

MEMORANDUM OF UNDERSTANDING AMONG THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE AND THE ADMINISTRATOR AND MEMBERS OF THE MANAGEMENT COMMITTEE OF THE MULTI-DONOR TRUST FUND FOR EITI IMPLEMENTATION SUPPORT DATED MARCH 27, 2008

1. Introduction

1.1 This Memorandum of Understanding (“Memorandum”) represents a statement of intent by (i) and the Extractive Industries Transparency Initiative, an association established under the laws of the Kingdom of Norway (“EITI”); (ii) the International Bank for Reconstruction and Development (“IBRD”) and the International Development Association (“IDA”, and together with the IBRD, the “Bank”), in their capacity as financial and program administrator (the “Administrator”) of the separate Multi-Donor Trust Fund intended to support country, regional and global activities regarding the EITI (TF053509) (the “MDTF”); and (iii) the Commonwealth of Australia, acting through the Australian Agency for International Development; the Kingdom of Belgium acting through the Federal Public Service Foreign Affairs, Foreign Trade and Development Co-operation; Canada, acting through the Canadian International Development Agency; the European Community, represented by the Commission of the European Communities; the Republic of France, acting through the Ministry of Economy, Finance and Employment and the Ministry of Foreign and European Affairs; the Federal Republic of Germany, acting through the Ministry for Economic Co-operation and Development; the Kingdom of the Netherlands, acting through the Ministry of Foreign Affairs; the Kingdom of Norway acting through the Royal Ministry of Foreign Affairs and the Norwegian Agency for International Development Co-operation; the Kingdom of Spain, acting through the Ministry of Economy and Finance and the Ministry of Foreign Affairs and Cooperation; and the United Kingdom of Great Britain and Northern Ireland, acting through the Department for International Development (“DfID”); (collectively, the “Donors” and each a “Donor”) and the Bank, each in its individual representative capacity as a current member of the Management Committee of the MDTF (the “Management Committee”), (all together the “Parties” and each a “Party”) to work together towards the achievement of common objectives and outline the basis for collaboration among them.

2. Background

2.1 The MDTF was established in 2004 to harness donor resources to develop and support the original Extractive Industries Transparency Initiative partnership housed by DfID. The original MDTF objective was to support the increase in transparency over payments and revenues in the extractive sectors in countries heavily dependent on extractive resources in line with the partnership’s Statement of Principles and Agreed Actions adopted at its first plenary conference in London in June 2003. This partnership subsequently adopted a Statement of Outcomes, including a set of criteria, at its second plenary conference in London in March 2005. The original partnership has been restructured as a separate legal entity, EITI, which continues to follow the originally adopted principles and criteria (the “EITI Principles and Criteria”). The MDTF currently provides financial support to countries seeking to implement, or considering implementation of, the EITI Principles and Criteria and to generally improve extractive industries governance and transparency in countries and through regional and global activities, as further detailed in the MDTF administration agreements entered into between the Administrator and each Donor (the “Administration Agreements”).

2.2 The membership of the Management Committee consists of one senior representative of the Administrator and one senior representative of each Donor who has contributed the equivalent of US\$500,000 or more in the aggregate to the MDTF. The Management Committee is responsible for reviewing and approving the overall work program for use of the MDTF funds (the “MDTF Work Program”) in accordance with the Administration Agreements. The Administrator, among other things, is responsible for preparing the MDTF Work Program in accordance with the Administration Agreements.

2.3 EITI currently has a secretariat (the “EITI Secretariat”) and a board (the “EITI Board”), and anticipates reconvening a plenary conference in 2008 (the “EITI Conference”), as set forth in the Final Statement of Outcomes adopted at the partnership’s third plenary conference in Oslo in October 2006. The EITI Secretariat, among other things, works with national and international partners to ensure that EITI stakeholders have access to political, financial and technical support for EITI activities and provides support to the EITI Board. The EITI Board consists of members that reflect the constituencies that support EITI and an independent chair (“Board Chair”). The EITI Board, among other things, oversees the operation of EITI and oversees and directs the work of the EITI Secretariat. The EITI Board has responsibility for the overall development, strategic direction, and credibility of EITI, as well as for outreach and advocacy, and is responsible for the validation process of the EITI implementing countries as set forth in EITI’s Validation Guide.

3. Common Objective

3.1 Consistent with their respective roles and mandates, the Parties have a common objective in cooperating to carry out activities conducive to achieving the EITI Principles and Criteria. If EITI alters its principles and criteria over time, the EITI Secretariat and the Administrator may agree to propose a modification to or replacement of the EITI Principles and Criteria for purposes of this Memorandum and the Administration Agreements; provided, however, that such change will not become operative as to this Memorandum and the Administration Agreements until the Management Committee ratifies such modified or replaced terms in accordance with the governance terms specified in the Administration Agreements.

3.2 While the Parties recognize their common objective, they recognize their different roles and mandates. EITI is a separate legal entity, of which the MDTF is not a part and for which the Management Committee is not a sub-committee of the Board. The Parties acknowledge that (i) EITI’s perspective will be consistent with its role in validating candidate countries that have signed up to implement the EITI Principles and Criteria and in promoting implementation of the EITI Principles and Criteria, and (ii) the Management Committee’s perspective will be consistent with (a) the Donor’s strategic goals regarding governance and transparency with respect to extractive industries, and (b) the Bank’s position with respect to Bank country assistance strategies, its general responsibility to its member countries, and its financial responsibility as Administrator. In addition, the Parties acknowledge that the Administrator and EITI Secretariat have separate functions and represent different bodies within different management and administrative contexts. This Memorandum provides a framework within which the Parties may develop and undertake collaborative activities in the context of their different roles and perspectives. The Parties intend to consider each other’s views and recommendations in implementing the activities contemplated herein.

4. Implementation

4.1 The process for the preparation (by the Administrator) and approval (by the Management Committee) of the MDTF Work Program, which is expected to be reviewed and updated on a regular basis, will continue in line with the Administration Agreements. In addition, there will be discussions by the Administrator with the EITI Secretariat, on behalf of the EITI Board, in advance of each Work Planning Meeting (as defined in the Administration Agreements) on the progress of and planning for the MDTF Work Program. The Management Committee and Administrator will take note of decisions made by the EITI Board and Secretariat. All decisions regarding the MDTF Work Program and allocation of MDTF resources will remain with the Management Committee and Administrator.

4.2 With respect to country level activities, the Administrator and EITI Secretariat agree to exchange information regarding their respective country engagements to the extent useful to collaborate and coordinate their respective activities. The MDTF Work Program is expected to be the principal source of implementation support for countries seeking to follow EITI Principles and Criteria. The EITI Secretariat is expected to be responsible for country interactions specifically related to EITI validation.

4.3 The Administrator, on behalf of the Management Committee, and the EITI Secretariat, on behalf of EITI, will endeavor to produce a jointly prepared, annual consolidated financial picture of the MDTF's and EITI's respective costs and expenditures, the format and contents of which are to be jointly agreed between the Administrator and the EITI Secretariat (the "Consolidated MDTF / EITI Financial Summary"). The Parties intend for (i) finances for the MDTF to be kept separate from finances for EITI; and (ii) the Consolidated MDTF / EITI Financial Summary to assist in maintaining such separation. In preparing the Consolidated MDTF / EITI Financial Summary, the Administrator and EITI Secretariat may also reflect and take into account third-party funding for related activities, including to address funding gaps or post-MDTF funding, to the extent such information is readily available.

4.4 The Parties intend to consult regularly on matters of strategic importance regarding their activities to further the EITI Principles and Criteria.

4.5 The Parties intend to manage any difference in views through appropriate consultations, it being understood that differing mandates and perspectives may result in differing approaches and implementation but that communication and collaboration may facilitate alignment of interests and views.

5. Key Points of Contact

5.1 The Administrator and the EITI Secretariat hereby designate and appoint below their respective representative to receive communications in connection with the activities contemplated hereunder, it being understood that the Administrator will have a coordinating role with respect to the Donors under this Memorandum:

For the Administrator:

Anwar B. Ravat
Program Manager
COCCPO
The World Bank
1818 H Street, N.W.
Washington, DC 20433, USA
Phone: +1 202 473 2028
Fax: +1 202 522 0395
Email: aravat@worldbank.org

For the EITI Secretariat:

Jonas Moberg
Head of the EITI Secretariat
EITI Secretariat
Ruselokkveien 26
0251 Oslo, Norway
Phone: +47 22 24 21 10
Fax: +47 22 24 21 15
Email: jmoberg@eitransparency.org

6. Limits to Agreement

6.1 This Memorandum is a non-binding statement of intent among the Parties and does not create any obligations on the part of any Party or constitute an agreement or commitment by any Party to enter into or provide support for any specific activity, project or plan or otherwise.

6.2 Nothing in this Memorandum will be considered an amendment to the Administration Agreements. In the event of conflict, the terms of the Administration Agreements will prevail.

6.3 This Memorandum is an administrative arrangement among the Parties. Nothing in this Memorandum will be construed as creating a joint venture, an agency relationship, a legal partnership, or an international treaty among the Parties.

6.4 Nothing in this Memorandum is intended to be, or should be construed as a waiver of any privileges and immunities of the Parties or their officers and employees, which privileges and immunities are hereby specifically reserved.

7. Disclosure and Publicity

7.1 This Memorandum may be disclosed to the public together with information regarding activities and projects contemplated herein. Nothing in this Memorandum limits the disclosure of any information, including the names of the Parties, if required by domestic laws and regulations. No Party may refer to collaboration with the other Parties hereunder except as agreed in writing with the affected Parties (other than informal, verbal communications). Publications by any of the Parties may acknowledge the collaboration of the Parties, provided the text is jointly formulated by the Parties. No activity, and no work created by any activity, undertaken in connection with this Memorandum may be used for commercial purposes or advantage.

7.2 Any sharing of information by one Party with any of the other Parties will be subject to the first Party's policies and procedures relating to the disclosure of information. Confidential information of the one Party will be handled by the other Parties with no lesser standard of care than each of them would use in handling its own confidential information.

7.3 Any official correspondence, published report, press release, publicity, or similar communication in which one Party mentions the other Party's name should not be sent, released or made without the prior consent of the other Party. Descriptive references in internal documents may not need prior consent, but each Party should use due care in confirming uses of the other Party's name where the other Party may have an expectation or interest in confirming such use.

8. Intellectual Property

8.1 The Parties recognize the importance of protecting and respecting intellectual property rights. This Memorandum does not grant on the part of any Party the right to use materials belonging to, or created by, any other Party. Any intellectual property rights arising in any work created by the Parties' collaborative activities undertaken pursuant to this Memorandum will belong to jointly to all the Parties.

9. Term, Termination and Modification

9.1 This Memorandum will come into force and effect upon signature by all Parties on the date set forth below and will continue in effect until (i) termination of the MDTF or (ii) the conclusion of the fifth plenary conference of EITI, prospectively anticipated to take place in 2010, whichever comes first.

9.2 At the end of the initial term of this Memorandum, a joint assessment by all Parties will be carried out to review the results and lessons learned from their collaborative activities. The views of other stakeholders on the nature and progress of activities or projects may be obtained by the Parties in connection therewith.

9.3 This Memorandum may be modified or terminated at any time by mutual written agreement of all the Parties. Further, any Party's participation in this Memorandum may be terminated at its sole discretion with 60 days prior notice in writing to the EITI Secretariat and the Administrator; provided that if the Bank or the EITI Board terminates its participation, this Memorandum will also terminate as to all Parties.

10. Miscellaneous

10.1 The section headings in this Memorandum are for convenience only and are not intended, and will not be construed, to alter, limit, or enlarge in any way the scope or meaning of the language contained in this Memorandum.

10.2 This Memorandum will supersede any previous intentions or agreements communicated and agreed upon among the Parties in respect of the subject matter addressed and collaborative activities contemplated herein, except for the Administration Agreements, which will not be altered by this Memorandum.

10.3 The person signing this Memorandum on behalf of each Party hereby represents and warrants to the other Parties that he or she has the requisite legal power and authority to execute this Memorandum on behalf of his or her Party and bind that Party to the obligations herein.

10.4 It is anticipated that any member becoming a new contributor to the MDTF and joining the Management Committee during the term of this Memorandum will agree to the terms of this Memorandum by incorporation of its terms into that member's administration agreement for the MDTF with the Administrator and will thereafter be considered a Party to this Memorandum.

In witness whereof, the Parties have caused this Memorandum to become effective as of March 27, 2008.

EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

By: _____
Name: _____
Title: _____

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

By: _____
Name: _____
Title: _____

COMMONWEALTH OF AUSTRALIA
ACTING THROUGH THE AUSTRALIAN AGENCY FOR INTERNATIONAL DEVELOPMENT

By: _____
Name: _____
Title: _____

KINGDOM OF BELGIUM
ACTING THROUGH THE FEDERAL PUBLIC SERVICE FOREIGN AFFAIRS, FOREIGN TRADE
AND DEVELOPMENT CO-OPERATION

By: _____
Name: _____
Title: _____

CANADA
ACTING THROUGH THE CANADIAN INTERNATIONAL DEVELOPMENT AGENCY

By: _____
Name: _____
Title: _____

EUROPEAN COMMUNITY, REPRESENTED BY THE COMMISSION OF THE EUROPEAN
COMMUNITIES

By: _____
Name: _____
Title: _____

REPUBLIC OF FRANCE

ACTING THROUGH THE MINISTRY OF ECONOMY, FINANCE AND EMPLOYMENT

By: _____
Name: _____
Title: _____

ACTING THROUGH THE MINISTRY OF FOREIGN AND EUROPEAN AFFAIRS

By: _____
Name: _____
Title: _____

FEDERAL REPUBLIC OF GERMANY
ACTING THROUGH THE MINISTRY OF ECONOMIC CO-OPERATION AND DEVELOPMENT

By: _____
Name: _____
Title: _____

KINGDOM OF THE NETHERLANDS
ACTING THROUGH THE MINISTRY OF FOREIGN AFFAIRS

By: _____
Name: _____
Title: _____

KINGDOM OF NORWAY

ACTING THROUGH THE ROYAL MINISTRY OF FOREIGN AFFAIRS

By: _____
Name: _____
Title: _____

ACTING THROUGH THE NORWEGIAN AGENCY FOR INTERNATIONAL
DEVELOPMENT CO-OPERATION

By: _____
Name: _____
Title: _____

THE KINGDOM OF SPAIN

ACTING THROUGH THE MINISTRY OF ECONOMY AND FINANCE

By: _____
Name: _____
Title: _____

ACTING THROUGH THE MINISTRY OF FOREIGN AFFAIRS AND COOPERATION

By: _____
Name: _____
Title: _____

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
ACTING THROUGH THE DEPARTMENT FOR INTERNATIONAL DEVELOPMENT

By: _____
Name: _____
Title: _____