

## **Malawi's Extractive Industries Transparency Initiative (MWEITI)**

### **Multi-Stakeholder Group (MSG)**

#### **TERMS OF REFERENCE**

##### **1. Malawi and the Extractive Industries Transparency Initiative**

The purpose of these Terms of Reference is to define the scope, responsibilities and functions of the MSG formed to govern the implementation of the EITI.

The extraction of Malawi's natural resources and its associated revenue should underpin broad-based sustainable growth and socio-economic development of all Malawi's citizens. Greater transparency and accountability must be in place to make this a reality. Recognising this, the government found it fit to commit to the **Extractive Industries Transparency Initiative (EITI) Standard** in 2014. This global standard promotes open and accountable management of natural resources by requiring the full disclosure of taxes and other payments made by companies to governments. This data is reconciled with government receipts and published in a report which is aimed to enhance trust and to stimulate public debate on how the country's resource wealth should be managed.

Malawi's EITI (MWEITI) seeks to introduce and institutionalise transparency and accountability along the extractive industries value chain in accordance with the EITI Standard and Principles. This is expected to be achieved through open dialogue among stakeholders. The ministry responsible for Finance, through the Revenue Policy Division, is coordinating the MWEITI in coalition with other government institutions, civil society organisations and extractive industry companies. The direction, programmes and activities of the MWEITI will be determined by the Multi-Stakeholder Group (MSG). The MSG will be supported by a National Secretariat that will be organised and sustained by national government, housed within the Revenue Policy Division.

##### **2. Role of the MSG**

The MSG will work together in collaboration and cooperation to direct the implementation of EITI in Malawi, ensuring that Malawi meets its objective of gaining candidacy followed by compliance with EITI in a timely and effective manner.

###### **2.1 Responsibilities of the MSG Members**

The MSG is made up of government, industry and civil society representatives. These members shall contribute to the responsibilities and functions of the MSG (2.2) and uphold the principles of engagement (2.3). As MSG members are representative of their constituency, they shall consult regularly and transparently to ensure the views of their constituency continue to be reflected. Each member shall also ensure the full participation of its constituency and communicate updates and results to their

respective constituency and is responsible for assessing and building the capacity of their constituency to understand and engage in the EITI process.

The MSG will be chaired by the designated representative from the Ministry of Finance and Economic Planning and Development who will be responsible for convening the group. In addition, the Chair will be responsible for organising a National Secretariat, which will coordinate the EITI work and organise other related activities as determined by the MSG.

Data on payments made by the industry and on government revenues received and any other relevant information must be received in an accurate and timely manner, at a level of detail to be agreed upon by the MSG. Civil society is placed to monitor these disclosures by the industry and government.

## **2.2 Responsibilities and functions of the MSG**

Issues to be discussed by the MSG shall be limited to those related to EITI, unless otherwise agreed upon by consensus of the MSG.

The Malawi MSG shall be responsible for:

- a) Defining the scope and strategic direction of the EITI process
- b) Developing in consultation, publishing and maintaining a fully costed work plan with measurable targets and timeframe for implementation, reflecting areas where capacity development is required
- c) Overseeing the implementation of the EITI and work plan in line with the EITI Standard
- d) Identifying any legal barriers and regulations that prevent the full implementation of the EITI Standard
- e) Developing a communications protocol to target and tailor communication and building awareness about EITI, its objectives, the experience and gains of other countries and the progress of the EITI implementation in Malawi with different stakeholder groups and the general public
- f) Establishing and supporting any sub-groups to examine or respond to specific issues as the needs arises (e.g. the preparation of reporting templates and contextual information, addressing a breach of the MSG Terms of Reference by an MSG member, contribution to legislation and policy review from the perspective of the EITI)
- g) Developing the Terms of Reference for and endorsing an Independent Administrator to undertake the annual reconciliation and agreeing on the format of Malawi's EITI Report
- h) Developing an annual activity plan
- i) Directing and supervising the National Secretariat (roles to be outlined in a separate Terms of Reference)

## **2.3 Principles of Engagement**

Engagement between government, industry and civil society stakeholders in the MSG will be based on the following principles:

- a) **Openness** – provide an environment where all participants can engage freely and openly
- b) **Transparency** – provide all parties, as well as the general public, timely, access to relevant and verified information/data, subject to the limits set by law and the EITI Openness Policy
- c) **Accountability** – abide by the policies, standards and guidelines of engagement that may be agreed upon, and fulfil commitments
- d) **Integrity** – adhere to moral and professional standards in fulfilling our commitments
- e) **Inclusivity** – freely appoint their own representatives, bearing in mind the desirability of diverse implementation
- f) **Partnership** – cooperate, share responsibilities and uphold mutual respect to ensure that the objectives of the engagement are achieved
- g) **Consultation, Capacity-Building and Empowerment** – enhance knowledge-sharing and continuing dialogue
- h) **Respect for Internal Processes** – not discuss or use outside MSG meetings and activities any confidential information made available at any point during MWEITI which is not already in the public domain; disclose any conflicts of interest to the Chair
- i) **Sustainability** – ensure continuing engagement by instituting progressive policies and operational mechanisms that will promote an environment of mutual trust
- j) **National Interest** – uphold the national welfare above the interests of organisations or individuals
- k) **Channel and Procedures** – All issues and inquiries shall be channelled through the EITI Secretariat

All instances of failure to adhere with these principles will be reviewed by the MSG and may result in exclusion from any further participation in MSG meetings.

### 3. MSG Membership

#### 3.1 Composition of the MSG

The MSG will be composed of the following:

- Four government representatives selected through a process initiated by Government with the support of the National Secretariat. This includes the Ministry of Finance and Economic Planning and Development through the Revenue Policy Division which chairs the MSG and houses the National Secretariat
- Four extractive industry representatives selected through a process initiated by industry through the Chamber of Mines and Energy of Malawi (CMEM) with the support of the National Secretariat
- Four civil society representatives selected through a process initiated by CSOs with the support of the National Secretariat and the Council for Non-Governmental Organisations in Malawi (CONGOMA)

Each organisation shall designate two named representatives for the MSG to ensure the presence of each organisation at MSG meetings and other activities. Only the named representatives are able to attend and vote in the MSG.

All sub-groups will have at least one member from each constituency, be led by an MSG member and may invite outside experts to participate but only with agreement of all MSG sub-group members.

### **3.2 Terms of Membership**

Members of the MSG shall serve for a term of 3 years and may be reappointed; the members of each constituency shall select their MSG members. Each constituency, upon the decision of its members and through its own independent process, can replace their representatives in the MSG at any time following their own governance mechanisms.

The MSG may agree by consensus to change the composition of the MSG, such as, by selecting new members from the extractive industries currently not represented (e.g. oil and gas, timber, fisheries) and the respective government institutions. Government, industry and civil society must always be represented.

### **3.3 Observers and Experts**

The MSG shall welcome observers and experts at each meeting; they will be able to engage in the discussion at the MSG but will not have the right to vote. Observers and experts for each meeting will be nominated by government, industry or civil society representatives at least one week in advance of the relevant meeting through email or other open channel of communication to allow MSG members to see the nominated observers. The Chair will select observers and experts from those put forward considering the sensitivity of the meeting as well as the relevance and expertise of the nominated observer or expert.

Standing observer slots will be allocated to Parliamentary Committees as well as to the EITI International Secretariat.

## **4. MSG Operations and Proceedings**

### **4.1 Frequency and Notice of Meetings**

The Chair will call and preside over the MSG meetings. In the absence of the alternate Chair, the Chair shall delegate an MSG member or alternate to chair the meeting. Notice of meetings and an agenda shall be sent by the National Secretariat at least two weeks before the date of the meeting.

The Multi-Stakeholder Group will meet every three months (quarterly) or more frequently if the need arises on the request by a member and called by the Chair.

#### **4.2 Decision Making**

Fifty percent of the members, with at least one representative from the government, industry and civil society, shall represent the quorum of the MSG. The MSG will, in good faith, make decisions by consensus.

For urgent matters where decision is needed, necessary information shall be circulated through email so that decisions can be made electronically, also by consensus.

The MSG Terms of Reference can be reviewed on a needs basis, by consensus.

#### **4.3 Record Keeping and Communication**

The National Secretariat will keep a central record of documents, events and publicity on EITI with the aim to frequently update a MWEITI website. The National Secretariat shall support the Chair in the documentation and preparation of the minutes of the meetings. The minutes and all supporting documents shall be circulated to the members no later than one week after the meeting. The members will also have one week to send their comments and when comments are not sent, the minutes shall be deemed endorsed. Implementation of the decisions made by the MSG will be reported by the National Secretariat and will be discussed in the subsequent MSG meeting.

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 shall not allocate views to individuals when discussing the MSG outside the meetings and shall 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.