

Contract Transparency Workshop

December 16, Nay Pyi Taw



Photo – MEITI

I. Overview

Since 2012, Myanmar has been implementing Extractive Industries Transparency Initiative and has released four reports, covering oil & gas, mining, gemstones and pearls. As a result of meaningful collaboration between governments departments, civil society organizations and private sector, Myanmar has received “Meaningful Progress” in the validation in 2019. According to the new EITI standards, which was approved in 2019, contract disclosure will be a requirements for all countries implementing EITI. Contracts from oil & gas, mining, gemstones and pearls shall be disclosed by January, 2021.

Contract transparency workshop held on December 16 in Nay Pyi Taw brought together over 60 participants from various government departments, civil society organizations and private sectors (oil & gas, mining).

Objectives

The main objectives of the workshop are

- To increase knowledge of EITI stakeholders on contract transparency and to better understand the new EITI standards on contract transparency,
- To explore and identify potential challenges in implementing the standard and
- To identify preparatory measures before January 2021

II. The first session of the workshop

The workshop was divided into two parts: presentation and group discussion. NRGi led the former session and MEITI office facilitated the later one.

1) Welcome remark by Deputy Minister Dr Ye Myint Swe

The deputy minister of the Ministry of Natural Resources and Environmental Conservation (MoNREC) delivered welcome remark, stressing that Myanmar is now required to disclose contracts from oil & gas, mining, gemstones and pearls in accordance with 2019 EITI standards by January 1, 2021, and the disclosure could lead to better coordination between government departments for tax collection, rigorous oversight by the civil society organizations over the activities of extraction, level-playing field for companies due to greater transparency, and eventually reduction of corruption in the sector. He also mentioned that models contracts (oil & gas, mining, and gemstones) are already available online, and there should be discussion with Office of Attorney General for future contract disclosure. He ended his speech by encouraging the participants to actively participate as the results of the workshop will be implemented to be in line with the new EITI standards.

2) Presentation by NRGi

Maw Htun Aung from Natural Resource Governance Institute (NRGI) explained why Myanmar should disclose the contracts from extractive industries. He compared contract disclosure to implementation of beneficial ownership and the process might even be more or less the same. (BO information is almost set to disclose to the public at the time of presentation) and stressed that government departments including state-owned economic enterprises should be prepared how and when to disclose them in the next 12 months.

He mentioned three reasons to disclose contract from extractive industries. First, contract/agreement functions similar to law and regulations and therefore citizens have the rights to know what is in the contracts. Second, the disclosure will incentivize government and companies to negotiate good deals as it can add ex post accountability, change psychology during negotiations resulting in more durable terms and help balance informational asymmetries between companies and governments. Third, it helps officials do their job more effectively by allowing officials in all departments to know what requirements companies need to comply with (for instance currently, officials in Internal Revenue Department lack access to fiscal terms stipulated in the contract). He then gave examples of public statements on contract disclosure made by different governments and international companies including Total, which operates in Myanmar.

Then, Hosana Chay from NRGi continued the presentation. He emphasized that contract disclosure is becoming a global norm, especially in resource-rich countries, and there are more than 40 countries across the world that has disclosed one or more contracts. He then discussed three common myths surrounding contract disclosure – 1) disclosure harms competitiveness, 2) confidentiality is an international standards, and 3) laws and confidentiality in contracts prohibits the disclosure – and debunked them by providing facts and examples. He then explained the new EITI requirements on contract disclosure in detail, including an requirement to disclose all contracts and licenses that are granted, entered into or amended from 1 January 2021; an encouragement to disclose all contracts and licenses; an requirement for the MSG work plan to outline plans for disclosing contracts; and EITI multi-stakeholder groups to agree and publish a plan for disclosing contracts (a clear timeframe for implementation, addressing any barriers to comprehensive disclosure, integrated into work plans from 2020 onwards). He then explains the steps to take to implement those requirements.

III. The second session of the workshop - group discussion



Photo – MEITI

Groups were split into three based on three different sector (oil & gas, mining, gemstones and pearl) and discussed the following questions 1) *how to implement the new standards*, 2) *identify possible challenges/barriers when implementing*, 3) *explore way to overcome those challenges/barriers*, and 4) *outline timeframe for implementation*.

Summary of group discussion are

1) *how to implement the new standards*

- Will include contract disclosure item in upcoming MEITI workplan sub-committee meeting and discuss in detail how to implement it. Will also do presentation the benefits of contract disclosure to the members of the sub-committee. (in two months)
- Prepare the list of all active licenses and contracts (in two months)
- To post contracts on website in either Myanmar or English language (in next twelve months)

2) *identify possible challenges/barriers when implementing*, 3) *explore way to overcome those challenges/barriers*

- Should address confidentiality in the contracts and legal framework (in six months)
- Presidential decree could be an answer??? (should be discussed at MSG)
- Should conduct wide-spread consultations and awareness raising events with companies, respective departments, CSOs and state/region governments. (in the next twelve months)
- To include contract disclosure in Petroleum Bill (in the next twelve months)
- MSG should decide the extent of disclosure (for instance all documents or just some documents)

IV. Potential next steps

- Work-plan sub-committee to discuss implementation of contract disclosure and then during MSG meeting.
- Conduct another workshop in February or March, 2020.

V. Workshop agenda

Agenda		
08:30 – 09:00	Registration	
09:00 – 09:00	Welcome remark	MoNREC Deputy Minister Dr. Ye Myint Swe
09:10 – 09:40	Photo session and tea break	NCS
09:40 – 09:50	Introduction and Objectives of the workshop	NCS
09:50 – 10:20	Contract Transparency - Why Myanmar Government should disclose oil & gas and mining contracts	NRGI
10:20 – 12:15	Presentation of new EITI standards and explore ways to disclose contracts	NRGI
12:15 – 13:00	Lunch	
13:00 – 13:15	Presentation by DoM on current situation around contract transparency	DoM
13:15 – 15:00	Group discussion and report back	
15:00 – 15:20	Tea break	
15:20 – 16:00	Next steps	NCS

VI. Participant sign-in sheet

Sr	Name	Organization	Title	Govt.
1	Dr. Ye Myint Swe	MONREC	Deputy Minister	Govt.
2	U Khin Latt Gyi	MONREC	DG	Govt.
3	U Aye Mayng Kyi	GAD	Director	Govt.
4	Daw Hla Hla Kyein	OAG	Director	Govt.
5	U Kyaw Thet	DOM	DDG	Govt.
6	U Min Thu	MGE	GM	Govt.
7	U Kyaw Htet Soe	Myanmar Yangtse Copper		Company
8	U Win Tin	Total E&P Myanmar	Head of Contractual & Commercial Support	Company
9	U Myo Zaw Oo	MPRL E&P	Director for Government & Public Affairs	Company
10	Daw Moe Moe Htun	MATA	Steering Committee Member	CSO
11	U Tin Htun Win	DOM	Director	Govt.
12	Daw Swe Zin Phyo	DOM		Govt.
13	U Kyaw Zaw Htun	DOM	Geological Officer	Govt.
14	U Soe Win	DGSE	Director	Govt.
15	Daw Nilar Win Chit	DGSe		Govt.
16	U Htun Htun Wai	FD		Govt.
17	U Nyi Nyi Tun	MTE	GM	Govt.
18	U Hla Moe Aung	MTE		Govt.
19	U Aung Myo Min	MTE		Govt.

20	U Eant Mhuu Naing Kyaw	MTE		Govt.
21	Daw Ni Ni Aung	ME2		Govt.
22	Daw Nay Htet Hlaing	ME2		Govt.
23	U Shwe Win	MGE		Govt.
24	U Tin Win Ko	MPE		Govt.
25	Daw Pan Pa Pa Lin	MPE		Govt.
26	Daw Moe Moe Naing	MPE		Govt.
27	U Win Bo	ME1		Govt.
28	Daw Moe Moe Han	ME1		Govt.
29	Daw Kay Thi	MFTB		Govt.
30	Daw Win Thiri Myaing	MFTB		Govt.
31	Daw Swe Swe Oo	IRD		Govt.
32	Daw Myat Theingi	IRD		Govt.
33	Daw War War Tun	Budget Department	DG	Govt.
34	Daw Thida Tun	Budget Department (SEE)	Director	Govt.
35	Daw Chaw Su Khine	Budget Department		Govt.
36	Daw Yee Yee Khaing	Treasury Department	DDG	Govt.
37	Daw Thin Thin Su	Treasury Department		Govt.
38	U Han Tun Oo	OGPD		Govt.
39	Daw Khin Khin Phyu	UAGO	Dy. Director	Govt.
40	Daw Mya Myint Thein	MOBD	AD	Govt.
41	Daw May Htar Zaw	MOBD	DSO	Govt.
42	U Zaw Lin Oo	Delco ltd		Company
43	U Aung Myint	Delco ltd		Company
44	U Ko Ko Oo	Ngwe Yi Pale Co.Ltd		Company
45	U Hla Htoo	Yadanar Sin Thiri Gems		Company
46	U Khin Maung Aye	Ever Winner Co., Ltd		Company
47	U Si Thu	Myanmar Atlantic Co., Ltd		Company
48	U Soe Thu Aung	Eternal Company Group		Company
49	U Kyaw Zayar Aung	Shwe (NPT)		Company
50	U Maw Htun Aung	NRGI	Country Manager	Technical team
51	Hosana Chay	NRGI	Officer	Technical team
52	Daw Aung Sandar Tun	NRGI	Finance	Technical team
53	Daw Lay Wah Thaw	Panna Institute		Note taker
54	Ri Lonn Thu	Panna Institute		Note taker
55	Daw Hnin Htet Htet Aung	MEITI-NCS	Programme Manager	MEITI-NCS
56	U Htun Paw Oo	MEITI-NCS	Technical Specialist	MEITI-NCS
57	U Kyaw Thin Maung	MEITI-NCS	Programme Assistant	MEITI-NCS
58	U Nay Min Maung	MEITI-NCS	Technical Coordinator	MEITI-NCS
59	Daw Htet Nandar Aung	MEITI-NCS	Senior Communication Officer	MEITI-NCS
60	U Zwe Sithu Aung	MEITI-NCS	BO Coordinator	MEITI-NCS

61	U Hein Htet Soe	MEITI-NCS	Technical Officer	MEITI-NCS
62	U Zin Ko Ko Aung	MEITI-NCS	Communication Officer	MEITI-NCS
63	U Soe Thiha Naing	MEITI-NCS	Admin Officer	MEITI-NCS
64	Daw Lai Lai Win Maw	MEITI-NCS	Finance Officer	MEITI-NCS
65	U Tat Tun Sai	MEITI-NCS	Admin Assistant	MEITI-NCS
66	U Maung Maung Myint Lwin	MEITI-NCS	IT Technician	MEITI-NCS