

## UK EITI Multi-Stakeholder Group (MSG) Terms of Reference

(Agreed by the UK EITI MSG on 8th August 2022)

The UK EITI MSG works together co-operatively and collaboratively to implement the EITI Standard and to demonstrate the importance of transparency in the management of the UK's natural resources. Our aim is to achieve excellence in terms of the EITI process, our product – the UK's EITI reports and website – and in communicating the results to the public at large. We also express our support for the ambition that UK implementation of EITI creates a level playing field for business, helps the British people to hold decision makers to account and encourages other countries around the world to take similar steps.

### 1. Purpose of Terms of Reference:

- 1.1. To define the scope and function of the Multi-Stakeholder Group (MSG) formed to direct implementation of the Extractive Industries Transparency Initiative (EITI) in the UK ("UK EITI").

### 2. Role of the MSG

- 2.1. The MSG exists to ensure that the UK implements the EITI Standard and gains and maintains EITI compliance in a timely and effective manner. The MSG is responsible for ensuring that the views of key stakeholders are taken into account in the direction and conduct of implementing EITI in the UK. MSG members are representatives of their wider constituencies and must consult them regularly to ensure they continue to reflect the views of their constituency.
- 2.2. The MSG will ensure UK EITI meets its objective of compliance with the EITI Standard. It will be responsible for developing and endorsing an EITI work programme, the scope of UK EITI, actions, sequencing, timetable, responsible parties, costs, communications and funding sources. Specifically, the MSG will:
  - Develop and apply a fully costed work plan containing measurable targets and a timetable for implementation which incorporates an assessment of capacity constraints;
  - Develop and apply a communications strategy;
  - Establish and support any sub-groups to examine specific issues;
  - Agree on appropriate definitions of "extractive industry" and "materiality" for the purpose of UK EITI;
  - Define and assess the scope of UK EITI;
  - Agree sectoral information to be included on the UK EITI website;
  - Develop the Terms of Reference for and appoint an Independent Administrator to undertake annual reconciliations;
  - Develop and agree on the format of the UK's EITI Report and website; and

- Complete an annual review of the outcomes and impact of EITI implementation on natural resource governance.

### **3. Attendance at MSGs**

- 3.1. The MSG will be chaired by an official from the Department for Business, Energy and Industrial Strategy (BEIS), who will report to a BEIS Minister. Membership will consist of twelve full members, comprising a four/four/four split from industry (two from oil and gas and two from mining and quarrying), government and civil society.
- 3.2. In addition, up to six observers will be welcomed at each meeting; they will be able to engage in the discussion at the MSG but will not have a right to vote. Observers for each meeting will be nominated by MSG members in advance of the relevant meeting. An additional standing observer slot will be allocated to the EITI International Secretariat and to the UK EITI Champion.
- 3.3. Up to twelve alternate members may also be appointed to the MSG, comprising up to four named alternates each for industry, government and civil society. As with full MSG members, alternates should have suitable experience and/or expertise. Alternate members may attend and speak at any MSG meeting but have voting rights only if they have been designated as replacement for a full member who cannot attend. Replacement of a full member by a named alternate should whenever possible be notified in advance of the relevant meeting. Alternates will be listed on the UK EITI website in the MSG section and will receive all MSG emails as a matter of course in the same way as full members. Alternates may be members of the MSG's sub-groups in the same way as full members.
- 3.4. The Chair will select observers, experts and nominated people from those put forward with the aim of ensuring that those with the most relevant expertise to the meeting's agenda are selected to attend each MSG meeting.
- 3.5. While the tripartite nature of the group must be maintained (i.e. industry, government and civil society, must always be represented), the group may agree by broad consensus at any time to change the total number of members from each constituency.

### **4. Terms of Membership**

#### **4.1. Industry membership**

- 4.1.1. Industry members will be appointed for an initial term of four years by nomination from Offshore Energies UK for the oil and gas industry (two full seats) and by the Mining Association of the UK (one full seat) and the Mineral Products Association (one full seat) for mining and quarrying industry. At the end of each four-year term the constituency must consider if the seats should be made available to other suitable candidates, using the standard industry nominations process, or if the existing member should continue.
- 4.1.2. The industry constituency will consider the diversity of its members in its nominations processes, including gender balance, and will evidence and document how diversity considerations have been taken into account.

4.1.3. The industry constituency will review membership on a regular basis to consider the diversity and gender balance of its members in order to ensure that membership reflects the changing nature of the industry and the requirements of the EITI Standard.

#### 4.2. Government membership

4.2.1. Government members will be appointed for an initial term of four years by nomination from their respective government organisations. At the end of each four-year term the constituency must consider if the seats should be made available to other suitable candidates, or if the existing member should continue.

4.2.2. The government constituency will consider the diversity of its members in its nominations processes, including gender balance, and will evidence and document how diversity considerations have been taken into account.

4.2.3. The government constituency will review membership on a regular basis to consider the diversity and gender balance of its members in order to ensure that membership reflects the changing nature of the sector and the requirements of the EITI Standard.

#### 4.3. Civil Society membership

4.3.1. Civil society members will be appointed for an initial term of four years by nomination by the Civil Society Network. At least one full MSG seat should, where possible, be allocated to a representative from a local community affected by the extractive industries. At the end of each four-year term the constituency must consider if the seats should be made available to other suitable candidates, using the standard civil society nominations process, or if the existing member should continue.

4.3.2. The civil society constituency will consider the diversity of its members in its nominations processes, including gender balance, and will evidence and document how diversity considerations have been taken into account. One full MSG seat and one alternate seat will be reserved for a representative from a local community affected by the extractive industries.

4.3.3. The civil society constituency will review membership on a regular basis to consider the diversity and gender balance of its members in order to ensure that membership reflects the changing nature of civil society's engagement with the industry and the requirements of the EITI Standard.

4.3.4. Notwithstanding clause 4.3.2, if any matter comes to a vote on the MSG when both the full and alternate civil society seats reserved for representatives from local communities affected by the extractive industries are vacant, the civil society constituency may designate one interim alternate member with voting rights to fill the vacancy.

### 5. **Removal of members**

5.1. One or more full or alternate members of the MSG may request that another full or alternate member of the MSG ("X") be removed from the MSG on the basis that there are

grounds for believing that X's participation would be detrimental to the ongoing work or reputation of the UK EITI, in line with the EITI Association Code of Conduct.

- 5.2. Any such request must be made in accordance with Schedule 2, entitled "Process for a vote under paragraph 5.2 of the Terms of Reference of the UK EITI Multi-Stakeholder Group ("MSG)". The process set out in Schedule 2 will be followed in relation to the request (subject to paragraph 5.3 below).
- 5.3. In the event that a material issue that is being (or is to be) considered in relation to a request made under paragraph 5.2 is also an issue that is being (or is to be) considered in separate legal proceedings (whether civil or criminal), the MSG will defer its consideration of, and its determination in relation to, the request until after that issue has been determined in the legal proceedings.

## **6. Information sharing**

- 6.1. All constituencies will ensure that relevant information is shared across the MSG, with their wider constituency and with the general public. The information can be shared at MSG meetings, via the UK EITI website, at awareness raising events or by other means.

## **7. Meetings**

- 7.1. The MSG will meet every two months or as otherwise agreed.
- 7.2. The Chair will set the agenda for meetings. The meeting announcement, agenda and any background information will be circulated to MSG members a minimum of one week before the meeting date.
- 7.3. The Chair and MSG will be supported by the Department for Business, Energy and Industrial Strategy. The Secretariat will conduct all co-ordination and administrative functions necessary to support the MSG and ensure the fulfilment of its outlined responsibilities. If there are any necessary or urgent issues that need to be discussed and decided, the Chair will call an extraordinary meeting.
- 7.4. Minutes of meetings will be circulated to the MSG and will be made publicly available after agreement among the Members. Names of attendees will be listed in the minutes but views that have been expressed within the meeting will not be allocated to individuals. Attendees will not allocate views to individuals when discussing the MSG outside the meetings and will respect that differences of opinion may arise during the development of the final work plan and should refrain from engaging in public discourse that would be disruptive to the development of the draft work plan prior to release for public review and commentary. In the event that (in accordance with section 5 and Schedule 2) the MSG holds a formal vote on removal of a full or alternate member of the MSG, the minutes will state only that the vote took place and the outcome of the vote; the minutes will contain no information about the reasons for requesting the vote or about the discussion leading up to the vote.
- 7.5. Any attendees, whether full members, proxies, alternates, observers, experts or nominated people should declare any conflict of interest to the Chair a week before attending an MSG meeting.

- 7.6. Any attendees, whether full members, proxies, alternates, observers, experts or nominated people will respect and not discuss outside of the MSG meetings any confidential information that may become available. In the spirit of openness, the MSG has chosen to rely on Article 7 of the International EITI's [Code of Conduct](#) which says:

*Confidentiality: EITI Office Holders shall not use any information that is provided in his or her role as EITI Office Holder and which is not already in the public domain in any manner other than in furtherance of his or her duties. EITI Office Holders continue to be bound by this obligation for two years after termination of their mandate.*

- 7.7. This will be in addition to the Openness Policy which is included in the EITI Standard. All instances of failure to adhere with these principles would be reviewed by the MSG and may result in exclusion from any further participation in MSG meetings.

## 8. Sub-groups

- 8.1. The MSG may decide that particular issues should be developed by a sub-group. Each such sub-group must be led by an MSG member (or member of the Secretariat) who will be supported by one or more other MSG members. The sub-group leader may also invite outside experts to participate in the sub-group, but only with the agreement of all MSG subgroup members.
- 8.2. The sub-group will provide its recommendation to the MSG, who will consider those recommendations and will seek to make a final decision on the basis of consensus.

## 9. Independent Administrator and Intellectual Property Rights in the UK EITI report

- 9.1. For practical reasons, the contract to appoint the Independent Administrator will be between the Department for Business, Energy and Industrial Strategy (BEIS) and the Independent Administrator. The Secretariat to the MSG will manage the contract on behalf of the MSG. BEIS will act on behalf of the MSG as owner of Intellectual Property Rights in the UK EITI report.

## 10. Communications

- 10.1. The MSG will agree and implement a robust, proactive communication strategy incorporating stakeholder outreach. The communication strategy will ensure stakeholders are aware of the UK Government's commitment to implement EITI and will explain the central role of civil society and industry. The strategy will consider how to disseminate the public information that results from the EITI process including through the UK EITI Report, the UK EITI website and various outreach and awareness raising events.
- 10.2. Public engagements and contact with the media to promote UK EITI must be authorised in advance by the Chair. The Secretariat will keep a central record of events and publicity on UK EITI.

## 11. Decision-Making/Voting

11.1. The MSG will make decisions on the basis of consensus wherever possible. Where consensus is not possible the decision-making principles and voting rules will be applied.

11.2. The Decision-Making Protocol for the UK EITI Multi-Stakeholder Group is set out in Schedule 1. This Protocol identifies:

- How decisions will be made, including consensus requirements and a two-tiered decision-making hierarchy that applies if consensus cannot be reached;
- How members can be represented in decision-making if they are not able to be present at a meeting; and
- How abstentions will be managed.

## Schedule 1: Decision Making Protocol for the EITI Multi-Stakeholder Group (MSG)

### Principles

#### 1. Decision-Making Principles

1.1 The MSG is committed to operating in the spirit of collaboration and co-operation with the aim of reaching general agreement amongst all members on all decisions.

1.2 In cases where general agreement cannot be reached, a formal vote will be taken at the discretion of the Chair and voting rules will be applied. While consensus is not always possible, the decision-making principles are designed to build the greatest possible consensus.

1.3 A quorum of nine MSG members (or proxies or alternates) with a minimum of two representatives from each constituency will be represented in decision-making.

1.4 The Chair aims for decisions to be made through consensus making votes unnecessary.

#### 2. Decision-Making Rules

2.1 Decision-making will occur by a two-tiered hierarchical system as follows:

- a) Consensus. The Chair will seek to achieve consensus for all decisions. If this is not achieved then modified consensus will be sought.
- b) Modified Consensus. Consists of a two thirds or greater majority of exercised votes (i.e. excluding abstentions) and includes a minimum of two representatives from each constituency. If this is not achieved, a working group will be formed, comprising equal representation from each constituency, to discuss and negotiate a recommendation to proceed to the MSG. This may occur at the meeting or post meeting with the intention to provide a recommendation by the next MSG meeting. Once the sub-group has provided its recommendation, the MSG will seek to make a decision on the basis of consensus or modified consensus.

2.2 The number of votes required to pass a motion will adjust according to any abstentions to maintain two-thirds and must include the support of at least a quarter of the votes of the MSG members from each constituency.

#### 3. Proxy Arrangements

3.1 Where a member is unable to be present at a meeting, that member may appoint either a named alternate member or another person to act as proxy at that meeting, and advise the EITI MSG Secretariat of the appointment in advance of the meeting.

3.2 All alternates and proxy appointees will respect the confidentiality provisions in the EITI Code of Conduct.

3.3 An MSG member may appoint any other person as their proxy for a specific meeting.

3.4 No person may hold more than two proxy votes for MSG members at a time with the exception of the Chair.

3.5 In exceptional circumstances and at the Chair's discretion, when no advice on an alternate or proxy has been given and a member is absent from a meeting, the proxy will default to the Chair. The Chair may allocate the vote, abstain or use the vote as they see fit.

3.6 Should the Chair hold a significant number of unallocated proxies they have the discretion to decide if votes are to be ratified out-of-session.

#### **4. Abstention**

4.1 Where a member intentionally abstains from a decision-making process, their vote will not be counted for or against a decision. Their vote will be discounted from the number of eligible votes.

4.2 To ensure abstention by a member is intentional, a member will notify the Secretariat of this intention, where possible in advance, and ensure that the abstention is recorded in the minutes of the meeting or the record of decision if out-of-session.

4.3 Should the Chair determine that a significant number of abstentions are being exercised they have the discretion to decide if votes need to be ratified out-of-session.



## **Schedule 2: Process for a vote under paragraph 5.2 of the Terms of Reference of the UK EITI Multi-Stakeholder Group (“MSG”).**

1. Where one or more full or alternate members of the MSG (“the complainant(s)”) request(s) that there be a vote to remove from the MSG a named full or alternate member of the MSG (“X”), the request must comply with the following requirements:

- a. the request must be made in writing and it must be sent to the Chair of the MSG;
- b. the reason(s) for requesting the vote must be set out in the request and they must explicitly cross-refer to the relevant provisions of the [EITI Association Code of Conduct](#);
- c. the request must state that, in the view of the complainant(s), there are grounds for believing that X’s participation would be detrimental to the ongoing work or reputation of the UK EITI, in line with the EITI Association Code of Conduct;
- d. the request must be accompanied by any documentary evidence to be relied on in support of the proposal to remove X from the MSG or contain links to such evidence online.

2. The Chair will inform X that s/he has received a request for the MSG to vote to remove X from the MSG on the grounds set out in paragraph 5.2 of the MSG’s Terms of Reference. The Chair will send to X a copy of the written request s/he has received (including the reasons for the request), any documentary evidence that accompanied that request and a copy of this document. The Chair will also make clear that X is entitled, before the date of the meeting at which the vote will take place, to submit written representations to the Chair as to why X should not be removed from the MSG, and that the Chair/ Secretariat will circulate any such representations to the other members of the MSG as soon as possible. The Chair will also make clear that X is entitled to make oral representations at the meeting as to why X should not be removed from the MSG, that X is entitled to bring another person to the meeting to assist X in making such representations, and that the complainant(s) is/are entitled to bring another person to the meeting to assist the complainant(s) with the oral presentation of the reasons for the request.

3. The Chair will inform the other members of the MSG that the Chair has received a request for the MSG to vote to remove X from the MSG on the grounds set out in paragraph 5.2 of the MSG’s Terms of Reference. The Chair will send to all those other members a copy of the written request received by the Chair (including the reasons for the request), any documentary evidence that accompanied that request, and a copy of this document. The Chair will also make clear that X is entitled, before the date of the meeting at which the vote will take place, to submit written representations to the Chair as to why X should not be removed from the MSG, and that the Chair/Secretariat will circulate any such representations to the other members of the MSG as soon as possible. The Chair will also make clear that X is entitled to make oral representations at the meeting as to why X should not be removed from the MSG, that X is entitled to bring another person to the meeting to assist X in making such representations, and that the complainant(s) is/are entitled to bring another person to the meeting to assist the complainant(s) with the oral presentation of the reasons for the request.

4. The Chair will ensure that a reasonable period is allowed for X to submit advance written representations and to prepare any oral representations X wishes to make at the meeting. The Chair

will also bear in mind the desirability of X being able to attend the meeting and of the meeting taking place without undue delay.

5. Once the date and time of the meeting at which the vote will take place have been decided on and communicated to the members of the MSG (including X), the date and time of the meeting can only be changed if, in the Chair's view, there are exceptional circumstances justifying such a change (and the principles in the preceding paragraph are respected).
6. If X sends written representations to the Chair before the date of the meeting at which the vote will take place, the Chair/ Secretariat will circulate them to the other members of the MSG as soon as possible.
7. If any full MSG member is unable to attend the meeting, that member can appoint a named alternate member or other person to act as a voting proxy at the meeting, in accordance with paragraph 3 of Schedule 1 to the MSG's Terms of Reference (proxy arrangements).
8. In accordance with that Schedule, in order for a vote to take place, there must be a quorum of nine MSG members (or proxies or alternates), with a minimum of two representatives from each constituency.
9. X is expected to attend the meeting at which the vote will take place, and may bring another person to the meeting to assist X with making X's oral representations. However, as mentioned above, X may choose to appoint a named alternate member or other person to act as proxy at the meeting, in accordance with paragraph 3 of Schedule 1 to the MSG's Terms of Reference (proxy arrangements).
10. If neither X nor a named alternate member or other person to act as X's proxy attends the meeting at which the vote is to take place, the vote will nevertheless take place at the meeting and X will be deemed to have abstained from the vote (unless, in the Chair's view, there are exceptional circumstances justifying postponement of the vote).
11. At the meeting the Chair will confirm that there will be a vote at the meeting as to whether X should be removed from the MSG on the grounds set out in paragraph 4.2 of the MSG's Terms of Reference, and the Chair will ensure that all the members (or their alternates/proxies) who are present have copies of all the documents that have been circulated by the Chair/Secretariat in connection with the meeting (including any advance written representations received from X before the date of the meeting). The Chair will ensure that X and/or a person X has brought with X to assist with the making of X's oral representations or, in X's absence, any alternate/proxy of X who is present, and the complainant(s) and/or a person brought by the complainant(s) to assist with the oral presentation of the reasons for the request, are allowed a fair opportunity to make oral representations as to why X should or should not be removed from the MSG.
12. The Chair will then take the vote by show of hands and confirm the result. Each member (or the member's alternate or proxy) will only vote that X be removed from the MSG if the member (or alternate/proxy) has formed the view that there are grounds for believing that X's participation would be detrimental to the ongoing work or reputation of the UK EITI, in line with the EITI Association Code of Conduct. A majority of at least two-thirds in favour is required to carry the vote, this must include the support of at least a quarter of the votes of the MSG members from each

constituency. Abstentions are not counted. If the MSG votes for X's removal from the MSG, then X will cease to be a full or alternate member of the MSG with immediate effect. The Chair will ask the constituency represented by X to make arrangements for another representative of that constituency to be appointed as a full or alternate member of the MSG, as applicable.

13. If the result of the vote is that the MSG does not remove X from the MSG, the MSG will need to consider a course of action which enables it to work effectively with both X remaining a full or alternate member of the MSG and the complainant(s) remaining as full or alternate members of the MSG. This could require some form of external mediation if this has not been tried already.