

**MINUTES OF THE 10<sup>TH</sup> MEETING OF THE MULTI-STAKEHOLDER GROUP (MSG) OF THE UGANDA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (UGEITI) HELD ON THURSDAY, 18<sup>TH</sup> FEBRUARY 2021 AT THE IMPERIAL ROYALE HOTEL, KAMPALA STARTING AT 9:00 A.M.**

**Attendance List**

| No.                                | Name                        | Institution   |
|------------------------------------|-----------------------------|---|
| <b>GOVERNMENT</b>                  |                             |   |
| 1.                                 | Mr. Moses Kaggwa            | Ministry of Finance, Planning & Economic Development ( <b>MSG Chairperson</b> ) |
| 2.                                 | Mr. John Kennedy Okewling   | Ministry of Energy & Mineral Development  |
| 3.                                 | Mr. David Sebagala          | Ministry of Energy & Mineral Development  |
| 4.                                 | Eng. Timothy Tibesigwa      | Ministry of Works & Transport   |
| 5.                                 | Mr. Philip Andrew Wabulya   | Bank of Uganda  |
| 6.                                 | Mr. Isaac Ntujju            | National Environment Management Authority (NEMA)                                |
| 7.                                 | Mr. Jesse Musinguzi         | Ministry of Foreign Affairs   |
| 8.                                 | Mr. Robert Tugume           | Ministry of Energy & Mineral Development (MEMD)                                 |
| 9.                                 | Mr. Clovice Bright Irumba   | Petroleum Authority of Uganda   |
| 10.                                | Ms. Sandra Kaitare          | Uganda Revenue Authority  |
| 11.                                | Ms. Gloria Akatuhurira      | Uganda Revenue Authority  |
| 12.                                | Mr. Jonan Kandwanaho        | National Planning Authority (NPA) (via zoom)                                    |
| 13.                                | Dr. Callist Tindimugaya     | Ministry of Water and Environment (via zoom)                                    |
| 14.                                | Ms. Allen Bucyana           | Ministry of Justice and Constitutional Affairs (via zoom)                       |
| <b>CIVIL SOCIETY ORGANISATIONS</b> |                             |   |
| 15.                                | Ms. Lomonyang Margaret      | Karamoja Women Umbrella Organisation  |
| 16.                                | Mr. Gard Benda              | World Voices Uganda   |
| 17.                                | Mr. Magara Siragi Luyima    | OXFAM (via Zoom)  |
| <b>INDUSTRY</b>                    |                             |   |
| 18.                                | Mr. Obad Noah               | Oranto Petroleum Limited  |
| 19.                                | Mr. Faustine Mugisha        | TOTAL E & P Uganda (via Zoom)   |
| 20.                                | Dr. Jennifer Hinton         | Uganda Chamber of Mines and Petroleum (via Zoom)                                |
| 21.                                | Dr. Tom Buringuriza         | Armour Energy Limited (via zoom)  |
| 22.                                | Ms. Emily Nakamya           | Uganda National Oil Company (UNOC)  |
| 23.                                | Ms. Sandra Mwesigye (proxy) | CNOOC Uganda Limited  |
| <b>OBSERVERS</b>                   |                             |   |
| 24.                                | Ms. Margaret.K. Nakirya     | Uganda Bureau of Statistics   |
| 25.                                | Mr. James Muhindo           | Civil Society Coalition on Oil & Gas (CSCO) (via Zoom)                          |
| 26.                                | Mr. Joseph Kyeyune          | Uganda Revenue Authority  |
| <b>UGEITI</b>                      |                             |   |
| 27.                                | Mr. Saul Ongaria            | National Coordinator ( <b>Secretary</b> )                                       |
| 28.                                | Mrs. Gloria Mugambe         | Head of Secretariat, UGEITI   |
| 29.                                | Mr. Kanakulya Edwin Kavuma  | Compliance Officer, UGEITI  |
| 30.                                | Ms. Bronia Arinda           | Secretary, UGEITI   |
| 31.                                | Mr. Dan Denis Agaba         | Statistician, UGEITI  |
| 32.                                | Ms. Gertrude Angom          | Administration Officer, UGEITI  |
| 33.                                | Mr. Edgar Mutungi           | Finance Officer, UGEITI   |

|  |                        |   |
|--|------------------------|---|
| 34.                                    | Mr. Abbey Gitta        | Office Assistant, UGEITI  |
| 35.                                    | Ms. Susan Angela Achom | Office Assistant, UGEITI  |
| <b>MSG MEMBERS ABSENT WITH APOLOGY</b> |                        |   |
| 1.                                     | Mr. Mugenyi Onesmus    | Advocacy Coalition for Development & Environment (ACODE) (via Zoom) |
| 2.                                     | Mr. Emmanuel Mugagga   | Uganda National Oil Company (UNOC)                                  |
| 3.                                     | Ms. Winfred Ngabiirwe  | Global Rights Alert   |

## **Agenda**

1. Welcome and Introductions. (National Coordinator)
2. Communication from Chairperson.
3. Status update on the UGEITI Report. (Head of Secretariat)
4. Review of Minutes from the previous meeting. (Chairperson, MSG)
5. Feedback from the Contracts Disclosure Committee. (30 minutes)
6. Feedback from the Revenues Committee. (30 minutes).
7. Presentation by OAG on Cost Recovery. (30 minutes).
8. MSG Terms of Reference on Membership – Compliance Officer. (10 minutes)
9. Way Forward.

## **MIN 1.0: WELCOME AND INTRODUCTIONS**

1. The National Coordinator called the meeting to order at 9:50 a.m. and led the opening prayer. He welcomed everyone to the meeting and requested all the participants to introduce themselves.
2. He reminded members to observe the COVID-19 Standard Operating Procedures (SOPs).
3. Following the above, he welcomed the Chairperson of the MSG to give his opening remarks.

## **Min 2.0: Communication from the Chairperson**

The Chairperson declared the meeting open by welcoming members to the 10<sup>th</sup> MSG meeting. He requested members from the Ministry of Energy & Mineral Development (MEMD) to update the meeting on the status of activities in the extractive sector.

1. The MSG member from the Directorate of Petroleum (MEMD) provided the following update:
  - a) To-date, nine (9) production licenses had been issued out by Government. The Tilenga project was being developed by Total E&P Ltd, while the King Fisher project was being developed by CNOOC Uganda Limited.
  - b) Each of the above projects would have a central processing facility and other attendant infrastructure, and the processed crude oil would be transported to a collecting point near the refinery. The companies have undertaken the Environmental Impact Assessment Studies and land acquisition for the projects is ongoing.



- He stated that the refinery project in the Industrial Park was also underway, and UNOC where UNOC is involved. The East African Crude Oil Pipeline (EACOP) was also part of the projects under development. Total E & P Ltd was the lead company in the latter project.
- c) The Final Investment Decision (FID) had been delayed by negotiations between Government and Total E&P Ltd. The farm-down by Tullow Oil to Total E&P Ltd made the latter the current major player in the development of the projects. FID was therefore expected mid-2021.
  - d) The remaining issues to be ironed out include the Tariff and Transportation Agreement (TTA) and Shareholders Agreement.
  - e) Government awarded three exploration licenses to Armour Energy Limited and Oranto Petroleum Limited in 2017. Armour Energy Limited had faced some challenges resulting from the effects of the floods around the Semiliki area at the southern tip of Lake Albert.
  - f) Government was undertaking a second licensing round, and the Request for Qualification (RFQ) had closed in September 2020. Prequalified companies had been invited to review the geological data of the five blocks in preparation for the bidding process.
2. The member from the Directorate of Geological Survey and Mines (DGSM), reported on the status of the mining sector as follows;
    - a) Government had continued to issue licenses for both exploration and mining activities. Most of the exploration companies were undertaking surveys to establish the extent of deposits and their viability. In addition, the companies undertaking exploration or mining activities were also involved in other business activities like health, education etc.
    - b) Mining licenses had no confidentiality clauses which meant that disclosure of licenses under EITI to the public would be possible. The ministry, would work directly with UGEITI to improve the IT systems and avail information like production statistics on the DGSM portal.
    - c) Whereas companies that dealt in industrial minerals, for example cement manufacturers mined some raw materials and processed them, they declared themselves to URA only as manufacturers hence paying taxes as manufacturers and not paying any taxes for their mining activities. He stated that URA with the support of DGSM would try to resolve this issue.
  3. The Chairperson thanked the MSG members from the MEMD for their updates on the sector, and proceeded to update the meeting on other key developments relating to the extractives sector in Uganda as follows:
    - a) FID was about to be achieved, and the remaining agreements in the petroleum sector were being finalized.
    - b) Government intended to fully capitalise the Uganda National Oil Company to participate in all the ventures in the oil and gas sector.
    - c) The Chairperson reminded members that in previous MSG meetings they had constituted two committees: The Contracts Disclosure Committee, and the Scope and Materiality of Revenue Streams

Committee. The main purpose of this meeting was to receive feedback from the two committees.

- d) He informed the meeting that the International EITI Secretariat had recently adopted a new validation model aimed at strengthening the role of the MSG during validation. The new validation model would take into consideration the country's readiness to report on EITI in context of the on-going Covid-19 pandemic and its impact. Uganda's validation was expected to commence in April 2023. The International EITI Secretariat had agreed to provide support to the MSG to prepare for validation through capacity building and technical assistance.
- e) He proposed that a committee be set up to consider whether Uganda needed to have an EITI law or amend the Public Finance Management Act.
- f) There were no reactions to the Chairperson's remarks.

### **MIN 3.0: STATUS UPDATE ON THE UGEITI REPORT – HEAD OF SECRETARIAT**

The status update by the Head of Secretariat is attached to these minutes as Annex A.

#### **Reactions from members**

A member from the Civil Society constituency requested that the Head of Secretariat share her update with the MSG Members, which she agreed to do.

### **MINUTE 4: REVIEW OF MINUTES OF THE 9<sup>TH</sup> MSG MEETING AND MATTERS ARISING**

The Chairperson led the review of the Minutes of the previous meeting, and members made the following amendments:

1. On Page 1 under the Attendance list, Mr. John Kennedy Okewling of the Ministry of Energy and Mineral Development requested that the title 'Engineer' be replaced with 'Mr.'
2. There being no other corrections the minutes were adopted as a true record of the proceedings of the 9<sup>th</sup> MSG meeting.
3. The Chairperson thanked the Secretariat for the well written Minutes and also thanked members who had provided their comments on the Minutes prior to the meeting.
4. The Head of Secretariat guided the meeting through the Action Matrix.
5. A member of civil society requested an update from DGSM in regard to 9.3 (d) in the Action Matrix, since the presidential ban on exportation of unprocessed minerals had an implication on the production figures in the mining sector.

In response, the member from DGSM stated that the matter was under discussion at the Presidential Round Table. He added that he would share the production figures with the Secretariat after the meeting.



## **MINUTE 5.0: FEEDBACK FROM THE CONTRACTS DISCLOSURE COMMITTEE**

The presentation is attached as Annex B.

- 5.1 The presenter concluded that a legal basis existed for the Government to undertake contract disclosure. This EITI Requirement was therefore achievable. The Committee recommended that partial disclosure be adopted by the MSG; where some of the old contracts that were entered into prior to January 2021 could be disclosed in a phased manner subject to and upon obtaining the necessary consent from the Parties to the contracts.

### **5.3 Reactions from members online (via Zoom)**

The following questions were raised in the chat room during the meeting by the members online (via Zoom):

1. A member from Total E&P requested the disclosure committee to clarify on the scope of partial disclosure i.e., what it covered. He also noted that the roadmap on contract disclosure did not include any activity aimed at engaging companies in the discussions, and yet this was vital to coming up with a final position. He further proposed that it was important that the intended cost benefit analysis on contract disclosure focus on how and what to disclose, rather than whether or not to disclose.
2. A representative from the Civil Society constituency commented on the importance of ensuring that relevant contracts were disclosed in the 1<sup>st</sup> EITI Report 2019/20, for credibility and authenticity.
3. A member from the Industry constituency requested for information on the status of contracts and license disclosure in Australia, so as to get a basis for comparison with the Ugandan scenario.

### **5.2 Reactions to the presentation by the Committee on Contracts Disclosure**

- a) The Chairperson thanked the presenter for the detailed presentation and noted the Committee's proposal to partially disclose. However, he urged members to bear in mind that full disclosure was important because that was the level of transparency required by EITI.
- b) A member from DGSM commented that the terms in the contract were different and upon disclosure, the public may not understand the reason for this and therefore there would be need to explain these differences.
- c) The Chairperson responded that the negotiation is done on behalf of the citizens therefore this transparency is for purposes of showing them why there were different terms for different contracts, and if the reasons for the differences were good, then there was no reason why the people should not know these reasons.
- d) A representative from Armour Energy Ltd, stated that some of the companies raise funds from international markets therefore it was

important to consider the concerns of the investors from the international markets. International investors were more interested in jurisdictions with favourable protocols. He also noted that Uganda had in the past lost some major investments due to unfavourable investment climate.

- e) The representative from Armour Energy also noted that capital markets required honest disclosure from both companies and Government.
- f) The MSG Chairperson informed the meeting that there were “Most Favoured Nations Provisions” in Investment Promotion and Protection Agreements that required non-discriminatory treatment for investors in the same field therefore all these issues needed to come out clearly in the Committee’s analysis.
- g) A member from Civil Society constituency proposed that the Committee needed to study the international best practice in the area of contract disclosure. He also noted that whereas the Access to Information Act exempted the disclosure of information that would result in a security threat, the law was not clear on what constituted ‘security threat’. He advised that the MSG should also consider any such legal consequences before making a decision.
- h) The representative from Total E&P Uganda proposed that the roadmap should include an opportunity for company engagement to agree on how and what to disclose.
- i) The member from DGSM clarified that what the Committee meant by partial disclosure was similar to the information provided in the Mining Cadastre such as; who owns the license, where the license is located, the size of the license area, the duration of the license and the commodity under exploration or production.
- j) The member on the Committee from PAU informed members that much as the Standard required the disclosure of contracts entered into after January 2021, the Committee had also considered whether the MSG could do more. The committee established that the Standard required an indication on disclosure, an overview of contracts available and whether the government’s policy on disclosure is backed by a legal framework that has any bottlenecks as far as disclosure is concerned. He said that this informed the Committee’s decision to recommend partial disclosure for the old contracts in the forthcoming UGEITI Report 2019/2020.
- k) He also noted that the MSG must recognize that the Government did not have the funding capacity to invest in the projects and therefore needed to consider interests of the international investors. He mentioned that the confidentiality clauses in these contracts spoke to that understanding hence the recommendation for partial disclosure.
- l) He stated that the new contracts would be negotiated with the knowledge that full disclosure was mandatory under EITI. Disclosure was in citizens’ interests, so that they understood how the contracts were arrived at.
- m) He urged the meeting to appreciate the spirit of the requirement to disclose, and to understand that disclosure provided the opportunity for contract



scrutiny to ensure that the country had negotiated the best possible terms. He noted that disclosure would include divulging information on beneficial ownership which would demystify misperceptions.

- n) A member from Civil Society suggested that the committee avails the members with a benchmark analysis on the disclosure status of other countries so that the members clearly understand the reasons behind the recommendation and make an informed decision.
- o) At this juncture, the Secretariat shared information on the disclosure status of various EITI countries in order to provide the meeting with a snapshot comparison of what other countries were doing.
- p) On reviewing the analysis, the member from CNOOC Uganda Limited requested the Secretariat to research on the rationale behind the countries' decisions to disclose. She stated that these findings would give the MSG a good basis to decide on the disclosure of old contracts.
- q) The member also inquired whether the MSG was neutral as it engaged government agencies in discussing contract disclosure. She presented a scenario where contract disclosure could lead to controversy, causing requests from stakeholders to renegotiate some of the terms because they felt they had been poorly negotiated. This situation could create uncertainty which would impact the investment climate.
- r) The member from Bank of Uganda was of the view that since the Standard only required disclosure of contracts entered into after January 2021, the MSG should only disclose those. In response, the National Coordinator informed the meeting that any amendment to the old contracts after January 2021 would necessitate disclosure of the full contract.
- s) On the Chairperson's request, the member from the Ministry of Justice affirmed that the Solicitor General had undertaken research prior to Uganda joining EITI and established that there was no legal impediment in terms of confidentiality or disclosure of the contracts.

#### **5.4 Way Forward for the Committee**

The meeting agreed that the Disclosure Committee would revert to the MSG with more details in the following areas:

- a) The best form of contract disclosure for Uganda.
- b) The information required to be disclosed.
- c) The format for disclosure to be adopted.
- d) Provide adequate reasons for non-disclosure of the old contracts.

The Chairperson guided that the MSG would take a final position on the matter at the next MSG meeting.

#### **MIN 6.0: FEEDBACK FROM THE REVENUES COMMITTEE**

The presentation is attached as Annex C.

#### **6.1 Reaction from members**

- a) The Chairperson thanked the presenters, and noted that while the presentation was clear on the revenues to report on for the mining sector, this was not the case for the petroleum sector. He advised that the Committee elaborates distinctly what constitutes petroleum revenues.
- b) The MSG Chairperson agreed with the Committee that the issue of categorizing large cement manufacturing companies was a complicated one – whether to report on them as manufacturers or mining companies. He inquired whether the Committee had tried to get the classification used by Uganda Bureau of Statistics (UBOS).
- c) Relatedly, the member from DGSM requested to know the criteria used by the Committee to determine the categorization of companies under manufacturing or mining.
- d) A member from a mining company requested to know whether the Mining and Mineral Bill, 2019 is going to cover refining and downstream processing such as, manufacturing of cement which would help to address this matter.
- e) The observer from Uganda Bureau of Statistics gave clarification on how UBOS classified industrial activities. She informed the meeting that when a particular establishment had a chain of processes to produce a final product and it was involved in all the processes, UBOS followed the International Standard Industrial Classification (ISIC) that demands that you allocate the particular establishment to the activity where it derived the greatest value addition. She informed the meeting that this was as per ISIC Rev.4, which was a United Nations Standard.
- f) The member from PAU asked the observer from UBOS how the magnitude of value addition was determined and she responded that they used monetary means. She added that they also had a formula that helped them compute the value addition, which was:

*Value Addition = Gross Output (Revenue generated) minus the intermediate consumption (input cost).*

- g) The Head of Secretariat requested the observer from UBOS to give a practical example using a local company as an illustration, which she did: Hima Cement Ltd extracts limestone as the first activity. It transports it from the mining area to the factory as the second activity. It then manufactures cement as the third activity. The UBOS official stated that one would have to calculate the value addition at each of the three stages of activities to derive the highest share of value added to the limestone.
- h) The UBOS observer informed the meeting that UBOS does not consider who has the mining license but rather who carries out the actual activity.
- i) The member from PAU suggested that the mining sector borrows from the petroleum sector by clearly defining what mining revenue is in the law just as petroleum revenue is defined in the Public Finance Management Act, 2015. He proposed that the MSG could use the opportunity of commenting



on the draft Mining and Mineral Bill, 2019 to propose a definition for inclusion.

- j) The DGSM Committee representative informed the meeting that URA was working to identify (ring-fence) what the manufacturing companies pay as a result of their mining activities so as to consider only these revenues when computing the extractive sector's contribution. He acknowledged that defining mining revenue in the law would be very helpful.
- k) On the 80/20 rule, the member explained that the Committee had ranked the companies by revenue from the highest revenue contributor to the lowest, and then drawn a line at the point where the total above it added up to 80% of the total revenue collected.
- l) The member from DGSM also stated that the Mining and Mineral Bill 2019 covered aspects of processing and refining unlike the current Mining Act that covers exploration and mining activities only.
- m) The member from the mining sector requested that a UBOS official join the Revenues Committee because of their expertise in statistical analysis.
- n) The MSG Chairperson inquired about the issue of subcontractors in the sector. The Member from URA responded that the Committee had decided to report on the revenues from (primary) sub-contractors that were directly and exclusively providing services to petroleum operations. She stated that these revenues would be reported on but not reconciled.
- o) The Head of Secretariat informed the meeting that the proposals put forward on identifying specific mining revenues from manufacturing revenues were for the future but there was need to decide on reporting modalities for the current reporting period i.e. 2019/2020.

## **6.2 Way Forward**

The meeting agreed that the Committee would do the following:

- i. Develop a flow sheet to demarcate mining revenue activities from manufacturing ones. He advised that UBOS would be able to assist in this, and that additional assistance could be sought from the International Secretariat and other EITI implementing countries.
- ii. Return to the next MSG with conclusive findings so that the MSG is able to take a decision on what revenues to report on, and the materiality threshold.
- iii. Provide the MSG with a dummy report or presentation on actual revenue streams and thresholds.

### **Min 7.0: Presentation by OAG on Cost Recovery**

The Chairperson deferred this item as the presenter from the Office of the Auditor General was unable to attend.

### **Min 8.0: MSG Terms of Reference on Membership**

The presentation is attached as Annex D.

1. As a way forward the meeting agreed as follows;
  - a) To have representation by Artisanal and Small-scale Miners (ASM) and Local Government on the MSG as Permanent Observers.
  - b) Draft letters to the relevant associations requesting for one observer and a proxy for each with recommendations that women be nominated.
2. A member from URA stated that the MSG needed to consider the issue of UGEITI's legal status and its mandate by having an enabling law for EITI.
3. The Chairperson agreed, and members identified colleagues to constitute an MSG Committee on Legal Affairs. The members identified were:
  - i. Gloria T. Akatuhurira – Uganda Revenue Authority (URA).
  - ii. Allen Bucyana – Ministry of Justice and Constitutional Affairs (MoJCA).
  - iii. Sandra Mwesigye – CNOOC Uganda Limited
  - iv. Onesmus Mugenyi – Advocates Coalition for Environment and Development (ACODE).

#### **Min 9.0: Closing remarks**

1. The National Coordinator thanked members for their resourceful deliberations during the meeting. He also thanked members of the MSG Committees and the Secretariat team for their various contributions to steer the advancement of activities in the work plan.
2. The Chairperson thanked members for attending the 10<sup>th</sup> MSG meeting and instructed that the meeting's recommendations on all agenda items be presented at the next MSG meeting.

There being no other business, the meeting was adjourned at 1:59 p.m.



## ACTION MATRIX

| Min No.  | Action Point  | Resp. Inst./Individual                | Timeline              | Action Update  |
|----------|---|---------------------------------------|-----------------------|--|
| 2.0 (3e) | The MSG Committee on Legal Affairs chaired by Gloria Akatuhurira (URA) to convene a meeting at their earliest convenience to consider the development of an EITI Law, or amendment of the PFMA Act (2015) in order to incorporate EITI-enabling legislation.  | Gloria Akatuhurira/<br>Edwin          | After the Field visit | The Committee held its 1 <sup>st</sup> meeting on 8 <sup>th</sup> April 2021. Main deliberations and key next steps to be presented in the 11 <sup>th</sup> MSG meeting. |
| 5.4      | The Disclosure Committee to provide detailed information on the following:<br>a. The best form of contract disclosure for Uganda.<br>b. The information required to be disclosed.<br>c. The format for disclosure to be adopted.<br>d. Provide adequate reasons for non-disclosure of the old contracts.  | Disclosure Committee/<br>Edgar        | Early April           | The Committee met on 15 <sup>th</sup> April 2021. Main deliberations and key next steps to be presented in the 11 <sup>th</sup> MSG.                                     |
| 6.2      | The meeting tasked the Revenue Committee to:<br>a. With assistance from UBOS, develop a flow sheet to differentiate between mining and manufacturing revenues. Further assistance to be sought from the International Secretariat and other EITI implementing countries.<br>b. Return to the next MSG with conclusive findings so that the MSG can take a decision on what revenues to report on and the materiality threshold. | Revenue Committee/<br>Dan Denis/ UBOS |                       | The flow sheet is under development. Main deliberations and key next steps to be presented in the 11 <sup>th</sup> MSG meeting.  |

|     |  |                                     |  |   |
|-----|--|-------------------------------------|--|---|
|     | c. Provide the MSG with a dummy report or presentation on revenue streams and thresholds.  |                                     |  |   |
| 7.0 | Presentation by OAG on Cost Recovery was deferred to another date.   | Office of the Auditor General (OAG) |  | Pending.  |
| 8.0 | The meeting agreed to co-opt representation from Artisanal and Small-scale Miners (ASMs) and Local Government on the MSG as Permanent Observers. | National Secretariat/<br>Gitta      |  | Letter of invitation to ULGA has been drafted and sent out.<br><br>For ASM, the outcome of an ongoing study that will undertake a stakeholder mapping for the sector, will advise on the optimal candidate to approach. |

**Signed:**

**MSG Chairperson:**



**Date:**

03/05/2021

**Secretary/National Coordinator:**



**Date:**

03/05/2024