meeting was proposed for 21 August 2007. The 21 August meeting would be dedicated to finalizing the work plan and the Group's ToR for publication. Members felt that the primary challenge would be distribution. TSO was requested to prepare an official press release for circulation. ToR for the local Secretariat would also be finalized on 21 August.

TSDA will chair the next meeting and take minutes; the government will take responsibility at the meeting after that.