

**UK Extractive Industries Transparency Initiative Multi-Stakeholder Group
(MSG)**

**Minutes of the 39th Meeting – 20th May 2020 – Via Microsoft Teams
(10-12.30pm)**

Attendance

<p><u>Chair</u></p> <p>Matt Ray - Department for Business, Energy and Industrial Strategy</p> <p><u>Secretariat</u></p> <p>Nicola Wallace – Department for Business, Energy and Industrial Strategy</p> <p>Mike Nash - Department for Business, Energy and Industrial Strategy</p> <p><u>Industry</u></p> <p>Dan Espie – Total</p> <p>Jacqui Akinlosotu – ENI</p> <p>Dr Patrick Foster – University of Exeter</p> <p><u>Civil Society</u></p> <p>Miles Litvinoff – Publish What You Pay UK</p> <p>Martyn Gordon – Robert Gordon University Aberdeen</p> <p>Joe Williams – NRGi</p>	<p><u>Government</u></p> <p>Mike Earp - Oil & Gas Authority</p> <p>Jeff Asser – Department for Business, Energy and Industrial Strategy</p> <p>Raj Baisya – Home Office (Joint Anti-Corruption Unit)</p> <p>Nicola Garrod – HMRC</p> <p><u>Others</u></p> <p>Tim Woodward – BDO</p> <p>Hedi Zaghouani – BDO</p> <p>Karim Limam – BDO</p> <p>Nick Everington – The Crown Estate</p> <p>Zee Mugal-Ryan – The Crown Estate</p> <p><u>Apologies</u></p> <p>Simon Clydesdale – Global Witness</p> <p>Aurelie Delannoy – Mineral Products Association</p> <p>Rocio Paniagua – Transparency International</p>
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1 – Welcome and Introductions:

1. The Chair welcomed all to the 39th meeting and first fully virtual meeting of the UK EITI MSG.
2. The Chair welcomed Nick Everington and Zee Mugal-Ryan from The Crown Estate who will be making a presentation on their business model at agenda item 4.
3. The Chair welcomed the newly appointed Civil Society members; Joe Williams, Miles Litvinoff and Martyn Gordon, who will be full members and Simon Clydesdale who will be a new alternate member.

2 – UK EITI Updates:

Civil Society Representation

4. All new Civil Society members were appointed under the new nominations process which has been run by the Civil Society Network Coordinator, Justyna Herbut. CSN will seek to appoint the one further full member and three further alternate members. The Secretariat will work with CSN to help identify and contact possible candidates.
5. Lorraine Allanson, Norbert Mbu Mputu and Rocio Paniagua were thanked for their participation as interim Civil Society members.

UK EITI Champion

6. A submission has been drafted to the Minister inviting him to take on the role of UK EITI Champion. This will be sent shortly. Dialogue has been held with other parties across BEIS, to ensure other potential interest is mapped.

3 – Agreement of minutes and action points of 18th March 2020 meeting

7. The minutes of the 18th March meeting were agreed.
8. The MSG were updated on the main action points from the 18th March meeting.
 - **Secretariat to cancel London launch event at the Institute of Materials, Minerals and Mining in May 2020.** Both events (in Aberdeen and London) have been postponed, with the hope that they will be re-organised for later in 2020.
 - **Secretariat to draft paper on the impact of EITI in the UK for the May MSG.** This has been moved back to the 14th July MSG meeting.
 - **Reconciliation subgroup to clarify equivalent S.106 payments in Scotland and Northern Ireland.** The Secretariat have written to colleagues in both Northern Ireland and Scotland. Northern Ireland have responded, but are still awaiting a response from Scotland.
 - **Mainstreaming subgroup to provide paper on pros and cons on mainstreaming tax data for May MSG.** This paper will now be tabled at the 14th July MSG.

4 – The Crown Estate

9. The Crown Estate is an independent commercial business created by The Crown Estate Act 1961. It is an estate in land only and has a statutory duty to maintain and enhance the value of the estate and its revenue income. This includes the requirement to obtain the best price that can reasonably be obtained when undertaking commercial transactions.
10. TCE is responsible for 50% of the foreshore and the territorial seabed. Activities in the UK Continental Shelf have increased considerably over the last 10-15 years. Activities include cables and pipelines, carbon capture and gas storage, minerals dredging and offshore wind energy. Crown Estate Scotland have responsibility for Scottish matters.
11. TCE act as a commercial landlord and not a developer or operator. It provides commercial licences for mineral extraction and exploration and manages these licences to ensure they comply with the commercial terms.

12. The regulators are the Marine Management Organisation (England), Natural Resources (Wales) and Department for Agriculture, Environment and Rural Affairs (Northern Ireland). They provide statutory permission known as a Marine Licence. These bodies are responsible for enforcing the compliance of licence conditions.
13. The current TCE licensing process offers rights through open tender every 2-3 years. Successful bidders are offered 5 year Exploration and Option Agreements. Rights to extract are subject to Marine Licence. A typical licence will run for 15 years, with the option to extend a further 15 years. The next tender will be held in 2021.
14. TCE have concerns about the granularity of the data that EITI requires. Customer royalties are paid by the tonne and competitors can use data published by EITI, combined with other data sources, to calculate the royalty rate that TCE charge. TCE consider this to be commercially sensitive information and believe that making royalty rates publicly available would compromise their abilities to meet requirements under The Crown Estate Act. TCE are happy to provide data for reconciliation purposes, but not for it to be published at such a granular level.
15. From the civil society perspective there were concerns about the transparency and openness of the process. Civil society thought that the transparency debate had moved on and TCE were out of step with other organisations in terms of disclosure.
16. It was agreed that TCE and the MSG should seek a middle ground that satisfies both TCE requirements and those of EITI.
17. The government constituency noted that the disaggregated figures had been reported in previous years and the amount reported is material in terms of EITI. Transparency on winning bids would be good for all concerned. More information was required on the TCE mechanism for reporting and the revenues received. TCE agreed to take this away and provide a response. The government constituency questioned if there any evidence to suggest that transparency over the results helps or hinders getting maximum value from the bidding auctions?
18. The industry constituency had concerns around the requirements of the 2019 Standard contract and licence disclosure and asked if TCE would be in a position to disclose oil and gas contracts. TCE said they would discuss with colleagues and get back on oil and gas. On the mining and quarrying side leases are disclosed on the Land Registry, but commercially sensitive information is redacted.
19. There were also concerns from the mining and quarrying constituency on how the levy per tonne is decided at the tender stage and when a licence is renewed. TCE said that calculations are different for new applications and that marine aggregates were indexed forward. TCE also rely on companies to inform them where the resources are, but all extractive activity is carried out at the company's risk.
20. The Secretariat agreed to ask economist colleagues at BEIS to consider the economic argument that the current TCE bidding process is the best mechanism through which they can judge what companies are prepared to offer – and how this would be affected if they revealed the value of existing licenses.

21. It was agreed that the new UK EITI website should include a links to the Marine Aggregates Portfolio and Capability Report and the Marine Data Exchange and Open Data portals.

5 – UK EITI Reconciliation process 2019

22. The Reconciliation subgroup tabled three options for the 2019 reconciliation process in the wake of the Covid-19 pandemic. The options were:
- i) Proceed by issuing guidance and templates at the end of May with an end of June deadline, but with the option to extend for companies that require it.
 - ii) Push back until the Summer with a July/August deadline.
 - iii) Push back to the Autumn with a September/October deadline.
23. Concerns were raised that companies in the mining and quarrying sector may not be in a position to provide the data required by the end of June. The oil and gas representatives had consulted with colleagues and felt that most companies in their sector would be in a position to provide data if option i) was agreed.
24. There are pros and cons for all options, but the MSG agreed, after careful consideration of each option, that the process should be started as soon as possible, but with flexibility in the timetable to allow an extension for companies that required further time to provide their data. This flexibility will be reflected in the email sent to companies by the Independent Administrator.
25. The reconciliation subgroup will also look at the viability of including both Diverted Profits Tax (DPT) and the Aggregates Levy in future years. It was agreed that 2019 was not the right time to put additional burdens on reporting companies, so dialogue will continue within the reconciliation subgroup on whether to include in future years.

6– Update of UK EITI Terms of Reference

26. The Secretariat tabled the updated Terms of Reference. The main drivers behind the update are the validation corrective actions and the new requirements of the 2019 Standard. The Terms of Reference have not changed since the MSG were founded and do not reflect how it currently operates.
27. The corrective actions covering Civil Society engagement include an explanation of the appointments process and information sharing across each constituency. These are now covered in the updated Terms of Reference.
28. The 2019 Standard requires the MSG to ensure that it has a good gender balance. It was also agreed that diversity considerations should also be included when there were changes in membership.
29. The MSG were asked to provide feedback on the Terms of Reference directly to the Secretariat by email. Particularly the following questions:
- Do you wish to maintain the distinction between full and alternate members, or would you prefer each constituency to have the right to appoint e.g. up to 8 members?

- If you think that the distinction between full and alternate members should be maintained, are you content with what has been proposed on the rights of alternate members?
- Are you content with the terms of membership for your constituency?
- Do you agree with a four year turn a service with members not being able to serve more than two consecutive terms?
- Are you content with what has been written on diversity considerations?
- Are you content with what has been written on information sharing?

7 – Revalidation and Compliance subgroup updates

30. Covid-19 has made some areas of revalidation more difficult, particularly for awareness raising, where events had to be cancelled. It is hoped that these events can take place later in the year.
31. The compliance subgroup is confident that the UK is now compliant with the gender and environmental requirements of the 2019 Standard, but more work needs to be carried out on contract disclosure.

8 – Mainstreaming update

32. The Mainstreaming Subgroup has been working through their action plan. The website will allow a number of the recommendations which require further data sources to be completed. There are still a number of longer-term issues that need further work, including the issue of disclosure of tax data. The subgroup will be meeting again on 2nd June to discuss these actions further. A paper on the pros and cons of mainstreaming tax disclosure will be tabled at the next MSG.

9– Comms – Website update

33. The final touches are being made to the website content. It is expected that the website will go “live” by the end of May. It is not currently showing there will be a section for “News and Events” but this can be enabled at a later date.
34. The Secretariat will be trained to update the Content Management System and there will be the opportunity in the coming months to take stock and consider any feedback and comments from users to improve the website.
35. Any updates or comments on the website should be sent directly to the Secretariat.

Action points

- The Secretariat to follow up with TCE to look at constructive ways of taking forward and finding a middle ground and put together an informal group to co-ordinate the work going forward.
- The Secretariat to continue mapping existing TCE assurance on value for money and hold follow-up meetings with HMT and NAO.
- Secretariat to ask BEIS economists to provide a short study on “auction theory” and whether there is evidence from elsewhere to suggest whether transparency over the results helps or hinders getting maximum value from those auctions?

- Secretariat to add links to Marine Aggregates Portfolio and Capability Report, and the Marine Data Exchange and Open Data portal to the new UK EITI website.
- The 2019 Reconciliation process to start at the end of May, with a deadline of 30 June. Secretariat to ensure that the guidance note includes an explicit paragraph highlighting the timetable has flexibility to extend the deadline if required.
- BDO to keep the Secretariat informed if companies are struggling to meet the end of June deadline.
- MSG members to provide feedback on the Terms of Reference to the Secretariat.
- MSG members to provide feedback and any updates or amendments on the website to the Secretariat.