

EITI Training Workshop
Beira 14th October
Meeting Summary

The meeting was designed to inform the private sector about plans for development of the first EITI report. There follows a brief summary of discussions which followed the presentations made. The powerpoint presentations available from the meeting have been circulated to ACIS members, and are available on request from acis@acismoz.com

PRESENTATION 1

The first presentation given (no power point available) was focused on why Mozambique chose to join EITI, the institutional arrangements for EITI in Mozambique and the work plan. Private sector members of the Multi-Stakeholder Group (MSG) responsible for overseeing the implementation of EITI are Kenmare, Vale, Artumas and Statoil. The MSG is responsible for decision-making about how EITI is to be implemented.

The presentation highlighted that Mozambique has to complete its' candidature for EITI by May 2011, meaning that by that time the first EITI report must be prepared, reviewed and approved by the MSG, an independent validator must be appointed to validate the overall process of the implementation of EITI and must present a report which, along with the annual EITI report for Mozambique will comprise the submission which concludes Mozambique's candidature and results in the country's admission to EITI or not.

Questions and answers arising from the first presentation were:

Q: How will EITI assist in ensuring that the benefits derived from mineral and hydrocarbon exploration are equitably shared among the population, how will it assist in avoiding raised expectations, and given that the taxes paid are received at central level how will these be distributed fairly.

A: Resource-based investments have both direct and indirect benefits. It is the responsibility of the Government to ensure that the resources are used rationally throughout the country. Indirectly investments have a lot of downstream benefits which are not immediately visible such as job creation, and investments along the value chain.

Q: In the case of investment projects with a social component how will this be measured and how is it possible to ensure that resources are fairly distributed when some projects are making social investments in only certain parts of the country.

A: The income generated in Corporate Social Responsibility (CSR) activities will be reflected in the EITI process. It is not yet clear how funds allocated to local communities based on licensing fees received by the government will be distributed.

Q: How does EITI work in other countries and what have been companies' experiences of it as a system.

A: Most companies present did not yet have experience of the process in other places, but speakers indicated that they believed the initiative is important for transparency.

Q: Why is it that in the main only developing countries are signing up to EITI, and not developed countries.

A: Mozambique has raised this question and indeed it is of concern that a perception of developing countries is that they are at greater risk of lack of transparency and therefore should be obliged to engage in initiatives such as EITI

PRESENTATION 2

The second presentation was on the Mozambican fiscal regime illustrating how Mozambique's revenue management framework feeds into the EITI process. A power point is available for this presentation.

Questions and answers arising from this presentation were:

Q: Are there any challenges in respect of collection of revenue by government from the companies?

A: The government finds it difficult to obtain declarations from the companies making it difficult to ensure that all tax is collected. EITI is expected to help with this.

Q: What percentages of tax must each sector pay?

A: Participants were referred to the relevant legislation.

Q: In cases where mining licenses are issued within municipal boundaries and companies are required to pay fees and taxes centrally and at municipal level what is the government's plan to remove this double taxation requirement?

A: Companies should understand the difference between taxes and fees, and must pay what is due to whichever level of government, there is no plan to streamline payments as this would reduce municipal revenue.

Q: The Ministry of Finance seems to have difficulty in presenting accurate figures to MIREM about what has been paid, is there a control mechanism, given that even though MIREM is only responsible for technical oversight of companies it also needs to know that fiscal control is being exerted. Is there a way in which Ministry of Finance can report revenue for extractive industries to MIREM?

A: The Tax Authority has full control of all income and sends monthly reports to MIREM. Both ministries are working together and the Tax Authority now has a mega-projects unit dedicated to working with companies and their line ministries. That department works with INE to gather statistics.

PRESENTATION 3

The third presentation was on the global EITI experience, the rationale behind the initiative, importance of stakeholder engagement, and the way that reporting is expected to work, as well as emerging good practice and challenges. A power point is available of this presentation.

In the experience of the presenter, Mr. Jurgen Reitmaier companies in countries implementing EITI, are generally responsive to the need for the country to be more transparent. He noted that EITI can lead not only to reporting but also to dialogue along the value chain from award of contracts to revenue distribution. He noted that the time remaining for Mozambique to complete its candidature is short and that this would mean the need for an overlap of the EITI reporting process with the process of validating the overall EITI candidature. He noted that not all countries are implementing EITI and that he could not explain why though he noted that the process is voluntary and that a lot of countries in Africa are taking the step of putting themselves forward. He indicated that it was his view that the process would strengthen the private sector's ability to have dialogue with civil society by demonstrating clearly their contribution to the country.

Each country makes its own decisions about joining EITI or not and about how to structure its reporting within the EITI framework. The initiative is gaining ground and the standard is high, not all countries that are candidates are admitted to the initiative. Investors can drive demand for the process, and the overall process can boost perceptions of governance in the country.

Questions and answers arising from this presentation were:

Q: What is the cost-benefit of this initiative, are there not other mechanisms that could be used to adequately control what is going on?

A: There is no cost-benefit analysis for overcoming corruption and the “natural resource curse”. However an independent evaluation of the EITI process is being undertaken to see if it really has brought results. There are other processes such as the Kimberly Process which also offer opportunities to combat corruption, EITI should be seen as an effort to introduce transparency.

Q: Megaprojects have been privileged, but this is changing, how will EITI result in greater control of those projects that came in first and benefitted from the greatest privileges?

A: The country had to give some benefits to attract initial investment. As soon as the country became an attractive investment destination the legislation was altered to standardize contracts and ensure that all companies are treated the same going forwards. New projects by existing investors are subject to the new, standardized legislation (from 2007), and will have to follow those rules in any new investment undertaken. Demand was created through the initial concessions and now, as a result, high benefits can be secured.

Q: EITI seems to only focus on fiscal transparency, is there not a way to look at other areas of company performance?

A: EITI focuses on money rather than on the contents of the original contracts. The MSG can then put the outcomes into perspective, looking at what these payments mean in relation to the scale of the project. The MSG can in theory request reform of tax regimes etc based on the outcomes of reporting, but EITI itself merely focuses on cash revenue. This is usually difficult enough to reconcile, audit and publish. The published information will give rise to a lot of questions which can then be addressed based on having the information available.

There are other sectors that EITI could focus on but it was decided to focus on transparency in revenue as a basis for other questions such as the levels of production giving rise to such revenue.

Q: Are all companies obliged to participate?

A: Those companies chosen by the MSG must participate. The MSG must have a criteria for deciding which companies it includes.

Q: How can the initiative be financed because it is too expensive for Mozambique to pay for alone.

A: There is a trust fund hosted by the World Bank. While there have been delays of up to 2 years with initial disbursement from this fund (as in the case of Mozambique) these problems are expected to fall away meaning that future funding will be available as needed.

PRESENTATION 4

This presentation focused on EITI scope and reporting, looking at the reconciliation and audit process, reporting timeframes and frequency, levels of materiality, aggregation and also the validation process. A power point is available for this presentation.

The presenter explained that a number of parameters have been defined in Mozambique by the MSG, with the decision to focus on mining and petroleum sectors, though this could potentially be expanded to for example forestry, pipelines, fisheries etc. Figures presented to the reconciler must come from audited accounts, and if no audit has been done then the audit must be completed first.

A scoping exercise is undertaken by the MSG to determine which companies are in the process and which are not, and if not explicitly excluded companies should assume that they must report. The Validator examining the first EITI report and process may allow for some exclusions if these can be justified by the MSG, but thereafter all subsequent reports must include reporting by all those above the reporting threshold. If a company refuses to report the MSG must have measures in place to deal with this. The process is mandatory for all those above the reporting threshold. In respect of size of payments to be included, where payments are small they may be left out but any payment of sufficient size to materially distort the outcome of the report must be included.

Sub-national and social payments should be included if they affect the report materially, the aim is to shed light on what is material. Therefore sub-national, social (for example community, district level etc) contributions in cash or kind (e.g. building a school, road, bridge etc) should be included if their estimated or actual value is sufficient to materially affect the report. Community programmes should be included. EITI is due to produce a further policy note on this matter shortly.

Reporting timings are decided by the MSG, the period must be at least annual, and when reporting takes place will depend on availability of audited figures. The purpose of the first report is to get the process right but it should also not be too far out of date. Mozambique has chosen 2008, which is within the two-year rule required by EITI for reporting, which takes into account that the availability of audited figures may require a lead time of 12 months for some companies and government departments.

Guidance is coming from EITI on barter agreements, in general these are considered not to be transparent and should be avoided.

The report is designed to provide broad context as well as specific detail. It should include a non-technical summary, explain revenues listed, list participants and relate the figures to the state budget, and wherever possible outcomes should be displayed graphically to make them more accessible.

Companies are usually required to provide: details of payments by type on a form provided; audit statement; sign off of senior representative; further details if requested by the Reconciler. Where data given does not match government figures companies may be requested to provide copies of receipts, bank statements etc to facilitate the reconciliation process. Companies were referred to the EITI web site for further details.

Questions arising from this presentation were:

Q: How will disaggregation work in Mozambique?

A: Tanzania has opted to disaggregate to a similar level to Mozambique, and they have a MoU with companies to allow them to do this since their legal framework does not allow it. The greater the disaggregation the better it is for people to understand, explanation of

the types of payments is important. People tend not to understand the laws so disaggregation helps with public understanding of the figures published. A list of participating companies including a paragraph about each can also be usefully included, since more information is always better than less.

Q: What level of disaggregation can the Tax Authority provide?

A: The report template is the source for what will be in the report and the highest level of disaggregation is what is found on the report template, which is also something that the Tax Authority can comply with. Usually the whole template is what is put in the report.

PRESENTATION 5

This presentation dealt with practical matters in terms of how information will be gathered and reconciled, how the overall validation of the EITI process in Mozambique will take place, reporting frequency, disaggregation and collection of data. A power point is available of this presentation.

The presenter noted that Mozambique must complete its candidature process by May 2011, including having a first EITI report which has passed through the reconciliation process and been approved by the MSG and published, and having an independent verification of the entire EITI process, also with a report on this approved and published. To date neither the independent Reconciler nor the independent Verifier have been appointed though this should happen shortly.

The process in Mozambique will only be based on companies with organized and audited accounts from the mining and petroleum sectors, covering companies that were in the survey or exploration phases in 2008 – the year to which the report will apply. 23 companies have been selected. If other companies consider themselves eligible they can voluntarily participate. Data gathered will be disaggregated to the level on the report template and presented by company name and type of payment.

Social/community payments are not captured by government and therefore cannot be reconciled however this data will be included as unreconciled information in the report and should be reported under “diversos”.

Reporting will be annual beginning with the first report covering 2008.

Model documents have been developed by the MSG for use in the process and it is these documents that will be presented to the Reconciler. IRPS and withholding tax are deliberately differentiated on the report. Diversos should include all other taxes, fees, donations and community projects in cash or kind, where the value of such things are believed by the company to materially affect the report. Companies must provide a supporting explanation of the items listed under diversos.

Mining and petroleum sectors each have their own forms. The government has its own forms to list what it has received. Any discrepancy between the forms presented to the Reconciler by companies and by government must be reconciled or explained. This is not an audit exercise by government.

The MSG recognizes that there is time pressure and therefore everyone is expected to work together to ensure the report gets produced. Companies will be expected to report by the second week of November.

Questions arising from the presentation were:

Q: What are the timelines for this process?

A: As mentioned previously everything must be complete by May 2011, and companies must report by mid-November. There will be some revision of the forms to be used but these will be distributed to companies with clear instructions and the contact details of the Reconciler to whom the reports must be submitted.

Q: There are some doubts about the model forms, some designations are incorrect in respect of what the items listed will be categorized as by companies and by the Tax Authority.

A: The payment categories are based on counterpart government organization so that the Reconciler can identify where the figures may be found. Diversos will be difficult if not impossible to reconcile but will be reported unreconciled for information purposes. Companies are expected to provide as much information as possible to assist with Reconciliation.

Q: How were companies selected and what if other companies want to join?

A: A process was followed by the MSG to select the companies but other companies which believe they are eligible can join voluntarily.

Q: Internal audit reports may not be comparable, the government should consider requiring that all audits are undertaken on the basis of the same terms of reference for auditors.

A: This is technically and legally not feasible.

Q: Which part of INSS should be reported, the entire 7% or only the employer's part?

A: After much discussion it was agreed that the form would be revised to disaggregate the 3% and 4% payments

Q: Where can companies get help?

A: MIREM's EITI department or the Tax Authority

Q: How will diversos be reported?

A: It was agreed that further clarification was required on the reporting form and that companies should provide as much information as possible for any items listed in this category

Q: If a mistake is noted at reconciliation phase can companies resubmit their figures or is the first submission binding?

A: Corrections take place throughout the process, nothing is definitive and the process does not seek to punish anyone, if mistakes are made that is fine and they can be corrected, the important thing is that there is agreement that the final report contains the truth

The meeting concluded with clarification about the relationship between the EITI process, companies and the Tax Authority which had been the subject of some concern particularly from representatives of MIREM and the Tax Authority during the meeting. It was clarified that the primary relationship in fiscal matters is between companies and the Tax Authority, the EITI process is merely a transparency measure of this relationship. It was reiterated that the process does not seek to punish or "catch out" anyone and that it should be as inclusive and transparent as possible.