

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE  
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING  
DECEMBER 15-16, 2015**

**SUMMARY OF PROCEEDINGS**

**U.S. DEPARTMENT OF THE INTERIOR  
PREPARED: DECEMBER 2015**

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**I. Introduction**

The U.S. Department of the Interior (DOI), with Kris Sarri presiding as Designated Federal Official (DFO) and Paul Mussenden presiding as acting DFO, convened the sixteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on December 15-16, 2015 in Washington, DC. The purpose of the meeting was to review and endorse the 2015 USEITI Report; reflect on areas of strength and areas for improvement in the USEITI process; and plan for 2016, including discussion of the Security and Exchange Commission’s 1504 Regulations, approach for corporate income tax reporting, and outreach to states and tribes for participation in USEITI.

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## II. Summary of Endorsements, Decisions, Approvals, and Action Items

### A. Endorsements

- The MSG endorsed the 2015 USEITI Report. *(see page 11)*

### B. Decisions

- The MSG provisionally approved the 2016 Work Plan with approval of final changes to the Work Plan to be made by the Co-Chairs. *(see page 9)*

### C. Approvals

- The MSG approved the September 2015 MSG meeting summary. *(see page 7)*

### D. Confirmations

- No confirmations were made by the MSG at the December MSG meeting.

### E. Action Items

#### ➤ Co-Chairs:

- Review and distribute meeting summary from December 2015 MSG meeting.
- Develop agenda for January 2016 conference call and for March 2016 MSG meeting.
- Ms. Danielle Brian to nominate two new CSO sector members for the Communications Subcommittee. *(see page 28)*

#### ➤ USEITI Secretariat:

- Investigate the timeline by which companies would be required to report their corporate income tax payments once Section 1504 rules are finalized. *(see page 25)*
- With CSO assistance, explore finding a representative of the forestry sector to serve as a MSG member. *(see page 19)*

#### ➤ Implementation Subcommittee:

- Provide comment and ideas regarding IA's proposed statistical sampling approach to reconciliation. *(see Implementation Subcommittee section on page 25)*
- If the IA determines that a statistical sampling approach to reconciliation could be validated, the Implementation Subcommittee hones and details recommendations to the full MSG. *(see Implementation Subcommittee section on page 25)*
- Explore project level reporting issue, including 2014 work group recommendations, the EITI International Standard, and ONRR unilateral disclosure in 2016 based on SEC project definition/regulations. *(see Implementation Subcommittee section on page 25)*

- Explore voluntary reporting/participation in EITI for companies not included in materiality definition. *(see Implementation Subcommittee section on page 25)*
- Develop recommendations around margins of variance, revenue streams, and reporting template (including possible voluntary reporting of project level data). *(see Implementation Subcommittee section on page 25)*
- **Tax Reporting Workgroup**
  - Hone rationales/leverage to companies for why to report income tax payments in 2016. *(see Implementation Subcommittee section on page 25)*
  - Explore via IA/trade associations rationales and experiences for companies that did report income tax payments in 2015. *(see Implementation Subcommittee section on page 25)*
  - Recognize companies that reported income tax payments in 2015. *(see Implementation Subcommittee section on page 25)*
  - Develop strategies for increasing tax reporting in 2016 (e.g. webinars with participating countries, direct outreach by IA). *(see Implementation Subcommittee section on page 25)*
  - Set joint expectations for effort and outcomes for sectors on the MSG (i.e. what would success look like in 2016?). *(see Implementation Subcommittee section on page 25)*
  - Explore implications for SEC 1504 regulations for corporate income tax reporting in 2017 and beyond (*note*: consider that SEC rule will not compel any privately held, non-pass through companies within the materiality threshold to report taxes). *(see Implementation Subcommittee section on page 25)*
- **Online Report Workgroup**
  - Work with 18F and the IA to develop and review quarterly updates to the contextual narrative portions of the online report. *(see Implementation Subcommittee section on page 25)*
- **Ms. Susan Ginsberg**
  - Reach out to IPAA members who participated in income tax reporting in 2015 to learn more about their decision-making and experience with reporting. *(see page 24)*
- **Mr. Dan Dudis**
  - Explore alternate methods of calculating materiality of payments that would better account for payments to both DOI and the IRS. *(see page 19)*
- **Mr. Keith Romig**
  - Explore which additional hard rock minerals could be included in the scope of the 2016 Report and prepare a proposal for the Implementation Subcommittee's consideration. *(see page 19)*
- **State and Tribal Opt-In Subcommittee**

- Explore a pilot opt-in process with one or more states and tribes and propose a plan for state and tribal opt-in at the March 2016 MSG meeting. *(see page 27)*
- **Communications Subcommittee**
  - Develop an outreach plan for 2016 and present this to the MSG at the March MSG meeting. *(see page 28)*
- **Independent Administrator (Deloitte)**
  - Develop options and proposal for using a statistical sampling approach to fulfill the EITI Standard’s reconciliation requirement at the 80 percent-of-revenues threshold. *(see Implementation Subcommittee section on page 25)*
  - Explore with International Secretariat if proposed sampling approach to reconciliation is potentially validatable. *(see Implementation Subcommittee section on page 25)*
- **USEITI Process Facilitator (Consensus Building Institute)**
  - Create a meeting summary for the December 2015 MSG meeting.

### III. Presentations and Key Discussions

Ms. Kris Sarri, Principle Deputy Assistant Secretary, Policy, Management, and Budget at the U.S. Department of the Interior (DOI) and DFO for the USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 29.

#### A. Opening Remarks

Ms. Veronika Kohler, National Mining Association and industry sector MSG co-chair, expressed appreciation for the continuing commitment and support of MSG members, Kris Sarri, and other members of the government team who have supported the USEITI process and the publication of the 2015 USEITI Report. Ms. Danielle Brian, Project on Government Oversight and civil society sector MSG co-chair, read aloud the following statement from Betsy Taylor, a civil society sector alternate member, who did not attend the MSG meeting:

*The 2015 USEITI Report gives the American people something new – a platform from which to get a clear, comprehensive view of public revenues from extractive industries. There is nothing else like this. Given the decentralization and complexity of governance and industry in the U.S., this is a major achievement.*

*If we stare closely at any one plank in this platform, we can see flaws and more work to do. But, if we look at the whole USEITI platform, we can see what a strong foundation it can become. In this season of gift giving, let us celebrate that we have been able to give the American people a new gift. May this new*

*national platform provide the American people with a foundation for ever more inclusive conversations based on facts and core national values.*

Ms. Kris Sarri introduced herself and congratulated the group for being at the cusp of a major milestone in endorsing the 2015 USEITI Report. She recognized MSG members for their high level of collaborative decision-making and their ability to meet the ambitious targets they set for themselves as a service to their constituencies, the Department of the Interior, and ultimately the country as a whole as it relates to the US commitment to pursue robust implementation of the EITI global standard. Ms. Sarri stated that her many conversations with Mr. Mussenden and with Mr. Greg Gould, Office of Natural Resource Revenues and government sector MSG co-chair, made clear to her the very significant effort, expertise, and best thinking that the USEITI team made to complete the 2015 Report.

Ms. Sarri indicated that the Report is both an enormous milestone for extractive revenue data transparency in the United States and, because the world look to the U.S. for its leadership, a milestone for the entire world as well. She reaffirmed the United States Government's ongoing commitment to EITI as a key component of US global leadership in pursuing its Open Government, good governance, and improved civic participation objectives as well as its efforts to continuously improve how the Department of the Interior manages, accounts for, and talks about natural resources revenue. Ms. Sarri thanked Paul Mussenden, Greg Gould, Veronika Kohler, and Danielle Brian for their leadership as well as the unsung work by staff members to produce the 2015 Report.

## **B. USEITI MSG Business**

The MSG conducted the following items of business during the course of the MSG meeting.

### **1. Terminology and USEITI September 2015 Meeting Summary**

Mr. Paul Mussenden reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

In addition, Mr. Mussenden introduced a new decision-making term, “endorsement,” as specified in Requirement 5.4 of the EITI Standard. The MSG approved the meeting summary of the September 2015 MSG Meeting without additional comment or edit. A copy of the final, approved meeting summary is available at [https://www.doi.gov/sites/doi.gov/files/uploads/Sept%202015%20Meeting%20Summary\\_11-25-15.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/Sept%202015%20Meeting%20Summary_11-25-15.pdf).

- **Approval: The MSG approved the meeting summary from the September 2015 USEITI MSG meeting.**

## **2. Briefing on Implementing Countries**

Mr. Paul Mussenden provided a briefing on implementation among EITI countries, noting that key topics of discussion at the international EITI Board meeting in Bern, Switzerland in October included issues such as how to make the validation system best fit the EITI Standard, how to encourage countries to embed disclosure better into their systems rather than through a parallel EITI process, and how the EITI can govern itself better. Towards this last topic, the US volunteered to serve on a new working group that will be proposing recommendations to improve EITI's governance at the EITI Global Conference in Lima in February 2016.

## **3. Membership Updates**

Ms. Judy Wilson, ONRR and USEITI Secretariat, explained that many MSG members would be reappointed to the FACA committee advising the Secretary of the Interior on EITI implementation when their terms of appointment expire on December 21, 2015. She also noted the number of primary and alternate members from each sector up for reappointment. A nomination period that is currently open will close on December 31, 2015.

Mr. Paul Mussenden and Mr. Greg Gould reported on the following membership changes to the MSG:

- Cartan Sumner, Peabody Energy, joined the MSG as a primary member from the industry sector
- Nicholas Welch, Noble Energy, joined the MSG as an alternate member from the industry sector
- Edwin Mongan, BHP Billiton, joined the MSG as an alternate member from the industry sector
- Stella Alvarado, Anadarko Petroleum, joined the MSG as an alternate member from the industry sector
- Julie Lenoir, Blackfeet Tribe, joined the MSG as an alternate member from the government sector
- Bruce Barnett, Choctaw Nation, joined the MSG as an alternate member from the government sector
- Greg Conrad, Interstate Mining Compact Commission, resigned from the MSG
- Jim Roman, ConocoPhillips, resigned from the MSG
- John Sardar, Noble Energy, resigned from the MSG
- Deborah Lawrence, Energy Policy Forum, resigned from the MSG
- David Goldwyn, Goldwyn Global Strategies, is resigning from the MSG.

MSG members thanked resigning members and staff for their service, including Mr. Ryan Ellis from the Interstate Mining Compact Commission. The group showed appreciation for Ryan's hard work and dedication to the effort.

#### 4. Session with Ambassador Warlick

Ms. Kris Sarri introduced Ambassador Mary Warlick, Principal Deputy Assistant Secretary of State for the Bureau of Energy Resources. In that role, Ambassador Warlick serves as an alternate member of the EITI International Board. Mr. Paul Mussenden added that Ambassador Warlick serves on the Implementation Committee, the Nominations Committee, and the Outreach and Candidature Committee of the EITI Board and that it serves USEITI well to have her so involved with the International Board.

Ambassador Warlick opened by congratulating the MSG on its accomplishment of completing and endorsing its first report. She proceeded to review the topics of discussion at the recently concluded EITI Board Meeting in Kiev, Ukraine, on December 9 and 10, and highlighted a couple of issues of particular interest to the USEITI MSG. She noted that the Board took up the issue of beneficial ownership at the Kiev meeting as a potential change to the EITI Standard and, after deliberations, reached consensus around recommending that countries maintain a publicly available register of beneficial owners, that the EITI report from each country document the country's policies around beneficial ownership, and that MSGs develop a roadmap for publishing beneficial ownership in their reports. She added that proposed changes to the EITI Standard have been very vigorously discussed, with a lot of sensitivity among implementing countries about making the Standard more rigorous.

Mr. Mussenden added that the Board is discussing the option of keeping the current "pass/fail" standard in place but also providing additional detail about countries' progress towards validation as a reflection of how difficult it is for many countries to meet the standard. He also noted that many implementing countries would push for clarity about the state of the standard and how it applies to validating their reports if there were to be refinements made to the standard. Ambassador Warlick added that the Board is considering the fairness to implementing countries of refining the standard at this time.

Ambassador Warlick also touched on a number of governance-related issues:

- Strengthening oversight of the secretariat
- The relationship between the board and the secretariat
- Term limits on board seats (Ambassador Warlick volunteered that she thinks that term limits should be implemented)
- A minimum funding model for the secretariat in order to ensure the sustainability of EITI
- The distribution of board seats (with an agreement reached in Kiev that each implementing country would receive one board seat)
- Selection of a new board chair to replace Claire Short (the former Prime Minister of Sweden was selected by the Nominations Committee).

Ambassador Warlick volunteered to be available to the USEITI MSG and noted that her ongoing communication with Mr. Mussenden and Mr. Gould had been very helpful.

In response to Ambassador Warlick's comments, Mr. Aaron Padilla suggested that it could be beneficial to the USEITI effort towards validation if Ambassador Warlick and her staff could be more involved with the MSG process in 2016 so that she can advocate for the US candidacy with her fellow board members. In response, Ambassador Warlick said that she and her staff would be happy to participate in MSG meetings to the extent that they are in Washington during the meetings. She also said that her office is in the process of hiring a staff member who would be dedicated to EITI.

## 5. 2016 Work Plan

Mr. Chris Mentasti, Office of Natural Resources Revenue, explained that the Work Plan Work Group had incorporated input from the MSG to the 2016 Work Plan, which he had previously presented at the September 2015 MSG meeting. In response to a suggestion from MSG members that additional decisions made at the present, December 2015 MSG meeting would need to be included in the Work Plan, the MSG decided to approve the 2016 Work Plan with approval of final changes to be made by the Co-Chairs.

The narrative of the draft 2016 Workplan is available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/WORKPLAN%202016%20Draft%20Subcommittee%20Approved%2011202015.pdf>, and the 2016 USEITI Workplan Spreadsheet is available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/WORKPLAN%20Subcommittee%20Approved%2011202015.pdf>.

- **Decision: The MSG approves the 2016 Work Plan with approval of final changes to the Work Plan to be made by the Co-Chairs.**

## C. Review and Endorsement of the 2015 USEITI Report

The MSG received overviews of both the Executive Summary and the Online components of the 2015 USEITI Report before considering whether to endorse the Report.

Mr. Patrick Field, Consensus Building Institute and MSG process facilitator, reviewed Requirement 5.4 of the EITI Standard, which states that the MSG should endorse the report prior to publication, and reviewed the MSG's decision-making protocol, according to which decisions are made by consensus.

### 1. Overview of the Executive Summary of the 2015 USEITI Report

Ms. Isabelle Brantley, Deloitte and member of the USEITI Independent Administrator team, introduced the Executive Summary and thanked various MSG members and staff members who contributed to the creation of the Executive Summary.

Mr. Keith Romig, United Steelworkers and chairperson of the Report Work Group, presented an overview of the contextual narrative components of the Executive Summary. He noted that, because of the vast diversity of the US extractives sector, the USEITI contextual narrative covers more commodities than almost any other EITI country's report, and that some of the information in the contextual narrative portions of the Executive Summary and the Online Report go beyond requirements in the EITI Standard. He thanked various parties, including members of the Report Work Group, members of the Independent Administrator team, and the Co-Chairs, for their hard work and contributions towards the contextual narrative. Finally, Mr. Romig reviewed key components of the contextual narrative, which are summarized in his slides, available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Contextual%20Narrative%20Presentation.pdf>.

Following Mr. Romig's presentation, Mr. John Mennel, Deloitte and member of the USEITI Independent Administrator team, explained that the Executive Summary also includes a "revenue appendix" that contains information about revenues paid by the extractives industries to the US Government and that this same information is available in greater detail and with enhanced usability in the Online Report. Mr. Mennel also reported that there has been a change to the tally of companies reporting corporate income tax payments, with Statoil reporting its corporate income tax payments. As a result, the final tally for the 2015 USEITI Report is that 31 companies are reporting DOI revenues and 12 companies are reporting corporate income tax payments.

## **2. Overview of the Online Presence of the 2015 USEITI Report**

Ms. Michelle Hertzfeld, GSA 18F, introduced herself and her colleague Eric Ronne. Ms. Hertzfeld reviewed the archetypal "users" around which 18F designed the USEITI Online Report and Mr. Ronne explained some of the key design decisions that 18F made in creating the Online Report. Their presentation slides are available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/USEITI-Launch-Deck.pdf>.

Ms. Hertzfeld also provided a demo of the Online Presence of the 2015 USEITI Report, available at: <https://useiti.doi.gov/>. In addition to walking through the different areas of the website, she noted that the website is designed for usability across platforms and devices. She also explained that 18F continues to collect user feedback on the website, and intends to conduct phone interviews with interested users for additional feedback.

In response to Ms. Hertzfeld's and Mr. Ronne's presentation, MSG members made the following comments; *responses from Ms. Hertzfeld are indicated in italics*:

- Multiple MSG members expressed appreciation for the quality of the website and the efforts of 18F and others for putting together the Online Report. For example:

- Mr. Greg Gould noted that the Department of the Interior has been trying to compile production information for different extractive commodities in one place for years, which the Online Report had finally accomplished. Mr. Paul Mussenden added that USEITI presents data from the entire value chain of the extractives industries by pulling in data from all of DOI's Bureaus.
- Ms. Danielle Brian noted that a major task in creating the Online Report was problem-solving difficult issues, such as moving from a vision of having one map that displayed all information to having separate maps for production and revenues.
- Mr. John Harrington, ExxonMobil, highlighted that the Online Report is being supported by the EITI International Board and predicted that the USEITI online report will become an international standard.
- Ms. Veronica Slajer, Northstar Group, requested that Alaska's location on the maps on the website be preferably shown to the northwest of the continental US (not the Gulf of Mexico) and said that, when she searches for the USEITI Online Report on her phone, that she is directed to the old DOI Online Data Portal. *Ms. Hertzfeld responded that she would help find the correct website and that 18F would continue to troubleshoot issues as they arise.*

### 3. Endorsement of the 2015 USEITI Report

Ms. Kris Sarri asked if there were any comments or objections to endorsing the USEITI 2015 Report. Hearing no objections, as the DFO, she accepted the MSG's endorsement of the Report.

- **Endorsement: The MSG endorsed the 2015 USEITI Report.**

#### D. Outreach Activities for the 2015 USEITI Report

Mr. Jerry Gidner, ONRR, provided an update on outreach and communications activities conducted and planned around the release of the 2015 USEITI Report. He reported that the Communications Subcommittee has disseminated emails announcing the release of the 2015 Report to a list of approximately 800 contacts, including tribes, academics, members of the public who have expressed interest in USEITI, and ONRR's list of payors. In addition, DOI issued a press release on December 15 and there is ongoing social media activity. Additional details can be found in Mr. Gidner's presentation slides, available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Communications.pptx%20%281%29.pdf>.

In response to Mr. Gidner's presentation, MSG members made the following comments:

- Ms. Danielle Brian and Mr. Greg Gould both emphasized the importance of conducting outreach, engaging with stakeholders, and receiving feedback about the 2015 Report. Mr. Gould emphasized the importance of the 2016 Report being responsive to stakeholder feedback. Ms. Brian suggested that the MSG

could hold joint meetings with the State and Tribal Opt-in Subcommittee in locations around the country in order to solicit greater stakeholder interest in USEITI.

- Mr. John Harrington added that the World Bank Community of Practice might be interested in learning more about the US effort and process for creating its Online Report.

#### **E. Update and Background on EITI-Relevant SEC 1504 Regulations**

Mr. Jerry Gidner gave a presentation about the Security and Exchange Commission’s (SEC) recent release of a proposed rule for Section 1504 of the Dodd-Frank Act. He reviewed the history and timeline of rulemaking under Section 1504, provided a summary of the Department of the Interior’s comments to the SEC about the latter’s rulemaking process under Section 1504, and provided a high-level summary of the SEC’s Proposed Rule, which was released just days before the MSG meeting. Additional details can be found in Mr. Gidner’s presentation slides, available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Dodd%20Frank%20Presentation.pdf>.

In response to Mr. Gidner’s presentation, MSG members made the following comments:

- Mr. Paul Bugala, George Washington University, noted that the term “substantially similar” has a defined regulatory meaning.
- Ms. Zorka Milin, Global Witness, clarified that the scope of 1504 is much broader than the scope of USEITI. As a result, companies that extract internationally as well as domestically can use USEITI to fulfill their reporting obligations under 1504 only for their extraction activities in the United States.
- Ms. Danielle Brian noted that the SEC’s delay in releasing a rule for Section 1504 has delayed the USEITI process for both project-level reporting and for corporate income tax reporting. Mr. Paul Bugala added that the proposed rule is very specific about how corporate income tax reporting would work. He added that the mandate for USEITI would be a function of the EITI Standard as well as EU law and the final Section 1504 Rule.
- Mr. Mussenden noted that DOI’s comments to the SEC were somewhat general because they were provided at an earlier phase of the USEITI process. Those comments focused on articulating the correlation between the USEITI process and the related area that Section 1504 covers.
- Ms. Veronika Kohler stated that she is looking forward to seeing how the proposed rule can positively influence the USEITI process going forward.

#### **F. Reflections on 2015**

Mr. Patrick Field led a discussion among MSG members about what elements of the USEITI process and outcomes worked well in 2015 and what areas could be strengthened in 2016.

##### **1. What Worked Well in the USEITI Process in 2015?**

MSG members identified the following strengths of the USEITI process in 2015:

- Ms. Veronika Kohler suggested that the Co-Chairs worked very well together. Mr. John Harrington and Mr. David Goldwyn added that the Co-Chairs exercised leadership in providing clear direction for the work groups and for the MSG and in their general approach and tone towards USEITI.
- Mr. Greg Gould volunteered that the work groups were a strength in terms of their collaboration, hard work, and problem-solving orientation. Mr. Paul Bugala added that the work groups facilitated decision making by the MSG by providing consensus-based recommendations to the larger body.
- Mr. Patrick Field cited the hard work of the Independent Administrator team.
- Mr. David Romig, Freeport-McMoRan Oil & Gas, noted that ONRR providing data early for companies to review facilitated the reconciliation process.
- Ms. Danielle Brian expressed appreciation for the willingness of the industry and government sectors to revisit their assumptions about the intended scope of the USEITI report in response to requests from the CSO sector.
- Mr. Patrick Field highlighted that many members of the MSG took on the responsibility of the work directly and put in a great deal of effort and time.
- Mr. Paul Mussenden cited the MSG's evidence-based decision making and pragmatic orientation.
- Mr. David Goldwyn suggested that the USEITI Secretariat's hard work and organization was critical for the success of the process. Mr. Patrick Field singled out Judy Wilson for keeping the process on track and Mr. Greg Gould commended a number of other staff members for their dedication.
- Mr. Patrick Field named the strong support provided by cross-sectoral staff, including Mia Steinle, Chris Mentasti, Ryan Ellis, Emily Hague, and others.
- Mr. Greg Gould highlighted the work of Pat Field, Tushar Kansal, and others from the Consensus Building Institute for keeping the USEITI process moving forward and for helping the sectors reach agreement on contentious issues.

## 2. What are the Key Successes of the 2015 Report?

MSG members identified the following key successes of the USEITI 2015 Report:

- Ms. Veronika Kohler appreciated the unilateral disclosure of revenue data by the government a year in advance of the publication of the 2015 Report. She added that the revenue reconciliation process demonstrated that the data included in the government's unilateral disclosure is accurate.
- Ms. Aaron Padilla, American Petroleum Institute, added that the information included in the contextual narrative about the robustness of revenue collection and auditing mechanisms in the United States articulates why the US Report achieved 100% reconciliation.
- Mr. Dan Dudis, Transparency International and technical advisor to the CSO sector, stated that the County Narratives could be very useful for stakeholders in resource-intensive communities and add an interesting dimension to the report.
- Mr. Greg Gould highlighted the inclusion of Federal oil and gas production data, and other minerals, in one place for the very first time.

- Ms. Danielle Brian cited the inclusion and presentation of data about the economic impact of the extractives industries in 18 states.
- Mr. Aaron Padilla noted that, with the exception of corporate income taxes, the 2015 Report come very close to meeting the requirements of the 2013 EITI Standard, which is almost unprecedented in a country's first report.
- Ms. Danielle Brian highlighted the use of infographics.
- Mr. John Harrington appreciated the rich, interactive web-based report setting a gold standard for other countries.

### **3. What Elements of the USEITI Process Could Be Improved in 2016?**

MSG members identified the following areas in which the USEITI process could be strengthened in 2016:

- A number of MSG members, including Mr. Aaron Padilla and Ms. Veronika Kohler, stated that the MSG would need to streamline its efforts in 2016 due to losing key personnel and fatigue among some MSG members.
- Ms. Veronika Kohler suggested that the process of reviewing and revising documents should be streamlined for 2016 and sequenced so as to not require a frantic push from MSG members and staff in a compressed time period.
- Mr. Dan Dudis and Mr. Keith Romig noted that the process of reviewing and revising the Online Report could be streamlined.
- Mr. Keith Romig stated that he would like to see greater transparency and MSG participation in the process of procuring the Independent Administrator (IA) and would like to have a relationship between the MSG and the IA in which the IA is required to implement decisions made by the MSG.
- Various MSG members, including Ms. Danielle Brain and Mr. Greg Gould, suggested that USEITI will need to strengthen its communications with the public.

### **4. What Elements of the USEITI Report Could Be Strengthened in 2016?**

MSG members identified the following areas in which the USEITI Report could be strengthened for 2016:

- Ms. Zorka Milin stated that corporate income tax reporting needs to be strengthened in 2016, both to satisfy the international EITI standard and due to the high level of public interest in the topic.
- Mr. Paul Bugala noted that project-level reporting is not included in the 2015 Report and should be addressed in 2016.
- Ms. Danielle Brian highlighted that securing state and tribal participation in USEITI would need to be a focus in 2016 since the US' period for adapted implementation lasts only two years.
- Mr. Dan Dudis suggested that the MSG consider overall materiality in relation to revenues paid to both DOI and the US Treasury (in the form of corporate income taxes), and not just DOI revenues. He postulated that doing so could yield greater participation in USEITI by hard rock mining companies that have significant operations in the US but that pay relatively little in royalties.

- Mr. Dan Dudis also suggested that the 2016 Report consider comparing corporate revenues against the payments by those companies to the government.
- Ms. Veronica Slajer proposed that forestry be added as an in-scope commodity and Mr. Keith Romig proposed that additional hard rock and industrial minerals similarly be added.

#### **5. How Could Efficiency and Effectiveness be Enhanced in 2016?**

MSG members identified the following strategies to streamline the USEITI process in 2016:

- Mr. Aaron Padilla suggested that the MSG could more fully use data analysis performed by the IA to narrow its scope of exploration or to support decision-making.
- Mr. Aaron Padilla also proposed that the MSG could prioritize its efforts in 2016 by identifying key objectives to pursue and using these as criteria for prioritizing its efforts. For example, a key objective for 2016 could be achieving validation of the 2016 USEITI Report.
- Ms. Veronika Kohler suggested that the MSG focus its review of the online report on content, not design.
- Mr. John Mennel proposed the following strategies for streamlining the reconciliation process:
  - Explore efficiencies for reconciling the “Other Revenues” and “BLM Permit Streams” revenue streams, as these two required outsize time for reconciliation considering their actual total dollar value.
  - Introduce unique identifiers.
  - Communicate with companies earlier, particularly since many of the larger companies house relevant data in different sections of the company.
  - Consider using 2015 data instead of 2014 data for the 2016 Report as asking companies to look back at the previous year’s data will be easier than asking them to look back at data from two years earlier.
  - The second report will be easier in terms of reconciling timing discrepancies and the included accounting period (Calendar Year 2014) due to having additional years of unilateral disclosure.

#### **G. Planning for 2016**

Following presentations by the USEITI Secretariat, the Chair of the Implementation Subcommittee, and the Independent Administrator about various issues related to planning for 2016, MSG members discussed a number of issues, including the companies, commodities, and revenue streams that would be included in the scope of the 2016 report; the reconciliation process; project level reporting; and corporate income tax reporting.

## 1. Overview of Key Meetings, Milestones and Activities

Ms. Judy Wilson gave a presentation outlining proposed key dates, milestones, and activities for USEITI in 2016. Key points from her presentation included the following:

- There will be a “dynamic rollout” of updates to the contextual narrative portions of the online report as well as the visualizations on the website. This will spread out the workload during the year, will keep stakeholders more engaged with USEITI, and will support the institutionalization of USEITI.
- Three in-person MSG meetings, and one conference call, will be held.
- The reporting and reconciliation period will stretch from March to September in order to better engage with companies.
- The 2015 Annual Activity Report will be available for the MSG to review at its June meeting and will subsequently be submitted to the International Secretariat in July.
- A draft version of the Executive Summary of the 2016 Report will be available in early August, followed by a final version in October.

Additional information is available in the “2016 USEITI Milestones Timeline,” available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/2016%20Milestones%20Timeline.pdf>.

In response to Ms. Wilson’s presentation, MSG members asked the following questions and made the following comments.

- Ms. Zorka Milin inquired about the deadline for USEITI to submit its 2016 Report to the International Secretariat.
  - Mr. Pat Field noted that the report is officially due to the International Secretariat in March 2017 but that the USEITI MSG should keep the US Presidential election and transition of administrations in mind [*editor’s note: the election will be in November 2016 and the new President sworn in by mid-January 2017*]. Ms. Danielle Brian added that some members of the government sector will likely be leaving government service, and therefore leaving the MSG, at that time.
  - Mr. David Romig inquired whether the report would need to be finalized by November so that the MSG could endorse it during the November MSG meeting.
    - MSG members and the USEITI Secretariat agreed that the report would need to be finalized by November 2016 in order to receive MSG endorsement.
  - Ms. Judy Wilson added that plan for 2016 involves a dynamic rollout of the contextual narrative over the course of the year.
  - Ms. Veronica Slajer suggested that holding off on finalizing and endorsing the report until the new presidential administration takes office, in 2017, could encourage them to take USEITI more seriously.

- Various MSG members, including Mr. Greg Gould, endorsed keeping the approval time within 2016 given the expected uncertainties of presidential transitions.
- Ms. Veronika Kohler thanked Ms. Wilson for sharing the high-level timeline and stated that the MSG would need to make decisions during the first months of 2016 to ensure that USEITI meets its milestones for 2016.

## 2. Key Considerations for 2016

Mr. Greg Gould introduced some key considerations for the MSG to keep in mind and make decisions around for preparing the 2016 Report:

- The materiality threshold for company participation in USEITI. *Explanation: Due to falling commodity prices, as of fiscal year 2015, the threshold of \$50 million in annual payments to ONRR that USEITI used for its 2015 Report to define company participation in USEITI reporting no longer results in 80 percent of ONRR revenues being included. Instead, based on fiscal year 2015 revenue figures, the threshold for company participation would have to be \$47.8 million in payments to ONRR – if the MSG decides to retain an 80 percent materiality threshold. A related consideration is that the USEITI MSG had previously discussed moving to a 90 percent materiality threshold for the 2016 Report.*
- How to include corporate income tax payment information.
- How to include project-level reporting.
- Which revenue streams would be included in the scope of the 2016 Report.
- Which commodities would be included in the scope of the 2016 Report.

Additional detail can be found in Mr. Gould’s presentation slides and in the MSG Decision Matrix, respectively available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Overview%20of%202016%20Slides.pdf>

and  
[https://www.doi.gov/sites/doi.gov/files/uploads/USEITI%20Reporting%20Decision%20Matrix%20Revised%20proposed%2011\\_15%20%282%29.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/USEITI%20Reporting%20Decision%20Matrix%20Revised%20proposed%2011_15%20%282%29.pdf).

## 3. Independent Administrator’s 2015 Recommendations, MSG Direction Needed by March 2016, and Draft Timeline/Work Plan

Mr. John Cassidy and Mr. Alex Klepacz, both Independent Administrator (IA) team members from Deloitte, presented six recommendations for strengthening the reporting process, outlined the areas in which the IA needs direction from the MSG by the March 2016 MSG meeting, and provided details about the timeline for 2016 and the process for developing the contextual narrative elements of the 2016 Report. Additional detail about each of these elements is available in Mr. Cassidy’s and Mr. Klepacz’s presentation slides:

[https://www.doi.gov/sites/doi.gov/files/uploads/USEITI%20IA%20MSG%20Meeting%20Slides%20Dec%2015\\_16%20Draftv6.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/USEITI%20IA%20MSG%20Meeting%20Slides%20Dec%2015_16%20Draftv6.pdf).

**a) IA's 2015 Recommendations:**

Mr. Cassidy and Mr. Klepacz presented the following six recommendations (four focused on revenue reporting and reconciliation, and two focused on the contextual narrative portions of the report) based on the IA's experience with the 2015 Report:

*Revenue reporting and reconciliation recommendations:*

- As part of defining scoping for the 2016 Report, the MSG could consider defining the timeframe for reporting as the previous calendar year, as opposed to two years back (in other words, the 2016 Report would include calendar year 2015 revenue data instead of 2014 revenue data, as is currently planned). This would make it easier for companies to participate in reporting because older transactions become harder for them to track.
- Lengthen the revenue reporting period and increase outreach to, and communication with, tax professionals in reporting companies in order to increase the likelihood of company participation in corporate income tax reporting.
- Consider alternative options for reconciliation that could satisfy requirements of the EITI Standard with a lower investment of time and cost in the reconciliation process such as using a sample-based reconciliation approach or developing a portal in which reporting companies can confirm whether revenue reported as part of the unilateral disclosure match company records.
- Identify strategies to enhance the likelihood of company reporting, through enhanced communication with companies and other strategies developed jointly by the IA and the MSG.

*Contextual narrative recommendations:*

- Increase the percentage of the contextual narrative that lives solely online, as well as create a phased rollout for future online content updates, preferably on a quarterly basis.
- Increase state, local, and tribal contextual narrative content, particularly information about legal and fiscal frameworks to portray different approaches to managing natural resources and extraction.

**b) MSG Direction Needed and Draft 2016 Timeline**

Mr. Cassidy and Mr. Klepacz outlined a number of decisions that would be required by the MSG by the March 2016 MSG meeting in order to meet the work plan for completing the 2016 USEITI Report. Many of these overlap with the "key considerations" presented by Mr. Greg Gould (and summarized in the previous section of this meeting summary) and the IA's 2015 recommendations. In addition, Mr. Cassidy and Mr. Klepacz reviewed a more detailed version of the 2016 timeline for USEITI than the version that Ms. Judy Wilson presented. Finally, they presented a proposed process for developing the contextual narrative portions of the report and rolling out this content in four iterations over the course of 2016.

#### **4. MSG Discussion Around Planning for 2016**

MSG members discussed a variety of issues around USEITI in 2016, which have been summarized here thematically.

##### ***a) Companies in Scope***

Mr. Dan Dudis suggested that USEITI consider alternative materiality methods to determine which companies should be included in USEITI reporting. He noted that there are some companies, particularly in hard rock mining, that have significant extractive activity in the United States but which pay relatively little to ONRR. Mr. Dudis suggested that annual revenues, or some other proxy measure, be used to include companies that may pay relatively little to ONRR but which may pay more to the IRS (recognizing that corporate income tax payments to the IRS are not publicly disclosed).

Mr. Keith Romig expressed support for developing a more holistic approach for determining which companies should be included in USEITI reporting. He noted that, while the MSG has agreed on certain decisions, they were made in the context of producing the first USEITI report and that it makes sense to revisit decisions about scoping in order to include additional companies in the sector that have major impacts on the economy. Mr. Dan Dudis volunteered to explore individually alternate methods of calculating materiality of payments that would better account for payments to both DOI and the IRS.

In addition, MSG members raised the prospect of adjusting the companies included in scope in order to increase the number of USEITI companies participating in income tax reporting. Please see the “Corporate Income Tax Reporting” section on page 22. Some companies that do not meet the current threshold are already reporting corporate income taxes.

##### ***b) Commodities in Scope***

Mr. David Goldwyn noted that the MSG would need to begin communicating very soon with companies in the forestry and additional hard rock minerals sectors as well as the industrial minerals sector if those commodities will be included in the 2016 Report. In particular, Mr. Keith Romig suggested that it should be relatively straightforward to bring additional hard rock minerals into scope without significantly expanding the IA’s work. He volunteered to explore individually which minerals these would be and to prepare a proposal for the Implementation Subcommittee’s consideration.

The USEITI Secretariat, with CSO assistance, will explore finding a representative of the forestry sector to serve as a MSG member.

##### ***c) Revenue Streams in Scope***

MSG members discussed the IA’s proposal to change the reporting period from using two-year old data (as was the case for the 2015 Report) to only one-year old data. Ms. Zorka Milin questioned whether the one-year back approach would work for corporate income tax reporting, since USEITI would be asking companies to report their taxes only

a few months after the tax year ends. Mr. Curtis Carlson, US Treasury, explained that there is generally an 18-month delay between when the tax year ends and when the IRS makes aggregate statistics available. As such, in order to make individual company income tax reporting consistent with the aggregate statistics, it would not be possible to do this for one-year-back data. Mr. Keith Romig questioned whether production and corporate revenue data for some of the hard rock minerals (from USGS) would be available quickly enough to include one-year-back data in the report. Mr. Greg Gould noted that, while his ONRR staff would try to keep the government's unilateral disclosure reporting as current as possible, it will be a challenge for ONRR to participate in revenue reporting and reconciliation for one-year-back data. Mr. Gould also noted that, with at least some two-years-back data included in the report, a work group of the MSG would need to discuss the implications and approach of including both year-old and two-year-old data in the same report.

**d) Reconciliation Process**

MSG members discussed and clarified the data streams that were used for reconciliation in 2015. Ms. Danielle Brian and Mr. Dan Dudis inquired whether the non-tax revenue streams that are being reconciled by the Independent Administrator are *both* company-reported revenue streams, with one set of numbers reported by companies to the Department of the Interior and another set of numbers reported by companies to the Independent Administrator. In response, Mr. John Mennel, Mr. Greg Gould, Mr. David Romig, and Mr. John Harrington clarified that the reconciliation process compares company-reported figures (as reported by companies to the Independent Administrator) with government-reported figures. The latter, government-reported figures are based on payments received by the Department of the Treasury from companies for payment of various non-tax revenues, including rents, royalties, and fees. The Department of the Treasury communicates information about relevant revenue collections to the Department of the Interior, which in turn reports these figures to the Independent Administrator for reconciliation.

**e) Alternative Methods for Reconciliation**

MSG members discussed alternate approaches to revenue reconciliation that were proposed by the IA, including using a sampling-based approach and setting up a portal where companies could confirm that their internal revenue records match those provided by the government via the latter's unilateral disclosure.

Ms. Zorka Milin inquired as to whether the sampling-based approach and the confirmation of unilateral disclosure data approach would meet the requirements of the International EITI Standard and whether the US would be sending a poor signal by using an "abbreviated" procedure for reconciliation. Mr. Alex Klepacz responded that, although no other countries are currently using a sampling-based approach, EITI International has not expressly prohibited it. Mr. David Goldwyn suggested that USEITI cite a sampling-based audit that was performed by Nigeria in 2005 or 2006 when broaching this topic with the International Secretariat.

Mr. Mike Matthews, State of Wyoming, questioned the necessity of reconciling revenues at all, noting that the vast majority of minerals production in the United States is by private companies on private lands. These auditing processes are even more robust than the EITI reconciliation process and cover all minerals production in the U.S. He argued that eliminating reconciliation would not only make USEITI much more efficient, it would also remove a big disincentive that may discourage states and tribes from opting into the program should they have to reconcile.

**f) Project Level Reporting**

Mr. Paul Bugala inquired as to whether the International EITI Standard would support disaggregation around project-level reporting. Mr. David Romig expressed concern about the amount of work that would be required to reconcile and validate revenue at the project level.

MSG members discussed the timeframe for implementing project-level reporting into USEITI reports. Mr. Greg Gould stated that the MSG had previously agreed on continuing with the 2015 approach to project-level reporting (that is, with the term “project level” not being defined) until the SEC issues a final definition for “project level” as part of its rules under Section 1504 of the Dodd-Frank Act in June 2016. He added that ONRR is migrating to project-level reporting as part of its unilateral disclosure in accordance with its agreement to report to the lowest level that is legally permissible.

Mr. Paul Bugala offered a different view, stating that the Company and Project Level Reporting Work Group had previously agreed to include project-level reporting as part of company reporting and reconciliation in the 2016 USEITI Report, as indicated by the following language from the work group’s recommendations to the Implementation Subcommittee from November 24, 2014:

*Reporting at project level is required, provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming (added by working group: now enacted) European Union requirements.” By the time of the second USEITI report, many companies that meet the USEITI reporting materiality threshold will have begun reporting payment disclosures at a project level consistent with the EU law referenced in Section 5.2e (specifically, the EU Accounting and Transparency Directives). In addition, other complementary reporting mandates, brought about the statutes and guidance of other countries as well as the implementation of the EITI Standard in other implementing countries, will provide the working group with a stronger basis to make a consensus recommendation of a project-level reporting definition. Finally, it is the working group’s hope that the U.S. Securities and Exchange Commission (SEC) will issue a proposed rules release for the implementation of Section 1504 of the Dodd-Frank Act before the project-level definition disclosure requirements for the second USEITI report must be finalized.*

Ms. Danielle Brian questioned why USEITI could not begin planning for project-level reporting based on the SEC's draft rule for Section 1504, even if the rule will not be finalized until June 2016. Mr. John Harrington acknowledged the importance of project-level reporting but cautioned that the SEC's rule could evolve from the present draft version. He also stated that companies will need time to develop systems to generate reports at the project level and will be hesitant to do so until the SEC's rule is finalized. Echoing Mr. David Romig's comment, Mr. Harrington also suggested that the MSG would need to decide on an approach for reconciling project-level reports because this could be a very time- and resource-intensive process. Ms. Veronika Kohler added that the industry sector is supportive of ONRR moving forward with project-level reporting as part of unilateral disclosure. Members agreed that this issue would need to be discussed further by the Implementation Subcommittee.

***g) Corporate Income Tax Reporting***

A number of MSG members, such as Zorka Milin, expressed support for the IA's recommendation to communicate with tax professionals in reporting companies earlier in the reporting process in order to enhance their levels of comfort and familiarity with USEITI. Mr. David Romig suggested that, based on his outreach work through the Council of Petroleum Accountants Societies, Inc. (COPAS), outreach to tax professionals in reporting companies begin very soon so that they have a lot of time to become familiar with USEITI.

Mr. Michael Gardner, Rio Tinto, stated that many companies are still deciding whether to participate in income tax reporting and that it would likely be difficult to comprehensively include income tax reporting for all in-scope companies for the 2016 report. Mr. Aaron Padilla, noting that the vast majority of companies that chose to report, and perhaps reconcile, corporate income tax payments in 2015 have some sort of global EITI consideration. He noted that the bulk of additional companies that would be included in USEITI reporting in 2016 (assuming that USEITI moves to include 90 percent of ONRR revenues) are not represented on the MSG and operate only in the US. Mr. Padilla cautioned that it will likely be very challenging to significantly increase the number of companies that voluntarily report corporate income tax payments in 2016.

Mr. Greg Gould suggested that, given the challenges encountered with income tax reporting in 2015, it may be better to stick to the 80 percent threshold for 2016 rather than enlarging the pool of companies. Given that the goal of the 2016 Report is to achieve validation, he added that the US may be able to reach validation given the progress that USEITI will hopefully make in 2016 as a result of additional outreach efforts to companies and the pending requirement for companies to report their income tax payments due to rulemaking under Section 1504.

Ms. Zorka Milin emphasized that the critical question is not about whether additional companies that could be included at the 90 percent-of-revenues threshold will

participate in income tax reporting (if the MSG decides to use the 90 percent threshold), but rather why a number of companies within the 80 percent threshold, including those that participate in EITI reporting in other countries and have seats on the MSG, decided not to report corporate income taxes in 2015. She described their decisions as not being based on legalities but rather as at the discretion of companies that understand USEITI very well.

Mr. John Harrington responded by enumerating the reasons why some of the companies on the MSG may have chosen not to report income taxes in 2015, including the following: 1) US corporate income taxes have very little relationship with extractive activity on federal lands, given the very small share of US production that comes from federal versus state and private land for many companies, companies' global operations and extensive operations downstream from extraction; 2) companies are aware that their income tax reports will be used by those campaigning for extractives companies to pay more in taxes; and 3) knowing that income tax reporting will soon be required under Section 1504 of the Dodd-Frank Act, companies may have chosen to wait until that rule was finalized and the requirements more clear. Mr. Harrington added that many of these companies have exercised leadership in EITI around the world, and are very committed to USEITI and to tax reporting, but are awaiting the finalization of the SEC's rulemaking. He suggested that, with additional outreach to tax professionals at reporting companies, and given that 2016 will be the second USEITI report, some additional companies may report their income taxes, but that some likely will not until they are required by law by a certain date to make their tax payments public.

Mr. Dan Dudis inquired about the suggestion made at the previous MSG meeting, in September, that the Department of the Interior include a requirement to report corporate income taxes as a condition of minerals extraction leases on federal lands. Mr. Gould reported that DOI attorneys looked into this and advised that the Interior Department could not require tax reporting. He added that USEITI could include unilateral disclosure of tax payments, as it does for DOI payments, after the Section 1504 rule takes effect.

MSG members discussed the prospects for validation of the 2016 USEITI Report without comprehensive participation in income tax reporting from in-scope companies. Mr. Neill Brown, the Lugar Center, expressed concern with the language of "incremental improvement" articulated by Mr. Harrington, Mr. Gould, and others, cautioning that this would lead to the 2016 Report failing validation. Mr. Aaron Padilla offered that the prospects for validation may not be quite as uncertain as noted by others. Particularly by engaging in a two-way dialogue with the EITI Board, with Ambassador Warlick as an advocate and intermediary, the USEITI MSG can make a case for the robust efforts it has made to secure participation in tax reporting and can, in turn, understand the Board's evolving thinking about the US case. Since Ambassador Warlick represents all of USEITI, and not only a particular sector, and because she will recuse herself from any decisions about US compliance, she can serve as an honest broker.

Mr. Susan Ginsberg, Independent Petroleum Association of America, explained that the industry sector is trying to manage expectations among MSG members about the level of participation in income tax reporting that can be expected before it is legally required. She said that she has to be pragmatic with what the IPAA member companies can do, particularly given the extreme financial pressures that they are facing due to low commodity prices. Mr. Aaron Padilla added that, given the likely challenges of achieving comprehensive participation in income tax reporting in 2016, the MSG come to an agreement about the efforts that USEITI will undertake around securing company participation.

Additionally, he suggested that the MSG stand behind, and endorse, the 2016 Report on the basis of fulfilling these efforts (rather than focusing on the percentage of companies that choose to participate in tax reporting). Mr. Dan Dudis responded that, while CSO sector representatives endorse the USEITI process and the efforts that have been made, they may not be able to endorse the 2016 Report if there is again a significant hole in the report when it comes to income tax reporting because the report will be lacking in providing significant transparency to the American people. Mr. Patrick Field observed that each of the three different sectors have different conceptions of what “success” meant for the 2015 Report and what it will mean for the 2016 Report. He proposed that each sector understanding the others’ definitions of success for 2016, and moving towards greater alignment around these definitions, could help to resolve some of the divergence in perspectives and approaches.

Ms. Danielle Brian thanked Ms. Ginsberg for encouraging a number of IPAA member companies to participate in revenue reporting and queried whether it might be helpful to learn from these companies why they decided to participate, how they experienced the reporting process, and any lessons that can be learned from their experience. Ms. Brian also proposed that the IA could investigate how open companies are to the idea of reporting taxes in 2016 so that USEITI knows how much effort to invest in trying to convince them to do so.

Ms. Ginsberg offered to reach out to IPAA members who participated in income tax reporting in 2015 to learn more about their decision-making and experience with reporting and to use this information to communicate with other IPAA members. She questioned the utility of having these companies present their perspective at an MSG meeting. Ms. Zorka Milin added that it could be helpful for a tax professional from one of the companies that chose to participate in income tax reporting in 2015 communicate directly with their peers at other companies about why her company chose to report and what the experience was like.

Mr. Neil Brown expressed concern with the idea of waiting for the rules under Section 1504 to be finalized since, even with finalization scheduled for June 2016, they would not take effect for another year or more after that and there could be a lawsuit and

injunction further delaying the rule from taking effect. He suggested that, given this uncertainty and the need to include income tax reporting as soon as possible, the MSG needs to come up with an alternate plan to relying on the SEC. Ms. Veronika Kohler responded that USEITI can enhance outreach to CFOs and other tax professionals in the reporting companies. The industry sector will support this effort, but MSG members cannot guarantee a certain level of participation in tax reporting. Mr. John Harrington added that USEITI has a stronger argument to make to companies to participate in tax reporting in 2016 than it did for 2015. He stated that extractives companies are particularly interested in sustainability and that USEITI can make the case to them that a failure of the US EITI effort would be a significant loss in the fight against corruption world-wide. Ms. Danielle Brian suggested that USEITI could adjust its materiality threshold or the commodities included in scope for 2016 in order to include more of the companies that are already voluntarily reporting their income taxes (such as certain hard rock mining companies). Mr. Veronika Kohler cautioned against broadening the scope of USEITI only to increase the number of companies that will report their tax payments given the priority on streamlining the USEITI effort in 2016 and on achieving validation. She suggested, however, that in addition to existing materiality thresholds and scope, USEITI could allow participation by any company that wants to participate (including reporting its income tax payments).

MSG members discussed the timeline by which companies would be required to report their corporate income tax payments under Section 1504 rules. Mr. Neil Brown suggested that they would be required to report one year after the rule is finalized. Ms. Zorka Milin stated that the rule will go into effect one year after it is finalized and whether companies are required to comply with the new regulations that same year depends on how their corporate fiscal years align with the date that the rule is finalized. The USEITI Secretariat will investigate this question and report back to the MSG. Ms. Milin posited that the MSG previously agreed on achieving comprehensive income tax reporting in 2016.

## **H. Subcommittee Updates and Planning for 2016**

The MSG discussed planning and priorities for 2016 for each of the three subcommittees.

### **1. Implementation Subcommittee**

Following the discussion summarized in the “Planning for 2016” section of this meeting summary, above, the MSG identified the following priority topics for the Implementation Subcommittee to work on by the March 2016 MSG meeting:

- Companies, commodities, and revenue streams that will be included in the scope of the 2016 report;
- Reconciliation process;
- Project level reporting, including as part of DOI’s unilateral disclosure;
- Corporate income tax reporting;
- Margin of variance;

- Reporting template;
- Quarterly updates to the contextual narrative portions of the online report.

In order to push forward fulfillment of these priorities, Mr. Greg Gould recommended to the Co-Chairs and the acting DFO that the following two work groups be formed under the Implementation Subcommittee:

- Tax Reporting Work Group
- Online Report Work Group

The acting Designated Federal Office, Mr. Paul Mussenden, created these two work groups with the approval of the MSG, albeit with the caution from Ms. Veronika Kohler that each Subcommittee limit itself to only one work group at any one time in order to limit workload for Subcommittee members.

The MSG, with leadership from the Co-Chairs, developed the following short-term work plan for the Implementation Subcommittee:

Date	Activity
Late December	Independent Administrator (IA) develops options and proposal for using a statistical sampling approach to fulfill the EITI Standard's reconciliation requirement at the 80 percent-of-revenues threshold
Early January	Implementation Subcommittee provides comment and ideas regarding IA's proposed sampling approach
January	IA explores with International Secretariat if proposed sampling approach is potentially able to be validated
February	If the IA determines that a statistical sampling approach to reconciliation could be validated, the Implementation Subcommittee hones and details recommendations to the full MSG
February	Explore project level reporting issue, including 2014 WG recommendations, international standard, and ONRR unilateral disclosure in 2016 based on SEC project definition/regulations
February	Explore voluntary reporting/participation in EITI for companies not included in materiality definition
January-March	WG of Implementation Subcommittee works on margins of variance, revenue stream recommendations, and reporting template including possible voluntary reporting of project level data

March

MSG takes up recommendations from Implementation Subcommittee

In addition, the MSG, with leadership from the Co-Chairs, developed the following approach and work plan for the Tax Reporting Work Group:

- In 2016, “request” all payors report and “encourage” reconciliation (same as 2015 approach) (IA)
- Engage and outreach to company tax staff in addition to revenue staff (IA)
- Create a Tax Reporting Work Group
  - Hone rationales/leverage to companies for why to report income tax payments in 2016.
  - Explore via IA/trade associations rationales and experiences for companies that did report income tax payments in 2015.
  - Recognize companies that reported income tax payments in 2015.
  - Develop strategies for increasing tax reporting in 2016 (e.g. webinars with participating companies, direct outreach by IA)
  - Set joint expectations for effort and outcomes for sectors on the MSG (i.e. what would success look like in 2016?).
  - Explore implications for SEC 1504 regulations for corporate income tax reporting in 2017 and beyond (*note*: consider that SEC rule will not compel any privately held, non-pass through companies within the materiality threshold to report taxes).

## 2. State and Tribal Opt-In Subcommittee

MSG members discussed a path forward for states and tribes to opt into participation in USEITI. Ms. Danielle Brian opened the discussion by noting that Montana expressed interest in opting into USEITI in early 2015 but that the State and Tribal Opt-In Subcommittee responded by asking them to wait until 2016 due to the MSG’s resource constraints and focus on completing its first report. She added that Montana, among other states, has embraced the open government concept and see participation in USEITI as a means to make their records publicly accessible. Various MSG members, including Mr. Greg Gould, Ms. Veronica Slajer, Mr. John Harrington, and Mr. Mike Smith suggested that the Subcommittee work to help Montana opt into USEITI and that this process be treated as a pilot for future opt-in processes. Ms. Slajer added that Alaska is also interested in opting into USEITI, but that each state may require a tailored, individual opt in process. Mr. Smith echoed this, noting that each state is a sovereign government with its own structure and each has its own privacy and confidentiality laws. He also cautioned that states will be very hesitant to engage in reconciliation due to the added expense that this entails. Mr. David Romig suggested that state participation in USEITI could focus on data disclosure and not on reconciliation.

In terms of next steps to define the reconciliation process, Mr. Harrington suggested that the Subcommittee present a proposal for state opt-in to the MSG after working with Montana. Mr. Gould proposed that the Subcommittee develop a proposal for state and tribal opt-in in preparation for the 2017 USEITI Report. Mr. Mussenden suggested that, just as many other EITI countries are interested in replicating the USEITI online report, states may also be interested in doing so and that state-level information technology staff could connect with 18F to that end. Ms. Brian emphasized that the Subcommittee should move forward quickly in working with Montana so as not to further delay in responding to their expression of interest from early 2015.

Mr. Jerry Gidner suggested that USEITI could explore developing tribal case studies, similar to the county case studies but excluding protected data, for inclusion in the 2016 USEITI Report. He noted that this would require discussions with individual tribes.

### **3. Communications Subcommittee**

Ms. Veronika Kohler opened the discussion with a suggestion that the MSG could consider the public response to the 2015 USEITI Report on social media and through the report website at the March MSG meeting and decide how to proceed at that point. She also suggested that the MSG consider holding some outreach meetings in different parts of the country. Mr. Greg Gould explained that DOI would not have the budget to hold MSG meetings outside of Washington DC but encouraged the Communications Subcommittee to prepare a proposal for a subset of MSG members to travel for outreach meetings. Ms. Danielle Brian proposed that outreach meetings could be held in counties profiled in the county case studies from the 2015 Report.

Mr. David Romig noted that he had asked the IA to provide him with a list of companies that participated in reporting for the 2015 Report so that he could publicly recognize these companies at a COPAS meeting. Ms. Kohler requested that the CSO sector nominate two members to participate in the Communications Subcommittee and Ms. Danielle Brian committed to doing so.

## **IV. Public Comments**

No public comments were offered at the December 2015 MSG meeting.

## **V. Wrap Up / Closing**

Mr. Patrick Field, facilitator from the Consensus Building Institute, reviewed the action items and the decisions coming out of the MSG meeting.

Mr. Greg Gould, Ms. Veronika Kohler, Ms. Danielle Brian, and Mr. Paul Mussenden, in their roles as Co-Chairs and the Designated Federal Officer, made closing comments to the MSG, thanking the MSG, associated staff, the USEITI Secretariat, and the IA for their hard work. Mr. Paul Mussenden, Acting DFO, adjourned the meeting at 3:35 pm.

## VI. Meeting Participants

The following is a list of attendees from the December 15-16, 2015 EITI meeting.

**Chaired by Kris Sarri, Designated Federal Official and Paul Mussenden, Acting Designated Federal Officer for the USEITI Advisory Committee, U.S. Department of the Interior.**

### A. Participating Committee Members

#### Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, George Washington University

Keith Romig, Jr., United Steelworkers

Michael Ross, Natural Resource Governance Institute

Veronica Slajer, North Star Group

#### Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

C. Michael Smith, Interstate Oil and Gas Compact Commission

#### Industry

Phillip Denning, Shell Oil Company

Michael Gardner, Rio Tinto

John Harrington, ExxonMobil

Susan Ginsberg, Independent Petroleum Association of America

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesseth Tuttle, Chevron

### B. Committee Alternates in Attendance

#### Civil Society

Neil Brown, The Lugar Center

David Goldwyn, Goldwyn Global Strategies

Zorka Milin, Global Witness

#### Government

Jim Steward, Department of the Interior

#### Industry

Stella Alvarado, Anadarko Petroleum

Chris Chambers, Freeport-McMoRan Copper & Gold Inc.

Nick Cotts, Newmont Mining

Aaron Padilla, American Petroleum Institute

David Romig, Freeport-McMoRan Oil & Gas  
Nicholas Welch, Noble Energy Inc.

### **C. Members of the Independent Administrator Team in Attendance**

Isabella Brantley, Deloitte  
John Cassidy, Deloitte  
Alex Klepacz, Deloitte  
John Mennel, Deloitte  
Sarah Platts, Deloitte

### **D. Government and Members of the Public in Attendance**

Brian Bex, Navajo Nation  
Dan Dudis, Transparency International – USA  
Ryan Ellis, Interstate Mining Compact Commission  
Cory Gill, Goldwyn Global Strategies  
Emily Hague, American Petroleum Institute  
Nancy Kay, Development Gateway  
Charles Norfleet, Bureau of Ocean Energy Management  
Patrick Rucker, Reuters  
Mia Steinle, Project on Government Oversight  
Katie Sweeney, National Mining Association  
Suzanne Swink, British Petroleum  
Steve Wells, Bureau of Land Management

### **E. Facilitation Team**

Patrick Field, Consensus Building Institute  
Tushar Kansal, Consensus Building Institute

### **F. DOI MSG Support Team**

Rich Adarst, Office of Natural Resources Revenue  
Heidi Badaracco, Office of Natural Resources Revenue  
Nathan Brannburg, Office of Natural Resources Revenue  
Jerry Gidner, Office of Natural Resources Revenue  
Jennifer Goldblatt, Office of Natural Resources Revenue  
Robert Kroneburch, Office of Natural Resources Revenue  
Renee Magalong, Office of Natural Resources Revenue  
Kim Oliver, Office of Natural Resources Revenue  
Yolanda Sanders, Office of Natural Resources Revenue  
Matt Williams, Office of Natural Resources Revenue  
Judith Wilson, Office of Natural Resources Revenue

## **VII. Documents Distributed**

- MSG Meeting Agenda ([PDF](#))
- September 2015 MSG Meeting Summary ([PDF](#))

- USEITI Reporting Decision Matrix ([PDF](#))
- 2016 USEITI Workplan ([PDF](#))
- USEITI Workplan Spreadsheet ([PDF](#))
- 2015 USEITI Executive Summary ([PDF](#))
- 2015 USEITI Appendix ([PDF](#))

## **VIII. Certification**

Interested parties are asked to contact USEITI at [useiti@ios.doi.gov](mailto:useiti@ios.doi.gov) or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.