

The role and responsibilities of the EITI Board Members

Lima, 23 February 2016 Christian Fr. Michelet





MAIN RESPONSIBILITIES OF THE BOARD

- Act in the best interest of the EITI Association at all times
 - Forward the objective of the EITI Association (Art. 2 (2) of the Articles of Association)
 - An obligation of loyalty
- Ensure that the EITI Association operates in accordance with its Articles of Association
- Ensure that the organisation operates transparently
- Ensure operation in accordance with good governance principles



BOARD MEMBER RESPONSIBILITIES

- A personal responsibility
 - Obligation to attend to and make best personal evaluation and decisions in all Board matters
 - An obligation to act and take positions individually
 - Irrespective of mandates etc. of stakeholder(s)
- Should engage personally in all matters of the Board
 - Cannot leave certain matters to Alternate
 - Should seek to participate in all Board meetings
- Obligation of loyalty to the EITI Association and the Board
 - Should respect resolutions of the Board
- Possible liability of Board members: If they act with negligence
 - Norms
- Liability insurance is subscribed for Board Members



GENERAL DUTIES OF BOARD MEMBERS

- Be attentive and diligent
 - Read documents and to represent those views in person rather than via proxies
- Be attendant
 - Be present at all Board and committee meetings
- Be deliberative
 - Make decisions based on good information, discussion, and without conflict of interest
- Hold confidences
 - Confidential matters may not be revealed externally



FORMAL FRAMEWORK

- The EITI Association is a non-profit association organized under the laws of Norway
- The EITI Association is governed by its Articles of Association
- The Members of the EITI Association are not responsible, individually or collectively, for any of the EITI Association's debts, liabilities or obligations
- As a non-profit association the EITI Association is not liable for income tax in Norway (as long as it is not undertaking business activities)
- Registered in Norway





THE ARTICLES OF ASSOCIATION

- The «constitution» of the EITI Association
- 22 Articles
- Regulates
 - the EITI Board (Art. 10)
 - the EITI Observers (Art. 11)
 - The EITI Chair (Art. 12)
 - Functions of the EITI Board (Art. 13)
 - Committees of the Board (Art. 14)
 - EITI Board operations and proceedings
- Board Members and Alternates should have full knowledge of and work in accordance with the Articles of Association at all times



MEMBERS

- Personal representatives of a country, company, organisation or legal entity that are appointed by a Constituency
- The stakeholders 3 Constituencies:
 - Constituency of Countries
 - Implementing Countries
 - Supporting Countries
 - Constituency of Companies
 - Companies in the extractive sector
 - Institutional investors
 - Constituency of Civil Society Organisations
- The Articles of Association do not regulate the Constituencies
 - The Constituencies determine their own internal processes
 - However, EITI Constituency Guidelines offer guidelines on process for Constituency Selection of Members and for nomination of Board Member





• The International Secretariat: Day-to-day running



THE MEMBERS' MEETING

- Meets at least every three years
- Approves activities report, accounts and activity plan of EITI Board
- Elects the EITI Chair
- Elects the Board Members, and Alternates for the Board Members
 - Each Alternate is individual and personal for each respective Board Member



BOARD COMPOSITION

- A Chair
- 9 Board Members being Members from the Constituency of Countries
 - Maximum three representing Supporting Countries
 - Remainder representing Implementing Countries
- 6 Board Members being Members from the Constituency of Companies
 - Maximum one should represent Institutional Investors
- 5 Board Members being Members representing the Constituency of Civil Society Organisations
- One Alternate for each Board Member
- Board Members and Alternates to be registered in Norway



TENURE OF THE BOARD MEMBERS

- From Members' Meeting to Members' Meeting
- I.e. up to three years
- A vacancy shall be filled by the resigning Board Member's Alternate. Alternatively, the concerned Constituency may nominate a new Board Member to be elected by the Board
- Continuity in Board membership is important for the progress and the quality of the work of the Board



THE CHAIR

- Chairs the Members' Meeting and the Board meetings
- Represents the Board in external matters
- Follow-up of implementation with the International Secretariat
- Seek to foster collaborative relationships between the EITI stakeholders



SOME MAIN FUNCTIONS OF THE BOARD

- Policy issues
- Work plans and budget
- Reviewing activities
- Annual reports and audit reports
- Oversee and direct the work of the Secretariat
- Establish procedures regarding the validation process (now the EITI Standard)
- Adopt more detailed procedures for the management and operation of the EITI Association including country work plans and company work plans
- Oversee the adherence to the Code of Conduct



COMMITTEES OF THE BOARD

- The Board may create committees to further specific issues
- Should include two or more Board Members
 - Should include one Board Member from Implementing Countries
- Should reflect the multi-stakeholder nature of the EITI Association
- Are subordinate to the Board
 - Give recommendations, do not make Board decisions
- The Board also establishes ad-hoc working groups
 - For recommendations



BOARD MEETINGS AND RESOLUTIONS

- Meets at least twice a year
 - At least one meeting in person can be held by telephone conference if circumstances so necessitate
- Quorum at least 2/3 of the Board Members, including at least:
 - Two Board Members from the Constituency of Countries (one Implementing Country and one Supporting Country)
 - One Board Member from the Constituency of Companies
 - One Board Member from the Constituency of Civil Society Organisations
- Board Members shall make every effort to adopt resolutions by consensus
- The Chair may decide upon a vote (not done until now)
- Qualified majority required
 - At least 13 votes, including at least 1/3 of the votes of the Board Members from each Constituency including 1/3 from the sub-constituency of implementing countries



CONFLICTS OF INTEREST

- A Board Member shall not vote in respect of any matter or arrangement in which he or she is directly and personally interested;
- or if there are any other special circumstance which could impair confidence in his or her impartiality representing constituency interests
- A Board Member shall declare to the Board as soon as possible after he or she becomes aware of such a situation
- A Board Member with conflict of interest shall not be counted for the purpose of quorum
- This shall not prevent a Board Member's alternate from voting on the matter



SUSPENSION

- The Board may decide that a Board Member representing an implementing country that is suspended during the tenure may keep status as a Board Member, but refrain from engaging in Board activities during the period of suspension
- Should the suspension be in force for more than a year, the Board may decide that the Board membership should be terminated



EXTERNAL REPRESENTATION

- The Chair represents the Board in external matters
- The Head of the Secretariat can act externally within day-to-day matters and otherwise as approved by the Board
- Other Board Members cannot represent or make public statements on behalf of the Board in external matters
- The loyalty obligation:
 - Neither the Chair nor other Board Members should make public statements contrary to the object and interest of the EITI Association or to resolutions of the Board





THE BOARD MANUAL

- A practical manual for Board Members
- Covers:
 - Background and objectives of the EITI
 - Legal status
 - Organisational structure
 - Board operations and proceedings
 - Code of conduct and openness policy



CODE OF CONDUCT – GENERAL PRINCIPLES

- Personal behaviour, integrety and values
- Compliance with laws, regulations and the EITI rules, interests and objectives
- Respect for others
- Professionalism
- Non-discrimination
- Confidentiality
- Expenditure or EITI resources and use of EITI property
- Conflict of interest and abuse of position
- Gifts, trips and entertainment