

## **BRIEF OF THE STEERING COMMITTEE OF THE EXTRACTIVES SECTOR FORUM**

**HELD ON SEPTEMBER 23, 2015**

**VENUE: IHRB OFFICE**

### **IN ATTENDANCE**

1. Rehema Mohamed – Kenya Oil and Gas Association (KOGA)
2. Philippa Hutchison – Acacia Exploration
3. Stephen Mwakesi – Kenya Chamber of Mines
4. Anita Kawira – Kenya Chamber of Mines
5. Diana Mochoge – Kenya Oil and Gas Working Group
6. Charles Wanguhu – Kenya Civil Society Platform on Oil and Gas
7. Anne Kabugi – Tullow Kenya
8. Jonah Mngola – Strathmore Extractives Industries Centre
9. \*Dr. Collins Odote – Institute for Law and Environmental Governance (ILEG)
10. \*Duncan Okowa – Institute for Law and Environmental Governance (ILEG)
11. \*Catherine Mbui – IHRB
12. \*Geoffrey Kerecha – IHRB
13. \*Rose Kimotho – IHRB

\*ILEG and IHRB – Co-Chairing

### **ABSENT**

Florence Mpaayei – Hekima Institute of Peace Studies and International Relations (with apologies)

Jacqueline Okanga – Aga Khan University

### **AGENDA**

1. Introductions
2. Overview of the initiative
3. Review of the draft MOU
4. Planning the first forum under the initiative
5. AOB

#### **1. Welcome remarks and introductions**

The meeting started at about 9.15am with self-introductions and welcome remarks from Rose Kimotho.

#### **2. Overview of the initiative**

Discussions here centered on the concept note detailing the rationale and suggested objectives to be met by the initiative.

##### 2.1 Rationale

A preliminary issue was to re-establish whether there is need to have the forum as a way of sustained engagement. All members present affirmed there is real need for structured sustained engagement but the below questions were raised and responded to as follows:

a) Will the initiative have a geographic focus? The forums will initially be held in Nairobi and county-based CSOs will be encouraged to participate. However, as the initiative gains ground, it is hoped that forums can also be held in counties host to EI projects.

In addition to the national CSOs, how will CSOs operating in project areas be identified and how can the smallest CBO plug into the forum. The initiative should develop a framework through which the CSOs and CBOs can access in Committee whenever necessary. This means creating a two-way channel of communication between the Committee and the various institutions even if it means through the networks. With regard to identification of CSOs, a mapping of CSOs working on EI issues is an imperative and will be done with the aim of encouraging as many CSOs as possible to participate in the forums. However it should be borne in mind that new CSOs groups emerge with time and thus the mapping to be carried out here under will not be exhaustive. The CSO networks will assist in the mapping through identifying their members.

b) How can the private sector be assisted to do the right thing and to engage the right people? Community engagement is an issue of high interest that the forums can give priority with a view to coming up with some guidance for both companies and CSOs on the same.

c) What is the role of academia in the forum? While not being specific, a representative of SEIC, an academic institution contributed that the initiative should leverage on the strengths of the different stakeholders.

It was also noted the forum should from the onset be focused on delivering tangible outcomes.

## 2.2 Objectives

Suggestions were made to amend the objectives as follows

a) Objective 1: to provide credible and current source of information on matters relating to the EI for the civil society. The objective to be amended to take cognizant of the need to share information both ways, information to be shared should respond to the needs of the private sector as well as CSOs.

There were some discussions on what information stakeholders need and what can actually be shared-each has information that is of value to the other. However, Private sector representatives cautioned that companies cannot share some technical information without government's approval. Being an issue in itself, it decided that information sharing may be one of the issues to be comprehensively addressed at one of the forums.

b) Objective 5: To formulate policy and regulatory proposals to government on issues requiring joint support. The question here was on how to engage government and whether or not government both national and county should be part of the forums. After some discussions, it was agreed to maintain the current set up of the forum that excludes government while continuing to engage government as we have all done in the past.

c) Objective 6: to build trust between the civil society and EI companies. After discussions, it was agreed that this was the overall goal of the initiative and the objective of 'fostering understanding' of what each of the stakeholders do was agreed to.

## **3. Review of the draft MOU**

a) Acacia Exploration (Kenya) Limited who are provisionally included as part of the Steering Committee to get the endorsement of their participation from their head office before signing the MOU. Similarly, KCM to get endorsement from its board before signing the MoU.

The following amendments were suggested:

b) The Preamble to state the voluntary nature of participation of the members of the Steering Committee and the non-binding nature of the MOU.

c) All members listed in Clauses 1-10 to send RK a descriptive line of the nature of their institution.

d) The listing of institutions to be grouped in the following manner, CSOs, Private Sector, Academia, with a statement that they are representative of their respective constituencies.

e) Clause 13- the initiative to be called 'The Extractives Sector Forum' rather than 'The Extractives Sector Civil Society-Companies Forum' that does not take into account the participation of academia. The MOU to include a clause establishing the Forum

f) Re-organise clauses 14 – 18 to give precedence to the Steering Committee over the co-conveners.

g) Clause 19 – what the parties agree to

19 b. Contribute technical, financial and other resources to ensure the success of the forums and the implementation of this MOU; members agreed to remove the binding nature of the language here and precede the sentence with 'where possible'. Fundraising for the initiative was also discussed under this heading and it was agreed that it is a responsibility of the Steering Committee, which can then mandate to the co-conveners or any of the other members to fundraise for the initiative from different sources.

h) Clause 23-25 Termination and cancellation

It was suggested to amend this to 'withdrawal and dissolution'. In line with the voluntary nature of participation, the exit clause should reflect that a member can opt out at any time with notice to the Steering Committee. On dissolution, the members can agree to dissolve the initiative at any time. There should also be a clause allowing for the inclusion of new members of equal or similar nature.

\*Charles Wanguhu, Stephen Mwakesi and Jonah Mngola to help in finalization of the terms of the MOU

#### **4. Next Forum**

##### 4.1 Theme of the forum

Two themes were suggested, legal and regulatory developments in the extractives sector and a broad overview of the sector. In this first forum, the mapping and expectation of CSOs will also be presented.

##### 4.2 Date

After discussions, it was agreed to cover both in the first forum to be held in November – a suitable date will be agreed to by the members by mail.

There being no other business the meeting ended at about 11.20am