

PH-EITI 14th MSG MEETING

9:00 AM- 1:00 PM | June 05, 2014

Visayas Room, Department of Finance,

Roxas Blvd., Manila

Attendees:

9	Engr. Romualdo Aguilos	Mines and Geosciences Bureau—Department of Environment and Natural Resources (MGB-DENR) (Acting Chair for this MSG meeting)
12	Febe J. Lim	Department of Finance (DOF)
13	Jariel Nenito	Department of Energy (DOE)
14	Engr. Benjamin Mortos	DOE
15	Dennis Villaseñor	Department of Interior Local Government (DILG)
16	Rhizzalyn Bautista	DILG
17	Michael Joseph Juan	Union of Local Authorities of the Philippines (ULAP)
18	Filomeno Sta. Ana	Action for Economic Reforms (AER)/ Bantay Kita
19	Regine Marie Tumlos	Bantay Kita
20	Prof. Maria Aurora Teresita W. Tabada	Visayas State University
21	Ronald Allan A. Barnacha	Philippine Rural Reconstruction Movement (PRRM)/ North Luzon
23	Starjoan Villanueva	Alternate Forum for Research in Mindanao, (AFRIM) Inc.
24	Agustin Docena	Samar Island Bio-diversity Foundation (SIBF)/Eastern Visayas Network of NGOs and POs, Inc. (EVNET)
26	Dr. Merian C. Mani	Romblon Ecumenical Forum Against Mining (REFAM)/ Romblon State University
28	Roldan Gonzales	Gitib Inc.
29	Gerard Brimo	Nickel Asia Corporation/ Chamber of Mines of the Philippine (COMP)
31	Sabino Santos	Chevron Malampaya LLC/ Petroleum Association of the Philippines (PAP)
33	Erwin Riñon	Shell Philippines Exploration BV (SPEX)/ PAP
34	Atty. Gay Alessandra V. Ordenes	Secretariat
35	Maria Meliza T. Tuba	Secretariat
36	Abigail D. Ocate	Secretariat
37	Liezel Empio	Secretariat
38	Grace A. Estacio	Secretariat

1 RESOURCE PERSONS:
2

3	Cherrylin Javier	Isla Lipana & Co.
4	Pocholo Domondon	Isla Lipana & Co.
5	Katty Delos Santos	Isla Lipana & Co.
6	Mickerly Toledo	Isla Lipana & Co.

7
8
9 **AGENDA:**

- 10
- 11 • Minutes of the 13th MSG meeting and Special MSG meeting
 - 12 • Matters arising from previous MSG meetings
 - 13 • Finalization of reporting template
 - 14 • Approval of data collection and reconciliation procedure
 - 15 • Other matters

16
17 **1. Call to Order:**

18
19 1.1. The Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (MSG)
20 meeting was called to order at 9:15 AM.

21
22 The proposed agenda was presented and subsequently approved by the body.

23
24 **2. Minutes of the 13th MSG Meeting and Special MSG Meeting**

25
26 2.1. The Chair mentioned that the minutes of the two meetings were circulated to the MSG members, and
27 no comments were received by the Secretariat.

28
29 2.2. The body approved both the minutes of the 13th MSG meeting and Special MSG meeting with no
30 revisions.

31
32 **3. Matters Arising from Previous MSG Meetings**

33
34 3.1. *Establishment and management of a revenue-linked database:* The Secretariat mentioned that this item
35 has no movement since the last MSG meeting because the MSG is still waiting for the Multi-Donor Trust
36 Fund (MDTF) from the World Bank.

37
38 3.2. *Auditing of government reports:* It was mentioned that the Secretariat was previously tasked to find out
39 what are the auditing procedures of Commission on Audit (COA). It was recalled that during the PH-EITI
40 forum with National Government Agencies (NGAs), the representatives of COA were asked to fill-up a
41 template providing the information that the MSG needs from them. According to the Secretariat,

1 Commissioner Heidi Mendoza then forwarded the template to the Resident Auditors of all the relevant
2 agencies. The Resident Auditors provided the needed information and the Secretariat sent the consolidated
3 report to the MSG through the e-group.
4

5 *3.3. Offer of Timor Leste to conduct a training for the PH-EITI MSG on the Petroleum Fund process:* The
6 Secretariat mentioned that there are no developments regarding this matter because the MSG is still waiting
7 for the funds to be available.
8

9 *3.4. Bureau of Internal Revenue (BIR) waiver:* It was shared that 27 mining companies have already
10 submitted the waiver. The Secretariat also shared that Sec. Gozun sent a letter to Sec. Paje requesting him
11 to intervene so that appropriate measures can be taken by the Department of Environment and Natural
12 resources (DENR) in order to require the companies to execute the waiver.
13

14 The Chair recalled that there was also a suggestion to request BIR to send a letter to the companies. It was
15 mentioned that the Secretariat already talked to Asst. Comm. Misajon of BIR. The Secretariat relayed that
16 according to Asst. Comm. Misajon they still need to discuss the matter among themselves.
17

18 With regard to the letter sent to Sec. Paje, the Chair who is also the representative of Mines and
19 Geosciences Bureau (MGB), mentioned that their office had already received the letter but they are still
20 waiting for instructions from Sec. Paje.
21

22 *3.5. Incentives regime for mining:* The body was informed that Sec. Gozun volunteered to take charge of this
23 matter and asked the Secretariat to draft a letter to Sec. Domingo of the Board of Investments (BOI). The
24 Secretariat was also asked to draft a waiver which was patterned after the BIR waiver. The said letter and
25 waiver were already forwarded to Sec. Gozun for transmission to Sec. Domingo.
26

27 *3.6.* A representative of the industry sector commented on the letter from the BOI regarding incentives
28 which the secretariat circulated to the MSG. According to the representative, the letter was misleading as it
29 states that there are 16 mining and 11 oil and gas BOI registered firms that are currently availing of
30 incentives with the BOI. According to the same representative, this does not present the correct picture. It
31 was explained that if a company is an export producer registered with the BOI, their transactions are zero-
32 rated for VAT purposes, but this has nothing to do with whether or not the company is entitled to
33 incentives. Also, it was mentioned that the incentives have also been taken away by the current
34 administration.
35

36 The Secretariat responded that this is a matter that needs to be clarified with the BOI, further suggesting
37 that BOI should once and for all submit a formal position whether they will disclose these incentives.
38

39 *3.7.* The industry representative suggested that companies should just disclose the incentives when they fill
40 up reporting template, to which the Secretariat replied that disclosure needs to be undertaken by both the
41 company and the government agency.

1 3.8. For oil and gas industries, another industry representative clarified that BOI incentives are only for
2 downstream activities and are not applicable to the extractive part of the oil and gas industry which is the
3 upstream.

4
5 3.9. As a way forward, the MSG members were asked if they want the Secretariat to relay their concerns to
6 the BOI.

7
8 3.10. A representative of the industry sector remarked that the body should not be worried about this
9 matter because if a mining company has an income tax holiday, it would actually be reflected in the
10 reporting template. It was further elaborated that the template would reflect that the company has no
11 income tax payments because they are on an income tax holiday, for example. This information will be made
12 available without the need to ask BOI.

13
14 3.11. A representative from the government inquired whether this information is needed for the contextual
15 information part of the report.

16
17 The Secretariat recalled that representatives of Civil Society Organization (CSO) previously suggested to
18 include this information as part of the contextual information. However, the Secretariat clarified that under
19 the EITI Standard, this information is not included among the required items that should be reported.

20
21 3.12. The same government representative then suggested that if it should be included in the contextual
22 information, then the body can just include the information from the BOI letter with the comments from the
23 members of the mining industries while the numbers can be shown in the actual report. If there is a
24 company availing of a tax holiday, that information shall not come from BOI, but from the BIR instead. It was
25 explained that the actual report will contain numbers from the industry and not BOI.

26
27 3.13. A CSO representative then expressed that when the MSG discussed this matter, it was approved by the
28 body. With the BOI having issues disclosing information, it was pointed out that the MSG should get them to
29 officially come up with a statement stating exactly what the incentives are. And if those incentives have
30 been taken away it should be reflected in what BOI will communicate to the MSG.

31
32 3.14. The CSO representative noted that figures which can be validated by disclosure from the government
33 should really be included and this is part of the EITI process. As agreed by the body during previous MSG
34 meetings, it was mentioned that BOI should disclose on a per company basis.

35
36 3.15. To clarify it was shared that the information required from BOI had already been explained by the
37 Secretariat in the letter sent to BOI. However, the BOI is invoking the confidentiality provision from the
38 Omnibus Investments Code as the reason why they cannot provide the level of detail required by the MSG.
39 According to the Secretariat, BOI 's reply to the MSG's request contained a mere summary of the incentives
40 available without identifying which companies are availing of these incentives.

1 3.16. The government representative then suggested that the MSG should note in the report that the BOI
2 refused to disclose and state the position of the companies.

3
4 3.17. The industry representative clarified that there indeed might still be companies that are currently
5 availing of these incentives. However, the incentives have been taken away for new projects.

6
7 If there is a legal ground for the BOI not to disclose, it was mentioned that the body should look at getting
8 the information from the BIR. The industry representative reiterated that if a company does not pay income
9 tax, that should already inform the body that the company is on an income tax holiday period. This way, the
10 information can still be verified.

11
12 3.18. The CSO representative remarked that one of the MSG member already made a legal opinion
13 regarding the confidentiality provision being raised by BOI. The same representative stressed that it is the
14 task of the MSG to follow through. It was noted that all government agencies should be on the same plane
15 in terms of disclosure and this is a matter that the BOI should be made to understand. Otherwise, if the body
16 will just go through the process of indicating those who do not want to disclose in the report, it will not be
17 good for the MSG or the EITI process.

18
19 3.19. The government representative agreed that the BOI should disclose. However, it was mentioned that
20 the reporting entities should indicate the figures in the report rather than asking the Secretariat to go after
21 BOI. If the BOI really does not want to disclose, then the Independent Administrator (IA) can state this in the
22 report together with the legal opinion secured by the MSG that refusal to disclose is not defensible. BOI
23 then would have to answer for this.

24
25 3.20. A CSO representative expressed that perhaps the BOI does not understand the implication of non-
26 disclosure.

27
28 3.21. The Chair suggested that the MSG should just reiterate the request for information to the BOI.

29
30 3.22. A CSO representative then summarized the points agreed on, particularly that the MSG would want
31 the BOI to disclose but that it did not want it to be a hindrance to getting the report done. The MSG also
32 agreed to explore all possible options to get the BOI to disclose the data officially, but at the same time, the
33 body acknowledges that it needs to move forward with the reporting process.

34
35 The body agreed.

36
37 3.23. *Selection of Non-COMP alternate representative:* Mr. Aranes already informed the Secretariat
38 regarding their alternate representative from Marcventures Mining and Development Corp. However, the
39 Secretariat was subsequently informed that Marcventures is already a member of the Chamber of Mines of
40 the Philippines (COMP). Thus, there is a need for the non-members of COMP to appoint a different alternate
41 representative.

1 3.24. *Other information from Department of Energy (DOE):* The MSG is still waiting for the legal opinion
2 from the DOE if there are any legal impediments to the disclosure of other figures that will be coming from
3 them. It was mentioned that this is still pending with the office of Asst. Sec. Ariaso of DOE.
4

5 3.25. *Inclusion of coal in the report:* The Secretariat mentioned that they have been following-up with
6 Semirara, which is the only coal company that will be included in the report, but they have not received any
7 feedback. It was mentioned that according to Asec. Ariaso, they will also make consistent follow-ups with
8 Semirara regarding this matter.
9

10 3.26. *Scoping study:* The Secretariat informed the body that the World Bank accepted the study submitted
11 by the scoping consultant. However, since the MSG is not satisfied with the final output of the scoping
12 consultants, the National Coordinator as well as the representatives from Bantay Kita and COMP have
13 decided that the measure that can be taken is for the MSG to commission further studies so that there will
14 be separate writers who will take care of the portions that were not satisfactorily delivered by the scoping
15 consultants. There will be chapters in the report for state-owned enterprises, subnational transfers, social
16 expenditures and others. Separate writers will take care of each portion and one head writer will also be
17 hired to integrate all the sections and digest all the information for inclusion in the final EITI Report.
18

19 The body was informed that this was already relayed to the World Bank because they will be funding the
20 consultants and, the Secretariat is waiting for their feedback.
21

22 3.27. The Secretariat shared that other portions like the social expenditures and special funds will be taken
23 care of by the IA.
24

25 3.28. One member of the MSG inquired regarding the timeframe for the writers to which the Secretariat
26 responded that the start of engagement should be within the month of June. The Secretariat explained that
27 while the IA is doing the reconciliation, the writers can simultaneously work with the IA.
28

29 3.29. *Permits secured from DENR:* The Secretariat recalled that they were tasked to come up with a list of
30 other permits secured by extractive companies from the DENR. The said list was included in the meeting kit.
31

32 3.30. *Disclosure of beneficial ownership:* The Secretariat reminded that body that the MSG initially agreed to
33 ask CTP Construction and Mining Corporation to disclose their beneficial ownership in view of the fact that
34 the MSG agreed to report beneficial ownerships on a voluntary basis. CTP already have referred the matter
35 to their legal department. In connection with this, the body was informed that the Secretariat already sent a
36 letter to the Securities and Exchange Commission (SEC) to ask for the said information.
37

38 3.31. *Engagement of two mining companies in Tawi-Tawi:* The Secretariat already coordinated with the
39 office of Governor Hataman of Autonomous Region in Muslim Mindanao (ARMM). The Secretariat shared
40 that ARMM is inviting the MSG to give a presentation to them regarding EITI. The meeting is tentatively
41 schedule on June 13. The Secretariat will inform the MSG members ahead once the date is confirmed.

1 3.32. *Contents of the reporting template:* The Secretariat recalled that during the MSG meeting held after
2 the National Conference, there was a suggestion that the Technical Working Group (TWG) should first meet
3 to discuss what should be the final contents of the report. It was shared that the TWG met last May 22 and
4 gave their recommendations which will be discussed for the day's meeting.
5

6 **4. Finalization of Reporting Template**

7

8 4.1. The IA presented the results of the last TWG discussion. According to the IA, two major revisions were
9 made by the TWG. The first revision is with regard to the separation of the reporting template and the
10 schedule. To make it clear which information should be prioritized, some of the information previously
11 included as part of the reporting template were instead included as part of the schedule.
12

13 4.2. According to the IA, they will advise the reporting entities to prioritize the submission of the reporting
14 template. The schedules, on the other hand, will facilitate the reconciliation process. The primary objective
15 of this move is to not clutter the reporting template with so much information. Most of the information,
16 including the basis of calculation and the proof of payment were included as part of the schedule instead of
17 the template. In addition, it was mentioned that the reporting template will ultimately be annexed to the
18 EITI report.
19

20 4.3. The IA further elaborated on the second key revision which is the shorter enumeration of revenue
21 streams. There were certain payments that were already identified by the TWG to be not applicable,
22 relevant or to be relatively immaterial to the overall revenue stream.
23

24 The IA highlighted with an asterisk those items that for them require further confirmation and assessment
25 from the MSG.
26

- 27 • **BIR Template**

28

29 4.4. The BIR Template now features a shorter list of withholding taxes. The only item that would require
30 MSG approval and assessment is the Expanded Withholding Tax on Compensation.
31

32 4.5. According to the IA, the TWG had a long discussion if this has to be included or not. To provide the MSG
33 with perspective, the IA shared that the BIR representative recommended to exclude this since it is
34 considered indirect and is not attributed to the companies and participating entities.
35

36 4.6. An industry representative suggested that the indirect taxes and withholding taxes should still be
37 disclosed as these actually come from the companies' operations. It was further suggested that the said
38 taxes be disclosed in an annex that does not necessarily have to be reconciled.
39

40 4.7. According to the industry representative, at the very least, this provides the body with a total picture of
41 what a mining company directly or indirectly pays with respect to taxes. It was reiterated that this will just
42 be for disclosure and there will be no reconciliation.

1 4.8. The same industry representative pointed out that there are a number of other withholding taxes other
2 than compensation. It was suggested that these other withholding taxes be also put in an annex.

3
4 4.9. The IA responded that in the reporting template there is a section for additional information, or those
5 information that are considered voluntary and would not necessary warrant any increment procedure on
6 the side of the IA. In this section, the IA mentioned that specific bullet points for withholding taxes can be
7 included.

8
9 4.10. Aside from withholding taxes on compensation, the IA mentioned that the other withholding taxes
10 excluded by the BIR include Fringe Benefits Tax and other kinds of taxes that may be from interest income.
11 The IA explained that if the motion of the body is to include these withholding taxes in the additional
12 information section, then this shouldn't necessitate additional assessment. The IA additionally stated that all
13 the tables prior to the table on additional information would warrant reconciliation.

14
15 4.11. A government representative said that while it can be reported in the annex, the said withholding
16 taxes should not be reported under additional information in a separate section. The same government
17 representative mentioned that in the final report, these information should be included in the same page as
18 all the withholding taxes even if these payments will not be reconciled.

19
20 4. 12. The Chair then suggested to put the aggregate or total amount for the Expanded Withholding Tax on
21 Compensation but the details could be indicated in the Annex.

22
23 4.13. In support of the suggestion from the Chair, the IA then remarked that in the final report, total
24 payments to the BIR can be disclosed with a section indicating where certain validation was done and
25 another section that contains voluntary disclosures by the companies. The IA then pointed out that these
26 will be shown in the same page to get the context that these were all payments made to BIR.

27
28 4.14. The Secretariat pointed out that if there will be no reconciliation of certain figures, then we should be
29 able to convincingly explain why these figures are not reconciled. It was further stressed that if there are
30 figures from both government and the companies, the Standard requires that the figures be reconciled
31 because the implication is that the MSG considers these as material payments for which reconciliation is
32 mandatory. For instance, if withholding taxes will be included under the same section of the revenue
33 streams, then this means that it is considered material and should thus be reconciled unless there is a
34 compelling reason why it cannot be done.

35
36 4.15. A representative from the government then inquired about the reason why BIR excluded the Expanded
37 Withholding Tax on Compensation.

38
39 The IA reiterated that it was an indirect payment as these are taxes of the employees and not the company.

1 4.16. The Secretariat then explained that if the payment is not material, then to avoid confusion, it must not
2 be included in the template together with the other material payments and has to therefore be indicated in
3 a separate section.

4
5 The government representative then withdrew the previous suggestion.

6
7 4.17. An industry representative clarified that while the amounts are big, this is not a direct tax from the
8 companies. For that reason, it was mentioned that it is more appropriate to not indicate these payments in
9 the main template.

10
11 4.18. The body then agreed that the Expanded Withholding Tax on Compensation be excluded from the
12 reporting template.

13
14 4.19. A representative of the industry sector commented that both the BIR reporting template and the
15 schedule contain a column on proof of payment. Assuming that only aggregate amounts will be reflected in
16 the reporting template, it was suggested that the proof of payment column in the reporting template be
17 removed as this will be indicated in the schedule anyway.

18
19 4.20. The IA then explained that the reason why proof of payment was included as part of the reporting
20 template was because the initial intention in reporting corporate income tax, was to disclose everything
21 from the monthly, quarterly to annual payments. However, the IA stated that if the MSG would agree on
22 disclosing only the aggregate or total figures in the reporting template, then the suggestion of removing the
23 proof of payment column will be amenable at their end as long as it will be included in the schedule.

24
25 4.21. It was further elaborated that the reporting template will be the primary requirement. However, the IA
26 emphasized that all of the information under the schedule will have to be readily available.

27
28 According to the IA, the schedule will be done simultaneously with the reporting template but only the
29 reporting template needs to be submitted by the end of June.

30
31 4.22. Once the IA is already in the reconciliation process, the expectation is that both the reporting template
32 and the schedules are already made available by the reporting entities. However, in essence, when the IA
33 does the final reporting, the proof of payment will not necessarily be disclosed in the table; otherwise, there
34 will be too much information.

35
36 4.23. An industry representative then clarified that the reporting template will be a summary that shows the
37 aggregates and then the schedule would have all the itemized information that the IA needs to reconcile.

38
39 A CSO representative then remarked that it will perhaps be better to remove the said column in the
40 template so that the table will become more readable and understandable.

1 4.24. Another CSO representative then inquired what information needs to be indicated in the “remarks”
2 column.
3
4 4.25. The IA responded that any information which would alert them in respect of possible differences
5 arising with the government or company data can be put in the remarks column.
6
7 The IA further commented that if the proof of payment will be excluded, then the items “cut-off date” and
8 “date paid” should also excluded.
9
10 4.26. The IA reiterated that only the total amounts will be disclosed in all the templates of government
11 agencies including Bureau of Customs (BOC) and Philippine Ports Authority (PPA). It was mentioned that the
12 reporting template would only include the total amount paid, type of tax and the remarks.
13
14 An MSG Member however commented that the period might be important as the timeframe might vary for
15 each company.
16
17 4.27. The IA then explained that if the MSG chooses to disclose, for example, the aggregate amount of
18 corporate income tax then the understanding is that the data is applicable for January to December of 2012.
19 Unless the MSG requires entities to disclose on a monthly or quarterly basis, then the cut-off date will be
20 important. However, if the figures are reported on an aggregated basis then the the cut-off date and date
21 paid are no longer relevant. Also, as previously mentioned, the cut-off date and date paid will be included in
22 the schedule.
23
24 The IA further elaborated that by way of analogy, the reporting template is the general ledger or the
25 financial statement which is in summary, and the schedule is the subsidiary ledger that discloses all required
26 details.
27
28 4.28. The body then agreed to the suggested revisions.
29
30 4.29. A CSO representative stressed that all columns in the template including the remarks column needed
31 to be filled up accordingly.
32
33 4.30. One representative of the industry sector noted that the companies can indicate in the remarks
34 column whether they were under income tax holiday in 2012 or not.
35
36 4.31. In reporting income tax and profit remittance for example, one industry representative explained that
37 Malampaya Consortium agreed that they will only be providing the annual amounts and the annual returns
38 which means they will not be able to provide the date and the proof of payment.
39
40 4.32. The same representative explained that income taxes and profit remittances are made on a monthly or
41 quarterly period and would require reporting payments for each month of the 12 month period covered in
42 the reporting template. But for efficiency, it was mentioned that the industry representatives prefer to just

1 disclose the total payment for the year, by providing an aggregate amount that covers the entire 12 month
2 period.

3
4 4.33. For the case of Shell Philippines Exploration BV (SPEX), it was mentioned that they retrieved the
5 information from January to December 2012.

6
7 The representative of SPEX shared that they initially indicated the amount paid in the reporting template
8 and noted in the remarks column that this was paid under BIR form 605. However, it was mentioned that
9 they left the column on date and proof of payment blank.

10
11 4.34. The same industry representative then inquired regarding the expectation on the timeline of
12 submission of the schedule. If there are no material discrepancies identified upon completion of the
13 reporting template, the industry representative mentioned that they would not provide the schedule
14 anymore. It is because putting in the details would require a lot of time since they would have to do this
15 manually as these information are not available in their financial system. Moreover, it was mentioned that
16 they would have to go through the actual paper forms to be able to get the said information.

17
18 4.35. A CSO representative then replied that providing the schedule is not optional, based on previous MSG
19 agreements.

20
21 4.36. The same industry representative countered that if there is no material discrepancy then there is no
22 need to submit the schedule. For annual income tax, for example, it was explained that companies have the
23 annual income tax return which they submitted to the BIR. If BIR will use the return submitted by the
24 company as basis in reporting income tax in the reporting template then there should be no discrepancy
25 according to the industry representative.

26
27 4.37. Another industry representative further reiterated that they will still provide schedule for payments
28 that will not reconcile. In addition, it was mentioned that the companies want to spend the time efficiently
29 by focusing on items with discrepancies.

30
31 4.38. The industry representative explained that what they are trying to avoid is spending a lot of work on
32 one agency that that has no discrepancy in the payments reported and not be able to spend time on other
33 agencies which actually have discrepancies.

34
35 4.39. The Secretariat mentioned that the body needs to acknowledge that some MSG members would want
36 to see the entire picture and that is the reason why they want to see the details whether the payments are
37 material or not. However, the Secretariat reminded the MSG members that immaterial payments will not be
38 reported anyway thus, there is no point in getting the details for such payments.

39
40 4.40. As a compromise and for the reporting entities to meet the deadline, the Secretariat suggested that
41 the schedule will only be submitted for material payments. According to the Secretariat, the companies
42 would know more or less which payments are material when they fill-up the templates.

1 4.41. In the alternative, it was suggested that the schedule of small payments can be submitted at a later
2 time, and the MSG can discuss how the details for small payments can be collected from the companies
3 within a certain period.
4

5 4.42. A government representative then clarified if the proposal was to mean that the reporting template
6 will be submitted first and the reporting entities will prioritize the schedule for payments that will have
7 discrepancies.
8

9 4.43. According to the Secretariat, the IA explained earlier that only the reporting template is due by the end
10 of June. The schedule will be referred to once the discrepancies have been identified. Thus, there is no
11 pressure to fill-up both documents simultaneously.
12

13 4.44. A CSO representative pointed out that the companies need to provide the supporting schedule,
14 regardless of when the date of submission will be since there is a process that is being demanded under the
15 EITI Standard. It was reiterated that based on previous MSG agreements and based on the EITI process, both
16 documents have to be filled up.
17

18 4.45. A representative of the industry sector commented that they are going to submit the reporting
19 template and are still therefore in compliance with the EITI because they will be reporting the figures of the
20 payments. If the BIR reported a number that reconciles with the figure that the company reported, then
21 there's no need to submit the supporting schedule.
22

23 4.46. The industry representative elaborated that they do not see the point of reporting 12 lines of monthly
24 payments to BIR if the total of that 12 months tally with the figures reported by the BIR.
25

26 4.47. Another industry representative suggested that the IA should help the body decide on the matter. If
27 the IA can reconcile the aggregate figures without needing data from the periodic payments, then the
28 suggestion of not submitting the schedule is valid. However, should the IA need the data on each of the
29 payments to be able to reconcile, then the companies do not have a choice but to provide the schedule.
30

31 4.48. According to the IA, considering that the participating entities would not be able to determine if there
32 will be differences until such time that the government agencies have actually submitted their own
33 respective forms, the IA is encouraging the companies to be ready with the schedule given the tight
34 timeline. If the schedule has already been prepared, the IA explained that they will not have to wait for
35 many weeks before commencing the reconciliation.
36

37 4.49. The IA mentioned that the information for the schedule are available in the accounting system of the
38 companies though not in the same format required by the EITI. As a compromise for the companies, it was
39 suggested that they only accomplish the schedule based on the required format by the time that the IA is
40 already doing the validation. In the meantime, however, it is expected that the companies have the detailed
41 information readily available in their systems.

1 4.50. To summarize, as per the IA, the reporting template as well as the schedule should be submitted by
2 June 30. However, due to time constraints for the schedule, companies have an additional week to submit
3 the schedule, especially for items that have differences.
4

5 4.51. It was mentioned that once the IA identified that there are material differences based on the reporting
6 template submitted by respective government agencies, the companies will be alerted that there is already
7 a need to complete the schedule.
8

9 4.52. A representative of the industry sector further explained that their main concern with regard to
10 submitting the schedule is the manpower required to be able to fill-up the supporting schedule.
11

12 4.53. The industry representative expressed that they would want to wait for the feedback of the IA
13 regarding discrepancies after the submission of the templates on June 30. Once the IA identified that there
14 are indeed material discrepancies, the company can work for 1 to 2 weeks to provide the supporting
15 schedule for the identified items.
16

17 4.54. The CSO representative emphasized the necessity of providing the schedules by stating that these
18 forms will be attached as annexes in the Final EITI Report.
19

20 4.55. The IA clarified that only the reporting template will be attached in the Final Report. But according to
21 the IA, it is the discretion of the MSG if the schedule will also be included. However, it was mentioned that in
22 all other EITI reports reviewed by the IA, only the reporting templates are included. The primary objective of
23 the schedule is to facilitate reconciliation.
24

25 4.56. One representative from the CSO then stated that their assumption was that the schedules will also be
26 included in the annexes of the main report. However, if the EITI does not require this document to be
27 included in the Final Report then it makes sense to only provide the schedule for items that have
28 discrepancies.
29

30 To clarify, an industry representative again asked if the IA can reconcile the aggregate amounts from the
31 companies with government data.
32

33 4.57. The IA then replied that as a compromise, the reporting template has to be submitted by June 30.
34 Companies, however, should make the transaction listing from their system readily available. Should there
35 be any discrepancies, companies will be required to accomplish the schedule.
36

37 4.58. The IA mentioned that the challenge is really on the timing, because even if all government agencies
38 are required to submit the template by June 30, this may not be strictly followed in reality. It is for this
39 reason that the IA would like the companies to be already prepared with the supporting documents so that
40 if some differences were seen, the IA would just have to alert the companies.

1 4.59. The body was informed that all reconciliation procedures would have to be completed by the end of
2 August. According to the IA there are at least 50 reporting entities and a number of revenue streams.

3
4 4.60. A CSO Representative commented that there has been no agreement yet whether the schedule should
5 be included as annexes of the report or not. The Secretariat noted that in other countries, the schedules are
6 really not part of the Final Report, only the reporting templates are included.

7
8 4.61. The same CSO representative commented that by including the schedule in the annexes, the PH-EITI
9 will be more transparent compared to other countries. It was mentioned that the report will not end with
10 the MSG, but will be circulated to different end users who might ask for details found in the annexes.

11
12 4.62. Another CSO representative noted that the body earlier agreed to remove the column on proof of
13 payment in the reporting template since this column will be included in the schedule. But, since the
14 schedule will not be included in the report, a concern was raised whether the said column should again be
15 included in the reporting template.

16
17 4.63. The IA further explained that the primary validation procedure is the reconciliation with the
18 government data. The proof of payment actually is the confirmation from the government itself. The IA
19 elaborated that ultimately, the validation comes in with the reconciliation of the disclosure made by the
20 government agencies. Thus, the companies do not necessarily have to indicate for example BIR forms, BOC
21 receipts and invoices in the reporting template.

22
23 4.64. The body was informed that the proof of payment is actually just for reconciliation purposes should
24 there be any variances but this will not necessarily be used to ascertain that there was actual payment made
25 by the company. It is because the government agencies should be able to provide that confirmation based
26 on their respective reporting templates.

27
28 4.65. The Secretariat then summarized the points discussed. It was mentioned that the deadline for the
29 submission of the reporting template is on June 30 and this is non-negotiable. The schedule however, has
30 some pending issues.

31
32 The Secretariat asked if the MSG would want include it in the report as an annex since this will determine
33 whether it is optional for the companies to fill-up all the details in the schedule or not. Should the MSG
34 decide on the matter, the next issue that should be decided is when should the reporting entities submit the
35 schedule to the IA.

36
37 4.66. According to an industry representative, what they are trying to balance are the needs versus the
38 wants. The industry representative mentioned that they also want to expand the information as much as
39 possible, but if some payments would require a lot of work given that they have volumes of invoices, then
40 they would first capture what are the needs. It was mentioned that the objective of the template is to
41 provide what the needs are.

1 4.67. According to the same industry representative, the other thing that should be discussed is the
2 materiality aspect. Once the template is submitted, the MSG should discuss the material numbers and if
3 there is material discrepancy. Once the reporting templates were submitted and the body has a better
4 understanding of what the numbers look like, then the MSG can really decide which items are worth
5 detailing.

6
7 For items without discrepancy, the CSO representative again commented that the companies should still
8 work on the schedule even though they do not have to immediately submit it.

9
10 4.68. Another CSO representative clarified that they are not asking the companies to report per receipt but
11 only something that is doable since it is important that the MSG has references that they can refer back to.

12
13 4.69. At this point, the representative of the industry sector relayed that payments to BOC and PPA are
14 normally counted as daily transactions.

15
16 The same representative stated that if the MSG decides to include the schedule in the actual report, several
17 more pages have to be added in the report to reflect the payments made and the corresponding dates of
18 payment.

19
20 4.70. Another CSO representative noted the predicament of the companies but further stated that this being
21 the first Philippine EITI Country Report, part of the process is using the report to elicit debate and
22 discussions, so it can be expected that users of the report will ask the MSG for details. The MSG should
23 therefore find an appropriate compromise that can meet the requirements of the IA as well as the
24 requirements of the communities that might be interested in knowing the details.

25
26 4.71. The Secretariat then inquired what level of detail and information would satisfy the communities.

27
28 4.72. A CSO representative reiterated the need to be practical about the report. According to the CSO
29 representative, a heavier report would only muddle the issues.

30
31 It was pointed out that no one will be interested in looking at daily transactions unless there is some form of
32 fraud happening. What matters is the availability of a system of verification.

33
34 4.73. According to the same CSO representative, so long as the system is in place and the data is verifiable,
35 then there should not be a problem. Another matter to be considered is that people might get discouraged
36 in reading the report when there are too many volumes of data.

37
38 4.74. The Secretariat then suggested that there be a link provided in the report for those who wish to see
39 the detailed data.

40
41 4.75. Another industry representative then raised the point again regarding the amount of data or
42 information the IA will need to be able to verify or reconcile the data.

1 According to the industry representative, if the total figure is good enough for the IA to reconcile then there
2 should be no need to break it down in detail. Ultimately, according to the industry representative, the IA will
3 have to inform the MSG as to what level of detail it will need to reconcile the data required from reporting
4 entities.

5
6 4.76. The IA responded by saying that the reporting template will be primary for EITI Reporting purposes and
7 the schedule is only for reconciliation purposes should there be any differences.

8
9 For clarification, it was mentioned that what the IA needs is for reporting entities to report the summaries or
10 the aggregates in the reporting template; and will only require details should there be any discrepancies.

11
12 4.77. According to the IA, if both companies and government agencies will provide the reporting template
13 by June 30, it would take just a couple of days for them to take a look at the initial data and determine
14 whether there is a significant discrepancy on each of the participants. For those with discrepancies, the IA
15 mentioned that the participants should be able to produce the schedules within 1 week or 2 weeks at the
16 maximum.

17
18 Given that the first draft of the report is due on September 30, the IA explained that they do not have the
19 luxury of time to do the reconciliation and this is the reason why at the first instance they wanted the details
20 to be already there. But, understanding the predicament of the participants in term of the resources and the
21 difficulty of coming up with the details, the IA stated that 1 to 2 weeks is hopefully sufficient for the
22 companies to provide the schedule.

23
24 4.78. One member of the MSG again inquired if the IA can verify the difference based on just the aggregates
25 in the reporting template alone.

26
27 4.79. The IA confirmed that they can do the initial comparison of the data because it is just a matching
28 process that will be done on a per participant basis.

29
30 4.80. One representative of the industry sector shared that they expect to see reconciled data for BIR. On
31 the other hand, they are anticipating that the figures for BOC, PPA and Local Government Unit (LGU)
32 payments will not exactly match.

33
34 The industry representative mentioned that for BOC payments for example, they will already prepare the
35 details when they put in the aggregate amount. However, the details will be in a format that is not aligned
36 with the template for the supporting schedule since the details will be downloaded from their financial
37 accounting system.

38
39 4.81. The Secretariat summarized that the submission of the reporting template is on June 30. Once the IA
40 has identified whether there are discrepancies, the companies will be asked to submit the schedules for the
41 items with discrepancies. The schedule should be available within 2 weeks after June 30 which is July 14.

1 4.82. To clarify, the IA stated that they will do the matching once the templates are submitted to them. The
2 IA assured that within 3 days, the companies with discrepancies will be notified thus, they will know
3 whether they have to prepare the schedule or not.
4

5 The IA clarified that the schedules are only relevant for items with discrepancies. The companies do not
6 have to submit the schedule for those without discrepancies.
7

8 4.83. On the other hand, the IA emphasized that they are expecting significant variances for all government
9 agencies aside from BIR. With this, the IA advised the industry representatives that as they prepare the
10 reporting template, it would be good to take a look on how the schedules can be prepared within 10 days.
11

12 4.84. Since the next MSG meeting is scheduled on July 4, a representative of the CSO asked if the IA can
13 already present to the MSG a summary or list of items which have discrepancies.
14

15 The IA confirmed that they can present the said information provided that all reporting entities submit the
16 required template on June 30.
17

- 18 • **BOC and PPA Template**
19

20 4.85. According to the IA, both BOC and PPA payments were streamlined by the TWG.
21

22 For BOC only three (3) revenue streams were identified to be applicable, while only wharfage fees will have
23 to be disclosed for PPA. The IA stated that are no outstanding items for both agencies.
24

25 4.86. As previously agreed, the IA reiterated that the date paid for BOC and PPA template will be excluded.
26 Similar to BIR, what will be included are the columns on amount paid and remarks. The IA noted that this
27 will also be the format for the templates of the rest of the government agencies because the expectation is
28 that the excluded information will just be incorporated in the schedule if necessary.
29

30 4.87. Going back to the discussion on whether the MSG will include or exclude the period covered (cut-off
31 date) in the reporting template, one member of the MSG disagreed with the previous suggestion to remove
32 the said information.
33

34 In reporting excise tax for example, it was mentioned that the LGUs will be interested to see both the
35 amount and the period covered. It was noted that the period covered is an important piece of information.
36 In connection with this, one CSO representative also raised that the IA should put the proof of payment back
37 in the reporting template.
38

39 4.88. The Secretariat clarified if the suggestion is to include copies of Official Receipts (ORs) in the reporting
40 template since proof of payment refers to ORs.

1 4.89. According to the CSO representative, it should be stated in the report that the proof of payment is the
2 OR.
3
4 4.90. Unless there are different proofs of payment for each type of payment, the Secretariat explained that
5 the column on the proof of payment can be excluded. The Secretariat mentioned that a narrative stating
6 that that the ORs are the proofs for the payments will be provided before the figures.
7
8 The body agreed.
9
10 4.91. As for the period covered, the Secretariat clarified if this information is relevant for all payments and
11 not only for local payments.
12
13 The same member of the MSG commented that it is relevant for all payments.
14
15 4.92. The body agreed to again include the period covered (cut-off date) in the reporting template.
16
17 4.93. The Secretariat reviewed that the columns in the reporting template will be the following: type of tax,
18 period covered (cut-off date), amount paid and remarks. It was noted that this format will apply to the
19 templates of all reporting entities.
20
21 4.94. One member of the MSG asked if the corporate income tax will be reported on an accrual basis or not.
22
23 4.95. The IA explained that corporate income tax will actually be reported on an accrual basis since
24 payments pertaining to 2011, but were paid at the first quarter of 2012, may be included if the reporting will
25 be on actual cash payments.
26
27 4.96. The IA shared that they made it clear to the different government agencies that all payments to be
28 reported should be relevant for accounting year 2012, irrespective whether they were paid on the
29 subsequent year (maybe first quarter of 2013 or before 2011). All of the payments would have to be
30 attributed for transactions made in 2012 because one of the objective is to come up with certain assessment
31 or analysis on total revenue stream in respect of reported income of different entities for 2012.
32
33 4.97. It was then suggested that the IA put a footnote on the kind of taxes that go beyond a certain period
34 and describe how they want these to be reported.
35
36 The IA responded that they will include a general fact sheet for reminders and points of emphasis on the
37 template.
38

1 • **MGB Template**

2
3 4.98. According to the IA, the only outstanding item with regard to the MGB template is the government
4 share in Co-Production Agreement (CA) or Joint Venture Agreement (JVA). As per the IA, they have to
5 reconfirm whether this is likewise applicable to the Philippine Mining Development Corporation (PMDC).

6
7 4.99. The body was informed that as agreed during the TWG meeting, the only applicable payments for MGB
8 are the royalties in mineral reservation areas and occupation fees.

9
10 • **DOE Template**

11
12 4.100. According to the IA, the DOE representatives suggested during the TWG meeting that all revenue
13 streams be included as part of the reporting template.

14
15 4.101. On the other hand, it was mentioned that the IA separated the revenue streams from the social funds
16 similar to what they did for mining entities. This is because certain items including the development
17 assistance fund, abandonment fund, training fund and scholarship should be voluntarily disclosed from the
18 companies. The said items do not necessarily require any reconciliation similar to the Social Development
19 and Management Program (SDMP) and other environmental funds of mining entities.

20
21 4.102. The IA then reconfirmed whether all the items enumerated under DOE template are also applicable
22 for coal companies.

23
24 According to the DOE representative, coal operations do not have discovery bonus, production bonus and
25 the annual rental fees, but all the rest of the items listed were said to be applicable.

26
27 4.103. The same DOE representative inquired whether the IA have already conferred with the compliance
28 division of DOE regarding their system of reporting. Specifically, the IA was asked if the said division of DOE
29 will be reporting the revenue streams of Service Contract (SC) 38 as one entity, or whether each member of
30 the Malampaya Consortium will be made to submit separate reports.

31
32 4.104. The IA replied that in the last TWG meeting, no limitation was raised by the DOE representatives.
33 Thus, the IA assumes that the DOE will be able to comply with the requests made. The IA added that they
34 even mentioned re-assessing some of the fees that might be immaterial but the TWG representatives of
35 DOE commented that these items should still be included in the reporting template.

36
37 4.105. The IA further stated that the DOE representatives did not state any limitation with regard to per
38 company reporting. The IA further clarified that the expectation is that DOE will be able to disclose and
39 break down the government share of the consortium into the different participating companies.

40
41 The Secretariat added that EITI requires reporting to be done on a per company basis.

1 4.106. A CSO representative requested to be clarified regarding the role of the consortium in reporting the
2 payments of oil and gas industry.

3
4 4.107. The IA explained that in the list of participating oil and gas entities there is a mention of SPEX,
5 Chevron and PNOC; however, these companies are working on one project alone which is Malampaya. The
6 three companies then comprise the Malampaya Consortium. To further explain, the IA mentioned that there
7 was a clarification if DOE will be able to disclose the government share on a per company basis or on a per
8 project basis which is the overall Malampaya Consortium.

9
10 The Secretariat added that all companies that are part of the consortium should report their payments.

11
12 4.108. The DOE representative noted that the signature bonus, discovery bonus and production bonus are
13 all one-time payments. Since the service contracts were awarded before 2012, the same representative
14 mentioned that there will be no reported figures for these items.

15
16 It was suggested that the year when the service contract were awarded should just be indicated in the
17 remarks column.

18
19 • **LGU Template**

20
21 4.109. According to the IA, the only outstanding item regarding the LGUs is reconfirming whether the LGUs
22 will be able to supply the information on local wharfage fees, toll fees and extraction fees on a per company
23 basis.

24
25 4.110. As per the IA, in the LGU consolidated report, payments are on a total basis without identifying
26 whether these were sourced from mining or oil and gas entities within their territories. However, the IA
27 noted that the mount of the said payments may also be relatively immaterial compared to other LGU
28 payments.

29
30 The IA suggested to defer the decision until they received the actual figures by July 4.

31
32 4.111. The IA further pointed out that in the LGU template, there is a specific section on subnational
33 payments which will actually be covered by another assessment under EITI report. The IA mentioned that
34 these payments will be not covered by the reconciliation procedure.

35
36 The Secretariat clarified that subnational payments which are material should also be reconciled. The IA
37 agreed to this.

38
39 4.112. For clarification, it was stated that subnational payments are payments from the companies to the
40 local government which may be under the local government code or under the local tax codes of the LGUs.

1 • **Template for Social Funds**

2
3 4.113. A CSO representative clarified whether or not the IA will reconcile the SDMP and social funds of
4 participating entities.

5
6 4.114. The IA replied that for EITI purposes, revenue streams would require reconciliation because there will
7 also be disclosures made by the government thus, the IA will be able to do the matching of figures reported
8 by the companies. However, for unilateral payments wherein there is no clear monitoring mechanism, the IA
9 would not be able to reconcile.

10
11 The IA stated that all unilateral payments will just be disclosed in the EITI report and this is the same
12 approach taken in other EITI territories.

13
14 4.115. The Secretariat then clarified the difference between mandatory social expenditures and
15 discretionary social expenditures. In the case of the Philippines, the Secretariat further elaborated that since
16 the 1.5% for SDMP is required, it is a mandatory social expenditure and therefore is required to be
17 reconciled under the EITI standard.

18
19 However, if SDMP cannot be reconciled then the IA should at least indicate in the report that there is no way
20 of reconciling the figures because there is no monitoring procedure on the part of the MGB.

21
22 4.116. The Chair noted that there is actually a Multi-Partite Monitoring Team (MMT) that monitors the
23 SDMP and this MMT reports quarterly to MGB.

24
25 4.117. The IA clarified that monitoring is not the issue. It was explained that SDMP is basically maintained by
26 the company and ensured to comply with the programs that they have submitted to the MGB. It is for this
27 reason that unilateral payments are distinguished from revenue streams.

28
29 The IA stated that social funds are not revenue streams at the side of the government.

30
31 4.118. The Chair confirmed that the government does not receive the funds for SDMP. It was mentioned
32 that this is actually being spent on social developments in the community and it is a part of the operating
33 cost of the companies.

34
35 4.119. The IA then further stated they would not be able to do the validation and the reconciliation because
36 the said funds have a number of recipients, and payments are not made only to a particular government
37 agency.

38
39 4.120. A CSO representative noted that the SDMP is one of the most controversial aspects of mining
40 operations for the community and is therefore crucial information that needs to be surfaced in the report,
41 especially with regard to how much has been spent and on what projects or programs are these funds being
42 spent.

1 4.121. A government representative asked what government agency will be able to provide the information
2 that the MSG need to validate the SDMP. If there is no such agency, it was mentioned that the SDMP will
3 then have to be classified as a unilateral payment.
4

5 4.122. According to the same government representative, the MMT is not a government entity. It was
6 commented that the SDMP should be disclosed and if people and communities on the ground want to
7 validate the information, they are free to do so.
8

9 4.123. The Chair clarified that the MMT is actually a part of the government and is headed by the MGB
10 Regional Office Director. It was reiterated that the MMT reports quarterly to the central office of the MGB.
11 Therefore, the Chair mentioned that MGB could validate the amount that companies spent on the
12 community.
13

14 The same government representative then clarified if the MGB can provide the information to the IA.
15

16 4.124. The Chair responded that the MGB can provide the information. It was further stated that the
17 template already contains a portion on the SDMP that the MGB needs to accomplish.
18

19 4.125. At this point, the IA noted that reconciliation should focus on the revenue streams and not on the
20 funds, irrespective of whether or not there is monitoring done by the government.
21

22 4.126. The Secretariat then shared that there is actually a guidance note which was recently issued by the
23 International EITI Board. The Secretariat explained that according to the guidance note, to the extent
24 possible, if an item can be reconciled then it should be reconciled whether it is a mandatory or discretionary
25 social expenditure.
26

27 4.127. The Secretariat further elaborated that while the body recognizes the difficulty of reconciling the
28 SDMP especially if these social expenditures are not being tracked by the government since they go directly
29 to the communities, at the very least, there should be a description in the report of how these are being
30 monitored. If there are gaps, which are impossible for the IA to reconcile, then there should be a description
31 of that in the report.
32

33 4.128. To clarify, the Secretariat again mentioned that the IA should be able to reflect in the report that
34 there is no way of reconciling the funds but there was an attempt to validate.
35

36 For the information of the body, the IA explained that validation of SDMP is just purely a matter of matching
37 the total declarations of the company and the total as monitored by the MMT.
38

39 The body agreed to the suggestion of the Secretariat.
40

41 4.129. Going back to the template, the IA shared that the social fund was divided into mandatory
42 expenditures, environmental funds and other allowances. The IA further pointed out that they will do the

1 validation or the actual matching based on disclosures by the participating entities as well as the
2 government entities.

3
4 4.130. With regard to mandatory expenditures, the IA noted that the MSG should reconfirm the required
5 scope and extent of disclosures pertaining to the safety and health programs as well as the environmental
6 work programs of the companies. The IA mentioned that these were the two programs cited during the last
7 TWG meeting.

8
9 According to the IA, the said programs may be a little different from other programs wherein there are
10 separate funds being maintained by the companies.

11
12 4.131. The IA reiterated that they want to be clarified on the disclosures that would have to be indicated by
13 the participating entities in this regard.

14
15 4.132. The Chair then clarified that the funds for safety and health programs do not go directly to the
16 government. Instead, it is part of the company's operating cost to establish a safety and health program for
17 employees of the company and for the community.

18
19 The Chair has recommended to disclose the said fund if companies have such programs. It was then shared
20 to the body that MGB has an annual monitoring of the safety and health programs of the different
21 companies.

22
23 4.133. The Chair then asked the body if it was amenable to include safety and health program in the
24 reporting template.

25
26 4.134. A CSO representative agreed that the safety and health programs be included as these are part of the
27 expenditures of the mining companies.

28
29 4.135. The Secretariat mentioned that if some programs are already included, the body might as well include
30 all the programs so that they would not have to explain why some programs were included and others were
31 not. It was noted however that these will only be disclosed and will not be reconciled.

32
33 4.136. A CSO representative noted that data might be retrieved from the MGB since it has a monitoring
34 system.

35
36 The Chair clarified that MGB monitors the program but not the amount itself.

37
38 4.137. A government representative asked whether the TWG representatives of the mining companies
39 wanted the said programs to be included or excluded in the template.

40
41 4.138. The IA shared that the industry representatives wanted these items to be included in the reporting
42 template. That being the case, the Chair noted, that these items should be included. The body agreed.

1 4.139. It was noted that for the section on environmental funds and other allowances, the IA did not receive
2 any comments.
3

4 4.140. For mandatory expenditures a representative of the CSO inquired if the MSG can also require the
5 participating entities to submit the schedule. It is because the projects, costs and the amount spent for
6 SDMP projects are all reflected in the schedule.
7

8 It was clarified that the suggestion was to request the companies to fill up the schedule for SDMP even
9 though this item will not be reconciled.
10

11 4.141. The Secretariat clarified the level of detail that the MSG wants with regard to the cost of the SDMP.
12

13 4.142. The CSO representative pointed out that the breakdown they want to see is included in the schedule.
14 It was mentioned that this break down should be reflected in the reporting template.
15

16 4.143. A government representative agreed and mentioned that this is an important information for the
17 local government. It was mentioned aggregate figures only would be not as interesting for the LGUs.
18

19 4.144. It was then suggested that the breakdown of SDMP for Social Development and Management (75%),
20 Mining Technology and Geosciences Advancement (10%) and Information, Education and Communication
21 (15%) be moved to the reporting template.
22

23 4.145. Since the MSG agreed that the companies will not be required to submit the schedule if there are no
24 discrepancies, it is logical to move the said information in the reporting template.
25

26 The SDMP table was then moved after mandatory expenditures (table F1.) under social funds.
27

28 The body agreed.
29

30 4.146. One member of the MSG inquired how will the body determine if the fund for royalties and SDMP are
31 not the same fund that the company use for their CSR activities.
32

33 4.147. The Chair clarified that there are required percentages for these items and that is why it can be
34 monitored. If a company declares its one-year operating cost, 1.5% of that will be for its SDMP and a
35 minimum of 1% is for IP royalties.
36

37 4.148. The same CSO Representative stressed the need to differentiate between CSR and the SDMP.
38 According to the CSO Representative, it is difficult for communities on the ground to check whether projects
39 in their territories are charged against the CSR or the SDMP.
40 It was mentioned that this can be explored further for the succeeding reports, especially since CSR projects
41 are not necessarily confined in the community where the company operates.
42

1 • **National Commission on Indigenous Peoples (NCIP)**

2
3 4.149. The IA relayed that representatives of NCIP mentioned that some of the enumerated items in the
4 template maybe considered as unilateral payment. However, the IA needs to further discuss and confirm
5 these items with the NCIP representatives.

6
7 4.150. According to the Secretariat, referring to the EITI Standard and Guidance Notes, valuation is required
8 for in-kind payments. The Secretariat further added that during the TWG meeting, the NCIP representatives
9 expressed difficulty reporting in-kind payments.

10
11 4.151. The Secretariat then suggested that the companies provide the information since they are the ones
12 giving the fund. For example, if a company provides an IP community with 10 sacks of rice, the company
13 should then be able to provide a monetary valuation for what they gave. If there is no way of reconciling the
14 amount from the side of the government, then the body can just indicate in the report that the government
15 has no valuation of the in-kind payments therefore the information cannot be reconciled.

16
17 4.152. The IA then explained that they included the said information as part of section I, number 6 which
18 states “other payments made to IPs”.

19
20 The IA also included the requirement to enumerate all existing Memorandum of Agreement (MOA) and the
21 breakdown of payment made or donation, including also the recipients; and under the amount column, the
22 possible monetary equivalent of the donation made.

23
24 4.153. A CSO representative then asked if the NCIP has a monitoring mechanism for the IP royalties.

25
26 4.154. The Chair remarked that based on the information from the NCIP representative who attended the
27 TWG meeting, they are having difficulties in terms of monitoring the royalties as these are directly paid by
28 the companies to the community.

29
30 The Chair asked how the payments will be reported, in this case.

31
32 4.155. The Secretariat responded that these payments should be reported unilaterally.

33
34 4.156. The IA shared that the NCIP representatives mentioned that the only monitoring mechanism they
35 have is the MOA signed by the entities. But as for the actual payments or donations made, the IA noted that
36 NCIP basically get reconfirmation but not necessarily a detailed enumeration of payments or donations. It is
37 for this reason that the template for the NCIP was patterned to a type of unilateral payment instead of a
38 main revenue stream.

39
40 4.157. Considering that there will be no reconciliation, a CSO representative inquired whether the report be
41 able to reflect if the royalty paid by the company actually corresponds to the actual percentage mandated
42 by the law.

1 4.158. The IA responded that the template will include the basis of calculation and the amount. It will
2 essentially show how the company computed for the royalty.

3
4 4.159. It was clarified that in reporting royalty for example, what will appear in the report is the amount and
5 the reference which is the MOA.

6
7 • **Project registration**
8

9 4.160. According to the IA, project registration is more in line with BOI since entities will indicate which
10 incentives they availed of for 2012, and what are the equivalent monetary amount of these incentives.

11
12 • **Company profile**
13

14 4.161. According to the IA, some of the information under this section can be directly obtained from other
15 agencies such as the MGB and the SEC. However, it was mentioned that the participating entities are still
16 mandated to disclose the same.

17
18 4.162. With regard to maps, the IA mentioned that the MGB has a consolidated copy of those. On the other
19 hand, the IA noted that the listed owners of the companies can be retrieved from the General Information
20 Sheet (GIS) submitted to SEC.

21
22 4.163. The Chair shared that MGB should also have some data of companies as they have the contracts and
23 the locations of the tenement areas.

24
25 4.164. The IA commented that they can exclude the section on company profile if all the necessary
26 information can be requested from government agencies.

27
28 The IA asked the MSG members if they still want the companies to disclose their owners and provide their
29 project maps.

30
31 4.165. A CSO representative replied that they want to see the owners. As agreed last MSG meeting, it was
32 mentioned that the owners of publicly listed companies will be obtained directly from the SEC while for
33 those that are not publicly listed, the MSG will ask the companies to voluntarily disclose beneficial
34 ownership.

35
36 The body agreed.
37

1 • **Employment**

2
3 4.166. The IA mentioned that they needed further guidance on how the employment section of the
4 template should be accomplished by the entities so that it can also be included as part of the guidance
5 sheet.

6
7 4.167. It was noted that the required data on employment should be available at the human resources
8 department since companies submit regular report to Department of Labor and Employment (DOLE).

9
10 4.168. It was clarified that the information on employment will be a unilateral disclosure. The IA will get
11 these information from the companies and these will not be verified with DOLE.

12
13 4.169. The IA inquired if it would be possible to further qualify between regular or seasonal employees. The
14 IA mentioned that during the TWG meeting, a question was raised as to how the companies will account for
15 employees who are employed for only 2 months or for employees who are hired at the middle of the year.

16
17 4.170. A CSO representative stated that they recognize the difficulty. To simplify, it was then suggested that
18 the employment be reported in percentages instead of actual figures.

19
20 4.171. Another CSO Representative, however, posited that actual employment figures for 2012 have to be
21 used.

22
23 The body agreed to use actual figures.

24
25 4.172. The Secretariat pointed out that during the last MSG meeting, a representative of the mining industry
26 indicated that there is no need to put IP/non-IP under column for international employment but suggested
27 to put “consultants” instead. The body agreed.

28
29 4.173. A government representative clarified the meaning of the term “local” – if it directly pertains to the
30 nationality, i.e., Filipino; or the locality, i.e., Davao-based.

31
32 4.174. One member of the MSG responded that “local” in the template refers to Filipino employees.

33
34 The same government representative suggested to instead use the term Filipino. The Chair further
35 suggested to simply use “Filipino” and “Alien” to distinguish between Filipino and foreign workers.

36
37 • **Gross production in MT**

38
39 4.175. The IA presented the suggested format of MGB.

40
41 4.176. A CSO representative noted that the data on the price and volume will determine whether or not
42 mining companies are paying the correct taxes and is likewise a tool to cross-check these figures. The same

1 CSO representative noted that in the EITI reports of other countries, production volume, production value
2 and price are presented as basic information.
3

4 4.177. The Chair clarified that there is no problem with regard to production volume, however, production
5 value reported by the company and the MGB will definitely have discrepancies. This is because companies
6 only submit production volume to MGB.
7

8 4.178. It was clarified that the reporting will be done on an annual basis. What should be reported is the
9 annual production for 2012 per company and per commodity.
10 The Secretariat asked the body whether they want these data to be reconciled or merely disclosed for
11 comparison purposes.
12

13 4.179. A CSO representative responded that in other countries, they are reconciling the data and really
14 identifying how much was produced and the value of the production. The same representative noted that
15 this is the reason why these countries were able to trace the discrepancy.
16

17 4.180. The Chair reiterated that discrepancy will occur for the production value because companies will add
18 their quarterly figures (based on their database), while MGB will compute for the production value based on
19 production volume submitted by the company and based on the current price.
20

21 The Chair also mentioned that MGB receive quarterly reports from the companies.
22

23 4.181. The CSO representative then suggested that the report should be on a quarterly basis in order for the
24 company data to match with the data of MGB.
25

26 4.182. The Secretariat asked if MGB generates their own data or they rely on what the companies are
27 submitting since there will be no discrepancy if MGB only relies on what the companies submit.
28

29 4.183. The Chair explained that though MGB relies on what the companies are submitting, there will be
30 discrepancies in terms of pricing and the production value since MGB is indicating the specific price of
31 commodity for the particular quarter when the data are submitted and also based on the dollar exchange of
32 that period.
33

34 4.184. If there will really be a discrepancy and the figures cannot really be reconciled, the Secretariat
35 explained that this will just be a matter of disclosing so that government and companies can compare data.
36 The Secretariat further explained that if the IA will be asked to reconcile, this would mean that they will not
37 just identify the discrepancy but also make adjustments if possible.
38

39 The IA was asked if reconciliation is actually feasible to manage the expectations of the MSG.
40

1 4.185. The IA explained that the figures cannot be reconciled because it is on a per shipment basis and the
2 basis on the production value is a little different. There are also different pricing schemes, pricing ranges and
3 these are for different minerals altogether.

4
5 The IA mentioned that this may not necessarily be also aligned with the main objective of the EITI exercise
6 which is really on the receipts and the payments. If there will be any differences with respect to reporting
7 between MGB and the companies, then the MSG has to leave it to the stakeholder on how they will be using
8 the information.

9
10 4.186. A representative of the government asked if there an analysis that can be done to see how much the
11 variance should be. Because while it may be true that it will not directly match, the difference should not go
12 beyond a certain range. On the other hand, the same representative clarified that there is no need to
13 reconcile.

14
15 4.187. The IA reiterated that the determination of the value and even pricing is on a per contract and per
16 shipment basis. Thus, the IA would not be able to really come up with a good range or variance.

17
18 4.188. If the IA will go by contract for example, the IA elaborated that some contracts indicate spot price at
19 the particular date of shipment, some indicate averages for the past 3 months, while others indicate the
20 succeeding 3 months based on final determination of prices. Because of the intricacy of the procedure and
21 those differences, the IA would really have a hard time trying to come up with a bench mark to see whether
22 the figures are exceeding a particular threshold or not. Also, it was mentioned that this will be
23 disadvantageous for entities that may have additional stipulation in their agreements.

24
25 4.189. According to the Secretariat this particular information could just be for disclosure. The stakeholders
26 can then use it as a tool for further analysis and draw their own conclusions from it.

27
28 4.190. A representative of the CSO commented that it will be good to see the discrepancies even without
29 reconciliation.

30
31 4.191. One member to the MSG however noted that in this particular case, the difference in the figures is
32 not actual discrepancy. It was pointed out that it is possible that there is really no discrepancy but it just so
33 happened that the figures reported were different because of certain factors such as pricing and the grade
34 of minerals.

35
36 4.192. The Secretariat pointed out that the MSG members are all in agreement that they want the disclosure
37 of this information and that is why this is included in the reporting template. On the other hand, the
38 secretariat explained that it is a tall order to ask the IA to reconcile the discrepancies, if any, given that there
39 are other factors to be considered. So at least for the first report, the Secretariat suggested that the MSG
40 agree on the disclosure of the information without reconciliation.

41

1 4.193. A representative of the CSO countered that what the stakeholders will see at first glance is the
2 discrepancy, which might not look good unless there is some explanation.

3
4 The same representative explained that it is not enough to just make a disclosure and leave it up to the
5 stakeholders to analyze because this will lead to a lot of interpretations, and thus, some kind of explanation
6 is necessary.

7
8 4.194. If this item will entail a really thorough and detailed discussion, the Secretariat suggested that the
9 MSG commission a separate study for this. It was mentioned that the study can also be incorporated in the
10 report.

11
12 4.195. It was mentioned that this information will already be included in the template. The Chair suggested
13 that the MSG should wait for the report of the IA based on the template submitted by the companies and
14 MGB. If there is significant discrepancy, then that's the time that the MSG will decide on this matter.

15
16 The body agreed.

17
18 4.196. It was noted that the separate table on pricing will be deleted since it is already integrated in the
19 template under Gross production in MT

20
21 • **Grants and donations**

22
23 4.197. The IA noted that grants and donations will be reported unilaterally by the companies.

24
25 4.198. A CSO representative suggested to change the column heading from "recipient" to "recipients".
26 Another suggestion was to include the grants and donations made to individuals and other foundations. It
27 was mentioned that there will now be 3 tables under grants and donations; table a. for the LGUs, table b for
28 IPs and table c for others.

29
30 The body agreed.

31
32 • **Other payments made to IPs**

33
34 4.199. The IA shared that the enumeration of existing MOAs including breakdown of payments and
35 donations made were requested to be included during the last TWG meeting.

36
37 • **Approval of the reporting template**

38
39 4.200. At this juncture, the secretariat asked the IA to summarize and show to the MSG the revised template
40 for one final review. Upon going through the entire template again and reviewing the revisions one by one,
41 it was moved and seconded that the reporting template be approved by the MSG.

1 The template was then unanimously approved by the body.

2

3 **5. Approval of Data Collection and Reconciliation Procedure**

4

5 5.1. The IA presented the data collection as well as the reconciliation procedure and mentioned that this
6 was actually a reiteration of what was last MSG meeting (the presentation material is attached as Annex A).

7

8 **Approach and methodology:**

9

10 5.2. The IA will start off with a walk through of the different financial closing processes of the different
11 entities, as well as government agencies, identifying how they came up with the data and how are they able
12 to supply the information.

13

14 5.3. The IA will then be conducting the actual validation or reconciliation as soon as they receive the
15 reporting templates. After which, the IA will basically summarize the more common nature of the variances
16 as well as summarize any unexplained differences, if there will be any, for the final reporting.

17

18 **Data gathering:**

19

20 5.4. The IA noted that the MSG relatively agreed upon the procedure earlier while setting on the timetable.
21 To again re-emphasize, the IA mentioned that June 30 will be the deadline for submission of all templates.
22 The IA will then be communicating the variances during the MSG meeting in July 4. The variances will also be
23 communicated with the different entities so that they can already start the preparation of the required
24 schedules.

25

26 After 2 weeks, the IA will be conducting their actual field work to inspect the supporting documents
27 rationalizing the differences that they have seen. The IA mentioned that they should be able to complete the
28 reconciliation and data gathering by mid-September.

29

30 5.5. Going through the validation or the agreed upon procedure (AUP), the overall framework that the IA
31 will be using is Philippine Standard on Related Services (PSRS) 4400. This is an international standard
32 governing agreed upon procedure.

33

34 The IA will obtain the completed and signed reporting templates from all stakeholders and will proceed with
35 the comparison. Then for any differences, the IA will be selecting those reconciling items that would warrant
36 further validation.

37

38 5.6. The IA further explained that the selection process will be governed by a materiality or threshold that
39 the MSG will be agreeing on July 4, just to ascertain that a significant percentage of all the variances will be
40 scoped in. After which, the IA will be inspecting the supporting documents and will report this to the MSG
41 on August. The final reporting will be in September.

1 5.7. For unilateral payments, other than the SMDP, it was reiterated that the MSG agreed on reporting the
2 total figures based on management schedules or report submitted to regulatory bodies.

3
4 5.8. The body approved the data collection and reconciliation procedure as discussed by the IA.
5

6 **6. Other Matters**

7 8 **• PH-EITI Annual Activity Report** 9

10 6.1. The Secretariat shared that the MSG is being required by the International Secretariat to submit a
11 report by July 1. It was mentioned that the draft activity report was already emailed to the MSG on May 27.
12

13 The Secretariat reminded the MSG members that as mentioned in the previous email, the MSG should to
14 take care of distributing the draft report to their stakeholders outside of the MSG since their feedback needs
15 to be incorporated in the report.
16

17 6.2. According to the Secretariat, the CSO and business representatives were given until June 16 to send
18 back the activity report with their comments and feedback so that the Secretariat can further make
19 revisions, if necessary.
20

21 The Secretariat stated that the revised activity report will be sent back to the MSG members for their final
22 approval before sending it to the International Secretariat.
23

24 6.3. The Secretariat stressed that it is important for the MSG to give comments on the section on other
25 comments and the section on strengths and weaknesses of EITI implementation in the Philippines.
26

27 **• Scoping study: Next Steps** 28

29 6.4. The Secretariat stated that the next steps were already discussed. To reiterate, the MSG will be
30 commissioning separate studies for the different portions of the report.
31

32 It was shared that the World Bank initially agreed to fund the said studies. However, the body is still waiting
33 for the final words and approval from them.
34

35 **• Schedule of MSG and TWG meetings** 36

37 6.5. The Secretariat recalled that there was a previous agreement that the MSG will just meet every other
38 month. However, the Secretariat noted that the group needs to meet again in July since the materiality
39 threshold will be discussed.
40

1 6.6. Based on the timetable, the IA should present the initial reconciliation report on August 30. In
2 connection to this, the Secretariat asked the MSG members whether they want to meet again on the first
3 Friday of August or on August 30 instead.

4
5 The Secretariat further stated that the presentation of the 2nd report to the MSG is scheduled on
6 September 30 while October 30 will be the presentation and approval of final report.

7
8 6.7. Given the said dates that were indicated as timetable for deliverables in the IA's Terms of Reference
9 (TOR), the Secretariat suggested that the MSG forgo the first Friday meeting in August and meet on August
10 30 instead. It was raised that August 30 is a Saturday so the body agreed to meet on August 29.

11
12 **• ARMM engagement**

13
14 6.8. The Secretariat reiterated that ARMM is inviting the MSG to give a presentation to them on June 13.
15 The Secretariat however, noted that they still have to confirm the said date.

16
17 6.9. The Chair shared that there is a Department of Justice (DOJ) opinion that all permits issued to the
18 mining companies by ARMM are not valid.

19
20 **• Comments on the EITI International Board's paper: EITI as platform for progress**

21
22 6.10. The Secretariat mentioned that the EITI International Board's paper was sent to the e-group last May
23 26. According to the Secretariat, the International Board is requesting the MSG to give our comments on the
24 paper. The body was informed that there are guided questions in the email sent by the Secretariat.

25
26 6.11. The MSG members were asked to send their comments so that the Secretariat can consolidate and
27 forward it to the International Board.

28
29 **• Financial Statement for May 2014**

30
31 6.12. The Secretariat reported that they have already spent Php 2.3 Million and it has a remaining balance
32 amounting to Php 8.6 Million.

33
34 6.13. The Secretariat mentioned that about Php 6 Million was spent for the National Conference and 2nd
35 LGU briefing funded by the World Bank.

36
37 **ADJOURNMENT**

38
39 There being no other matters to discuss, the meeting was adjourned at 1:10 PM.

Transparency and reliability

MSG Meeting

June 2014

Agenda

Reporting templates and schedules

Data gathering process

Reconciliation process

Approach and methodology

Evaluation

- The team will perform “walkthrough procedures” to understand and evaluate the audit and assurance procedures in participating companies and government entities primarily through inquiry and examination of select documents. This will focus on the financial closing process particularly preparation and finalization of audited financial statements.

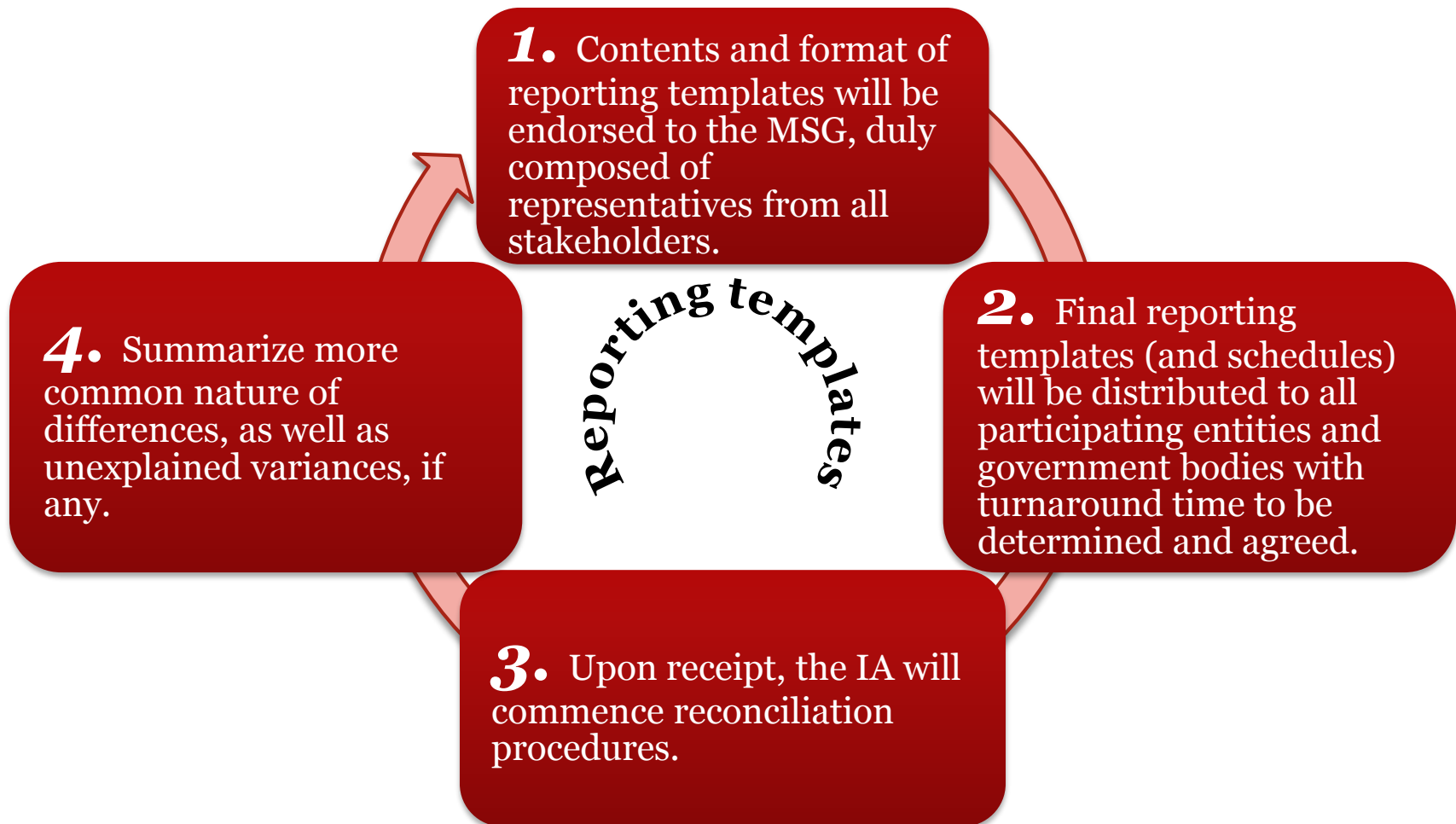
AUP procedures

- Actual conduct of procedures based on agreed scoping, sampling, selection scheme and thresholds. Results of these procedures will be disclosed in a statement of factual findings.

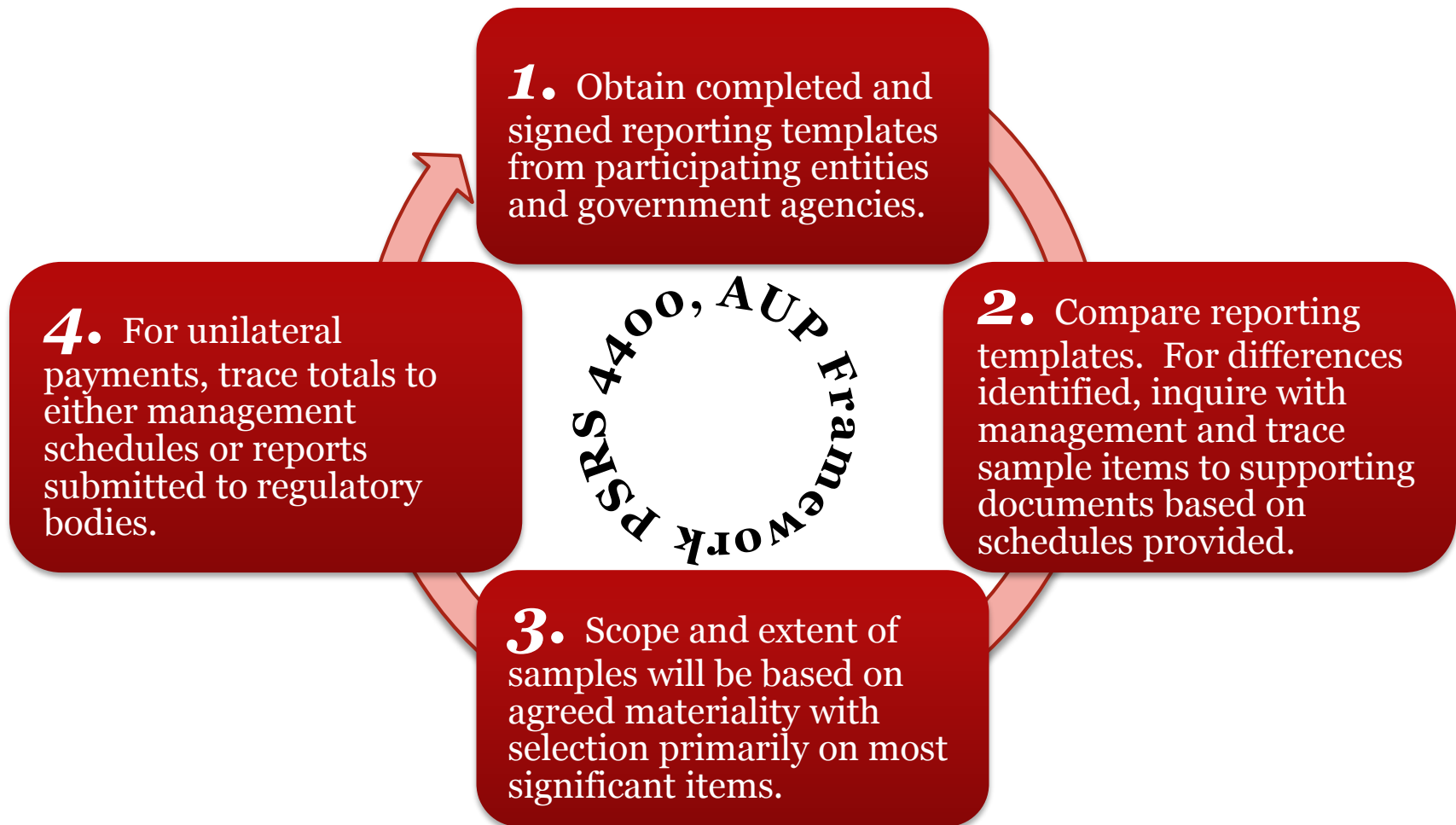
Final reporting

- Final communication to all parties and stakeholders including debrief of the process, and obtaining suggestions and recommendations for ease of process in subsequent periods.

Data gathering



Reconciliation process



Questions?

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