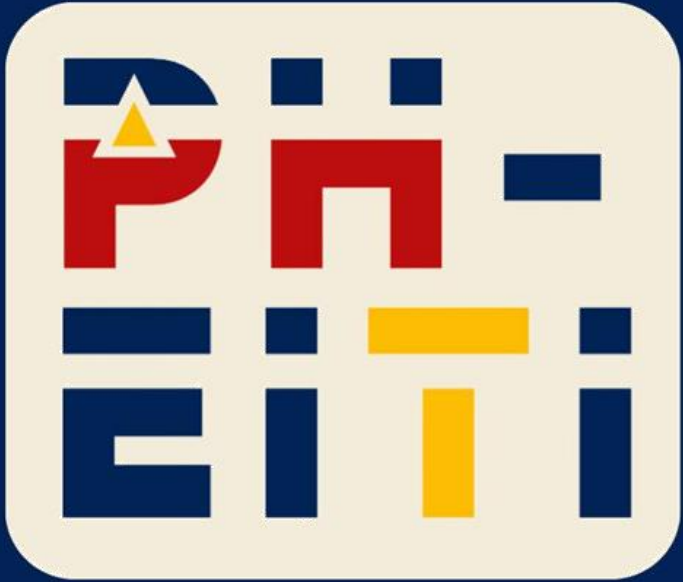


**EXTRACTIVES
TRANSPARENCY
WEEK**



2023
ETW
**PROCEEDINGS
& HIGHLIGHTS**
NOVEMBER 29-30



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Extractives Transparency Week 2023

A Decade of Transparency: PH-EITI 10th Anniversary

29-30 November 2023
Seda Manila Bay, Parañaque City

EXTRACTIVES TRANSPARENCY WEEK (ETW) 2023
A Decade of Transparency: PH-EITI 10th Anniversary
November 28-30, 2023
Seda Manila Bay, Parañaque City

CONCEPT NOTE

This year, the **Philippine Extractive Industries Transparency Initiative (PH-EITI)**¹ celebrates a decade of continuous effort in enhancing governance across the country's extractive sector. Since its inception in 2013, the PH-EITI has served as an institutional mechanism designed to foster transparency, accountability, and public participation in the extractive industries, which include mining, oil, and gas. Aligned with the global EITI framework, it joins an international community of over 50 implementing countries devoted to setting the global standard for governance of oil, gas, and mineral resources.

Through annual reports and ongoing stakeholder engagement, the PH-EITI has provided critical insights into the revenues generated from natural resources. To date, the PH-EITI has published eight country reports spanning nine (9) fiscal years, from 2012 to 2020, and covering information on over 100 extractive projects nationwide. These reports reconcile more than PHP 405.4 billion in government revenue. All this information is available online in machine-readable formats for public use.

By making extractives data public, the initiative has facilitated informed discussions among policymakers, industry stakeholders, civil society, and the general public. These discussions have not only increased scrutiny on revenue management but have also led to reforms in extractive governance.

The 10th-anniversary celebration aims to do more than just commemorate a decade of transformative work. It serves as a strategic moment to reflect on collective efforts and identify pathways for the continued enhancement of transparency, accountability, and governance in the Philippines' extractive sectors. Through a series of carefully curated events, the anniversary provides a holistic view of the progress, challenges, and evolving dynamics in natural resource governance.

¹ The PH-EITI was formed in 2013 through Executive Order No. 147, s. 2013, pursuant to Executive Order No. 79, s. 2012, where the government committed to implement the Extractive Industries Transparency Initiative (EITI) – the global standard for the open and good governance of oil, gas, and mineral resources.

EVENT CALENDAR

Date and event	Description
87th MSG Meeting and Pre-Validation Workshop November 28, 2023	<p>A quarterly meeting that happens on a regular basis to encourage conversations, decisions, and actions on certain issues or initiatives that impact many different stakeholders.</p> <p>The MSG will then meet for a pre-Validation workshop in the afternoon. Facilitated by the EITI International Secretariat, the pre-Validation workshop seeks to take stock of the MSG's efforts in keeping up to standard. This is in relation to the targeted assessment in January 2024 by the EITI Board, which will evaluate whether the Philippines is compliant with Requirement 1.3 of the 2019 EITI standard.</p>
Constituencies Meeting Mined and Refined November 29, 2023	<p>Respective sectoral constituencies (i.e., CSOs, companies, and government) concerned with the extractive industries convene in breakout sessions to voice their concerns and craft recommendations regarding the implementation of EITI standards. The information gathered in each stakeholder group's meeting will be used as reference for crafting recommendations in the National Conference.</p>
FORGE PH: The 2023 PH-EITI National Conference	<p>PH-EITI presents its latest country report at a national gathering of extractive industry stakeholders. Participants are expected to openly articulate viewpoints on issues and concerns affecting extractives and natural resource governance. The agenda also includes panel discussions on various topics, including the presentation of the 2023 EITI Standards.</p>

87th MSG Meeting
November 28, 2023 (Tuesday)
 Seda Manila Bay Parañaque

Schedule	Time allotment	Activity
08:00 - 12:00	4hrs	87th MSG meeting
12:00 - 01:30	1hr	Lunch
01:30 - 04:00	3hrs	Pre-Validation Workshop with MSG Facilitated by the EITI International Secretariat
05:00 - 09:00	4hrs	Dinner

Constituencies Meeting
November 29, 2023 (Wednesday)

Seda Manila Bay Parañaque

Schedule	Time allotment	Activity
08:00 - 09:00	60 mins	Registration
09:00 - 09:05	5 mins	Invocation and National Anthem
09:05 - 09:15	10 mins	<i>Opening Remarks</i> Karlo Fermin S. Adriano, PhD OIC-Undersecretary, Department of Finance Alternate Focal Person and Chair, PH-EITI
Mined and Refined: Conversations on the Extractives		
09:15 - 09:30	10 mins	<i>Acknowledgment of participants and overview of the program</i> Mary Ann D. Rodolfo OIC-National Coordinator, PH-EITI
09:30 - 09:45	15 mins	1st Conversation: State of Civic Space in the Country <i>A deep dive into the current status, challenges, and opportunities within the civic space, emphasizing the imperative for robust civic participation in extractive governance.</i> Chadwick G. Llanos Technical Specialist for Civil Society Engagement Philippine EITI
09:45 - 10:00	15 mins	2nd Conversation: Towards a Sustainable and Clean Energy Future <i>Discussion on the nation's evolving energy landscape, focusing on the shift towards sustainable and renewable energy sources and its implications for the extractive industry.</i> Marissa P. Cerezo Director IV, Renewable Energy Management Bureau (REMB) Department of Energy
10:00- 10:15	15 mins	3rd Conversation: Subnationalizing Extractive Industry Governance <i>Unpacking the process of decentralizing PH-EITI implementation, highlighting local government's leadership and more nuanced, context-specific extractive industry governance at the subnational level.</i> Beverly F. Besmanos National Coordinator, Bantay Kita

Schedule	Time allotment	Activity
10:15-10:45	30 mins	<p>Panel Discussion and Open Forum</p> <p>Moderator: Rodne R. Galicha Executive Director, Living Laudato Si' Philippines</p>
10:45-11:00	15 mins	<p>4th Conversation: From Extraction to Empowerment: The Essence of Social Development in the Extractives <i>A discourse on the integral role of SDMPs in ensuring that local communities benefit directly from extractive projects within their vicinity, focusing on its challenges, successes, and future trajectory.</i></p> <p><i>Revisit the guidelines and framework for SDMP implementation</i></p> <p>Gilbert Aquino Chief, Social Development and Management Section MGB Central Office</p>
11:00 - 11:15	15 mins	<p>5th Conversation: Ensuring Transparency: Beneficial Ownership and Integrity Checks in the Extractives Sector <i>Delving into these critical topics, the session explores methods, best practices, and real-world applications aimed at ensuring transparency, combating corruption, and promoting accountability in the extractive industries.</i></p> <p>Brenda Jay Angeles-Mendoza Advisor - Asia EITI International Secretariat</p> <p>Emily Manuel Regional Manager, Asia Pacific Open Ownership</p>
11:15 - 1:35	20 mins	<p>6th Conversation: Digging Deep: The A-Z of Small-Scale Mining <i>Discover the intricacies, gain practical insights, and equip with the knowledge essential for fostering responsible and sustainable small-scale mining practices.</i></p> <p>Engr. Theodore Rommel E. Pestaño OIC-Chief, Mining Technology Division DENR-Mines and Geosciences Bureau</p> <p>Dexter Ian C. Valerio Bank Officer VI, Compliance and Technical Services Group Regional Operations and Subsector Department Bangko Sentral ng Pilipinas</p>

Schedule	Time allotment	Activity
11:35 - 12:00	30 mins	<i>Panel Discussion and Open Forum</i> Moderator: Atty. Ronald Rex S. Recidoro Executive Director, Chamber of Mines of the Philippines
12:00 - 1:30	90 mins	Networking and Lunch Break
Breakout Sessions		
1:30 - 2:30	60 mins	Constituency-specific breakout sessions An opportunity for each group to discuss sectoral concerns.
2:30 - 3:30	60 mins	Plenary Discussion
3:30 - 3:40	10 mins	<i>Synthesis</i> Atty. Odette A. Javier VP and Assistant Corporate Secretary, Lepanto Consolidated Mining Co.
3:40 - 3:50	10 mins	<i>Closing Remarks</i> Hon. Governor Dakila Carlo E. Cua Governor, Province of Quirino National President, Union of Local Authorities of the Philippines

PH-EITI's 10th Anniversary
November 29, 2023 (Wednesday) | 05:00 to 09:00 pm
 Seda Manila Bay Parañaque

Schedule	Time allotment	Activity
8:00 - 9:00	60 mins	Registration
05:00 - 06:00	1hr	Welcome Cocktails
06:00 - 6:10	10 mins	Opening Remarks Karlo Fermin S. Adriano, PhD OIC-Undersecretary, Department of Finance Alternate Focal Person and Chair, PH-EITI
06:10 - 06:20	10 mins	PH-EITI Major Accomplishments An audio-visual presentation showcasing the milestones and highlights of the PH-EITI for the past 10 years.
06:20 - 06:30	10mins	Recognition Ceremony A ceremony to recognize companies, national government agencies, and local government units that have consistently participated in PH-EITI reporting over the years.
06:30 - 7:30	1hr	Dinner
07:30 - 07:35	5 mins	Message from the Government Constituency
07:35 - 07:40	5 mins	Message from the Industry Constituency
07:40 - 07:45	5 mins	Message from the Civil Society Constituency
07:45 - 07:50	5 mins	Message from the EITI International Secretariat
07:50 - 08:00	5 mins	Message from the PH-EITI Secretariat and Toast Mary Ann D. Rodolfo OIC-National Coordinator, PH-EITI
08:00	onwards	Drinks and Socials

FORGE Philippines 2023: The PH-EITI National Conference
November 30, 2023 (Thursday) Seda Manila Bay Parañaque

Schedule	Time allotment	Activity
8:00 - 9:00	60 mins	Registration
9:00 - 9:05	5 mins	National Anthem and Invocation
9:05-9:15	10 mins	Welcome Remarks Benjamin E. Diokno Secretary of Finance
9:15-9:20	5 mins	Introduction of Keynote Speaker Bayani H. Agabin Undersecretary, Department of Finance Chairperson and Focal Person, PH-EITI
9:20-9:30	10 mins	Keynote speech Hon. Loren B. Legarda Senate President Pro Tempore Senate of the Philippines Hon. Joel J. Villanueva Majority Floor Leader Senate of the Philippines
9:30-9:40	10 mins	Presentation of token to the keynote speaker Renewal of commitment to EITI implementation Photo opportunity
9:40-10:40	60 mins	Transparency Talks 1: Advancing Responsible Resource Governance through EITI Reporting Key Findings of FY2021 Country Report (Video presentation) Presenters: <ul style="list-style-type: none"> ● Ma. Pamela P. Quizon Acting Deputy Executive Director Bureau of Local Government Finance, Department of Finance (BLGF-DOF) ● Engr. Romualdo D. Aguilos Chief, Mineral Economics, Information and Publication Division DENR-MGB

Schedule	Time allotment	Activity
		<ul style="list-style-type: none"> ● Atty. Ronald Rex S. Recidoro Executive Director, Chamber of Mines of the Philippines ● Atty. Jose Ma. Emmanuel A. Caral Secretary, Philippines Petroleum Association of the Upstream Industry ● Aniceta C. Baltar Vice-Chairperson, Concerned Citizens of Abra for Good Governance <p>Reactor: Dr. Marian S. Delos Angeles Board Member Resources, Environment and Economics Center for Studies (REECS)</p> <p>Moderator: Ms. Jeanira G. Okubo Member, PILIPINA, Baguio-Benguet Chapter</p>
10:40-11:40	60 mins	<p>Transparency Talks 2: Transparency and Accountability: Ensuring Public Participation in Extractives</p> <p>Increasing Public Participation Rolando U. Toledo Assistant Secretary, DBM Head of Secretariat, PH-OGP</p> <p>Public Participation and Fiscal Transparency in the Philippines Francisco A. Magno Senior Fellow and Founding Director La Salle Institute of Governance</p> <p>Clean Energy, Empowered Communities: Advancing Transition Mineral Host Communities Participation and Engagement in the Extractive Industry Governance Beverly F. Besmanos National Coordinator, Bantay Kita</p> <p>Best Practices in Community Engagement and Inclusivity Hon. Keo Dayle T. Tuan Mayor, Tboli, South Cotabato</p> <p>Reactor:</p>

Schedule	Time allotment	Activity
		<p>Filomeno S. Sta. Ana III Executive Director and Co-founder Action for Economic Reforms (AER)</p> <p>Moderator: Maricor Anne D.G. Cauton Director, Finance and Administration, ULAP</p>
11:40-12:00	20 mins	Media Conference
12:00-1:00	60 mins	Networking and Lunch Break
1:00-2:00	60 mins	<p>Transparency Talks 3: Sustainable Development in Extractives</p> <p>Gender and Sustainability in the Extractives Atty. Joan D. Adaci-Cattiling, President OceanaGold Philippines, Inc.</p> <p>Environmental, Social, and Governance (ESG) initiatives John Philip Orbeta Chief Administrative Officer & Chief Risk Officer ACEN Corporation</p> <p>Best Practice in Sustainable Mineral Development Jose Bayani Baylon Chief Sustainability and Chief Risk Officer Nickel Asia Corporation (NAC)- Rio Tuba Mining</p> <p>Reactor: Dr. Enrique L. Tolentino, Jr. Professor, College of Forestry and Natural Resources University of the Philippines - Los Baños</p> <p>Moderator: Prof. Ladylyn L. Mangada University of the Philippines - Tacloban</p>
2:00-3:00	60 mins	<p>Transparency Talks 4: Navigating the Legal and Regulatory Landscape of the Extractives</p> <p>Environment Regulations Concerning Extractives Engr. Teoderico A. Sandoval OIC-Assistant Director, DENR-MGB</p>

Schedule	Time allotment	Activity
		<p>Proposed Mining Fiscal Regime Karlo Fermin S. Adriano, PhD OIC-Undersecretary, Department of Finance Alternate Focal Person and Chair, PH-EITI</p> <p>Updates on the Implementation of Energy Efficiency and Conservation Act Patrick T. Aquino Director, DOE</p> <p>Transfer Pricing Issues in the Extractives Jethro M. Sabariaga Assistant Commissioner, Large Taxpayers Service Bureau of Internal Revenue</p> <p>Reactors: Ma. Teresa S. Habitan Chancellor II, Philippine Tax Academy (PTA)</p> <p>Moderator: Atty. Joan D. Adaci-Cattiling President, OceanaGold Philippines, Inc.</p>
3:00 - 3:15	15 mins	A Decade of Transparency: PH-EITI 10th Anniversary (Video Presentation)
3:15 - 3:25	10 mins	<p>Closing Remarks Looking Forward: What's Next for PH-EITI</p> <p>Karlo Fermin S. Adriano, PhD OIC-Undersecretary, Department of Finance Alternate Focal Person and Chair, PH-EITI</p>
3:25- 3:30	5 mins	Photo opportunity, evaluation, and announcements

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES

Opening Remarks

“Our gathering here today is a remarkable milestone of multi-stakeholder collaboration now as we celebrate the 10th anniversary of the Philippine extractives transparency initiative.”

Mr. Karlo Fermin S. Adriano, PhD
OIC-Undersecretary, Department of Finance
Alternate Focal Person and Chair, PH-EITI

To our civil society partners, representatives from the private sector and fellow public servants in the government. I am privileged to welcome you all to the constituencies meeting of the Extractives Transparency week. In upholding the EITI standard we are reminded the crucial role of public debate and collaboration among stakeholders from civil society, extractive companies and the government. We are all here with one goal in mind, to ensure the transparency, and accountability of the extractive sector.

Our gathering here today is a remarkable milestone of multi-stakeholder collaboration now as we celebrate the 10th anniversary of the Philippine Extractives Industry Transparency Initiative. For this day, we will meet with our respective constituency groups, discuss ideas within our sectors. The insights that we will share in our respective breakout sessions will help us tomorrow at the national conference to produce meaningful ideas for EITI implementation in the country.

As we participate in the breakout sessions of our respective constituency groups, let us remind ourselves of these guiding principles set by the EITI standard. Accountability and transparency. These are two cornerstone of a thriving extractive sector that is ethical, responsible and beneficial to the Filipino people. In whatever stakeholder group you are part of, your commitment to the implementation of the EITI is a prime importance.

Let us share our best ideas, practices, strength, weaknesses so that we may come up with innovative yet practical solutions that can help raise the level of transparency and accountability in the extractive sector. This ETW is an avenue that outs ideas into action towards the responsible governance of our natural resources. I am confident that civil society, extractive companies and the government can collectively build a future that is based on openness and trust, and a future wherein the mining sector will fuel the sustainable development of our economy.

“Let’s work hard in the future that we hope for.”

Let’s work hard in the future that we hope for. Thank you every one and I wish you all the best in the discussions today.

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES

Acknowledgment of Participants and Overview of the Program

“Your presence here today reflects your commitment to transparency, accountability and sustainable practices within the extractive industries.”

Ms. Mary Ann D. Rodolfo
OIC-National Coordinator, PH-EITI

Good morning everyone, it is truly an honor to stand before distinguished gathering of individuals, presently representing the various sectors that play a crucial role in the extractive industries. We have the privilege of having representatives from civil society organizations, companies and government agencies. All coming together for a common cause the implementation of the EITI standard in the Philippines, and promoting transparent and accountable governance in the extractive sector.

First and foremost, let me extend a warm welcome to each and every one of you. Your presence here today reflects your commitment to transparency, accountability and sustainable practices within the extractive industries. We understand that each sector brings unique perspectives, challenges and opportunities when we are eager to engage in meaningful conversations to address them.


“Your role in holding stakeholders accountable is instrumental in ensuring the fair and ethical operation of the extractive industries.”

Now let us take a moment to recognize the diverse group of participants in the room. From the civil society organizations, thank you for your tireless efforts in advocating for transparency and accountability. Your role in holding stakeholders accountable is instrumental in ensuring the fair and ethical operation of the extractive industries.

To our esteemed representatives from the companies involved in the extractive sector, we really appreciate your willingness to engage in open dialogue and work collaboratively towards sustainable and responsible business practices. Your inputs are vital in creating a balanced and inclusive approach to industry governance. And to the representatives from various government agencies, thank you for your dedication to ensuring that policies and regulations uphold the principles of the EITI standard. Your role in facilitating a conducive environment for responsible extractive practices is crucial for the success of our collective efforts.

To our sponsors and partners, the Department of Energy, Nickel Asia Corporation, Oceana Gold Philippines, USAID funded RESPOND, the Chamber Mines of the Philippines and the Petroleum Association of the Philippines. We extend our heartfelt gratitude for your unwavering support. Your contributions have been instrumental in making today's event possible. And we deeply appreciate your commitment to fostering transparency and accountability in the extractive industries.

Now let me provide the brief overview of the program for the day. We have structured the day to facilitate meaningful discussions and collaborations, engaging discussions led by experts in the field, covering topics such as state of civic space, sustainable energy, subnational governance, social development, transparency and small-scale mining. After lunch we will proceed with the constituency specific breakout sessions, each sector constituency CSOs, companies and



government representatives will have dedicated breakout sessions. This is an opportunity for you to voice your concerns, share insights and collaboratively craft recommendations specific to your sector, after the constituency breakout session.

After the constituency breakout session, we will convene for a plenary session to bring together the perspective and recommendations from each sector. This is a crucial moment for cross sectoral dialogue and understanding. Atty. Odette Javier of Lepanto Mining and MSG industry representative will synthesize key points and recommendations gathered throughout the day. ULAP will provide closing remarks summarizing the significance of our today's discussion.

We conclude the day with evaluation and a photo opportunity to capture the collaborative spirit. We encourage everyone to actively participate, ask questions and connect with fellow participants. Remember this event is not just a gathering of individuals, it is a community coming together to learn share and inspire one another. Once again thank you for all being here. We are confident that the next two days will be filled with enlightening discussions and memorable experience. Please enjoy the rest of the day, salamat po!

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES

1st Conversation: State of Civic Space in the Country

A deep dive into the current status, challenges, and opportunities within the civic space, emphasizing the imperative for robust civic participation in extractive governance.

“The very nature of the space is deliberative: people talk. They need to understand each other’s context, and make sure that they also understand the direction of their decisions.”

Chadwick G. Llanos

Technical Specialist for Civil Society Engagement, PH-EITI

Maayong buntag sa tanan!

This is the 10th year anniversary of PH-EITI, and I remember a few years back in 2012 when CSOs also gathered together to decide whether we will engage with this initiative and I have seen faces long ago that are no longer here. That is something that I also missed. But it is also very encouraging to see younger individuals joining civil society and our work for vibrant conversations on extractive governance. Years ago, Meann, no, it was a small staff. Everybody is still excited. I hope we have maintained the excitement of pursuing extractives transparency and accountability in a multilateral way. I think it is very important to put value into the memorialization of our values because that is how generations transmit. I hope in the next 10 years will also still see vibrant conversations on civic space and extractives governance.

This report is an inquiry of the state of civic space engagement within PH-EITI but also looks at related areas of natural resource governance, primarily concerned with the corrective measures recommended by the EITI board. It seeks to be informed by literature on civic space relating to PH-EITI practices and implementation and draws on key informant interviews by key stakeholders, providing insights in understanding civic space and identifying areas for improvement and interventions.

PH-EITI promotes transparency towards accountable extractives governance through multilateral including CSO review of data. Data is utilized by stakeholders, especially civil society, to encourage engagement and decision-making. PH-EITI contributed to the country’s prestige and extractives governance, as evident in EITI recognitions during the ten years of its implementation.

PH-EITI is also considered a safe space that has kept its conditional role in giving an effective platform for multilateral decision-making, processes, and consensus by threshing out key issues on extractives governance and reviewing policies and practices, providing recommendations for reforms and enhancement. You can actually see your multi-stakeholder group working together in order to come up with recommendations on how to improve policies. It is one of the things that they do. But what about the inquiry on civic space per se? The state of civic space utilized particularly by the CSO Constituency in the Philippine extractive industry is actually the inquiry of this report. It looks at how civil society organizations engage within PH-EITI and what the quality of that engagement is all about. The EITI secretariat highlights the areas of inquiry relating to civic space. This is directional and is a review of civic space indicators vis-à-vis corrective measures, particularly in [Requirement] 1.3.

What did the Civil Society Protocol, the one that the EITI board made in observation, was to inquire on the quality of involvement of CSOs in the multi-stakeholder group, extending to the intersections of EITI and views expressive of natural resource governance. There are six areas with which we will be looking at the inquiry: expression, operation, association, and how civil society can come together. Engagement includes the quality of that particular engagement's access to public decision-making, including areas in the sub-national local government units and how they document these kinds of engagements and activities.

Because of these key areas and components of civic space, there seem to be convergences and expansion of the civic space, as we can see from the point of view of PH-EITI CSO. And that is, civic space is not compartmentalized. It's a whole big space, and it is fluid. The emphasis on space directly availed by the CSOs in the PH-EITI is highlighted.

Owing to its objectives, the areas of work and commitment of PH-EITI have scaled up particularly the literature that we take and the definition that we take is one that is being used by the United Nations and Commission on Human Rights. It is the environment that enables civil society to play a role in the political, economic, and social life of societies. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives. There is a tagline in sustainable development goals, and that is "no one left behind," so this is supposed to be what is even in the conversations.

According to the political scientist Nicole Curato, the very nature of the space is deliberative: people talk. They need to understand each other's context and make sure that they also understand the direction of their decisions.

“The locus of citizen participation is a vital component of a democratic government. Where the people under organizations can effectively and reasonably participate at all levels of social, political and economic decision-making without it being abridged.”

The Constitution also provides the very basis for this participation, particularly in Article 13 Sec 16 of the Constitution. It says that the locus of citizen participation is a vital component of a democratic government. Where the people under organizations can effectively and reasonably participate at all levels of social, political and economic decision-making without it being abridged.

So now, we are locating civic space in the PH-EITI and also, in a way, assuring that MSG's practice of good governance is highlighted. And this good governance, according to another political scientist from Cebu, Etemadi, is marked by certain indicators, primarily transparency and participation, which is also central to the practice of extractives industry transparency initiative.

The 2022 Shadow Report

Another important document that induces this work that we are doing in PH-EITI is the 2022 Shadow Report. In a nutshell, it is an independent initiative by our CSO coalition. It made observations on the serious challenges and the exercise of certain forms of freedoms by civil society in that civic space. It also flags certain acts by state forces that at some point impinged on civic space. And it also describes certain weaknesses in the community-based discourse and the use of PH-EITI data.

Research Design and Purpose

We are talking about robust discussion on communities using PH-EITI data, but apparently, that has not yet cascaded into the level of community. The design of this inquiry, for its purpose, is to appraise the civic space for stakeholders, including civil society organizations and local communities in the extractives industry sector. It also aims to identify barriers and challenges that hinder civic space engagement in the EITI process, including the whole gamut of natural resource governance discussions. And to provide recommendations for improving civic space and fostering greater transparency and accountability in the extractives sector governance.

CSO Engagement Process

Mr. Llanos proceeds to discuss the CSO engagement process. He ran through the steps on how the process is done: engage stakeholders, collect data, look at the other areas with which we are going to do it, and the key assessment areas, including the six key areas modified here into four of the observations made by the EITI board.

The PRIME Role of CSO MSG in the Inquiry

“Our CSO members to the MSG, must, should, can, provide leadership within CSO constituency.”

We put a premium on the responsibility and expertise of our CSO-MSG in starting this initiative and inquiry. Why? Because one, that space alone within PH-EITI, vibrant as it is now, also needs to inform the rest of the world what we are going to do in the inquiry of civic space. Our CSO members to the MSG must, should, and can provide leadership within the CSO constituency. Now, this report has been informed by them, and they have provided very great insights into the analysis of the space they are operating. The demonstration of the authority of the CSO MSG is supposed to be evidence of a vibrant civic space. And so, that is also a responsibility of our constituency in the CSO within the MSG.

Achievement Indicators

If we had achieved something in this report, what would that have been? I just have some reflection questions. Are civil society organizations fully, actively, and effectively engaged within the EITI process? Are there any obstacles or barriers to the participation of any of these constituencies? Especially CSOs and other groups within the EITI implementation.

Process Questions

Now, the process questions for reflection are usually for the interview, and of course, there are other follow-up questions: is the PH-EITI effective, or have you benefitted from PH-EITI? What is the current condition of civic space in the area where you operate? How effectively is the space utilized by civil society organizations? And are there obstacles to the use of civic space, be it in expression, operation, association, engagement, access to decision-making, or the ability to document landmarks and milestones?

The examination of any positive changes in the civic space indicators is also one of the areas that we would inquire about. There are also hints that civic space and the actions within that space showed some signs of improvement. Yet, we need to test the limits and strengths of these improving spaces. And requires certain sets of functional capacities and collaboration of safe spaces.

Primarily, this investigation makes use of key informant interviews and site visits when possible.

Scope and Limitation

The scope and limitations of this very specific area of work make this report a developing document that is still unfinished. Hopefully, we will finish it in December. An inquiry on the current state of civic space and understanding the quality of participation and engagement of civic society organizations, particularly those involved in PH-EITI, but also the development of CSOs in identified areas and these identified areas followed two indicators. One is those with certain situations and contexts that had been raised in the PH-EITI MSG and the presence of a concentration of projects extractive projects.

Respondents and Timeline of the Inquiry

The respondents to be invited should be down at the LGU level because we would also want to look at how communities vibrantly take into consideration the work that PH-EITI is doing. And, of course, additional information, be it qualitative or quantitative data. This is the timeline given to us to work for this. It is 17 weeks, hindi siya nakakapagod.

Mr. Llanos presented the identified areas based on the two indicators mentioned, followed by the type of respondents identified, because we wanted a broader view of civic space. As well as the directory, the ones we are recommending these particular individuals for the interviews, including some from the Commission on Human Rights and NCIP where it is needed.

BARMM – Regional Government
CALABARZON – Rizal
CAR – Abra, Benguet
CARAGA – Surigao del Norte, Surigao del Sur, Agusan del Norte, Agusan del Sur
MIMAROPA – Palawan, Romblon
Region II – Nueva Vizcaya, Quirino
Region III – Zambales
Region V – Camarines Norte
Region VI – Antique
Region VIII – Eastern Samar, Leyte, Southern
Leyte Region XII – South Cotabato

CSO MSG civic space assessment

How did our MSG assess civic space? In general, while civic space is contiguous, and various advocacies within the space are interrelated, a primary assessment seeks to underscore the context within which the CSO members of the MSG operate in relation to that space. And PH-EITI, they say, is a valuable space because it is multi-lateral, and that the government is committed to this space.

The continuing discourse on the data's drive for governance and decision-making, an objective of the PH-EITI, rests on the capacity of citizens in CSOs to attain functional competencies in data utilization and analysis.

Key factors influencing civic space

What did they say influenced the civic space, at least at the onset? An overall evaluation of the environment contributive to civic space is undertaken in a PESTLE analysis and SWOT. Current economic conditions can hinder both the organizational operations of participation and the individual commitment to engage in governance. There are also issues of social cohesion being raised, particularly in the context of an ever-growing gap between data integrity and logic.

SWOT Analysis Results

The civil society MSG did undertake a series of interviews, and they see that as a strength that it is still important to look at their primary constituency and their expertise and their varied location across the country. But indeed, in order to respond to that strength, it is also necessary to continue to upscale competencies, especially in their communities' capacity development models. Apparently, there is supposed to be a relatively better political climate. But at some point, this climate can also be fickle.

PESTLE Analysis Results

At some point, this is what they have provided, including a situation wherein technical capacities can also create challenges in participation.

Initial observations

Initially, this is what's been observed. While CSO members of the MSG have effectively used the civic space platform in PH-EITI, it is observed that beyond work within the MSG, their mandate to fulfill their primary constituency feedback and accountability needs to be strengthened. The awareness of communities regarding the services and objectives of PH-EITI is somewhat low.

Engagement at the community level, whether in capacity development, PH-EITI discussions, and social situational analysis, is yet to find its way into the working operational budget of the PH-EITI secretariat. Sustaining effective community engagement requires funds to implement activities.

Outcomes harvesting, updating, remembering, and all those issues raised from previous conversations must also be followed up on. Issues surrounding allegations of subversive activities by some NGOs can be a continuing discussion with concerned agencies.

Some CSOs have reported that access to formalization, previously straightforward and expedited, has encountered difficulties due to additional requirements spurred by the passage of a certain law. There have also been incidents where social media has become an unrestrained tool to label society as subversive. This comes from the CSO MSG, and at some point, CHR also observed hints of civic space deficiencies.

While a number of pressures on civic space are external to PH-EITI, exploring ways for civic space maintenance within PH-EITI is a promising direction of travel.

The Shadow Report, which our civil society undertook because of its own integrity, also demonstrates PH-EITI's openness to scrutiny. It has been shared that there is an effect, a serious one, because of the challenges faced by the pandemic. Some of that is contained in the present report.

On civic space allocation in PH-EITI

On the civic space allocation in the PH-EITI, the PH-EITI is valued by respondents not just as an initiative but as a space for CSOs to launch advocacy asks and, at the same time, a platform to voice community-based issues and highlight areas in need of attention. The respondents admitted that definitive leadership expressions are needed within the CSO constituency in the MSG. This entails a thorough framework building on how this constituency can continuously improve its engagement within PH-EITI and in the subnational setting.

The respondents also underscored the importance of continuing capacity development, reorienting internal strategies at agenda building, and seeking funding opportunities to cascade PH-EITI objectives down to the primary constituency. Constitutive of this leadership is the audacity of CSO members of the MSG to keep pushing for innovation in reporting.

On PH-EITI engagement with stakeholders

Regional subnational events held in the past provided the venue to discuss subnational concerns significantly. Respondents observed that it is necessary to bring these discussions closer to communities. The practice of mine visits would deliberate detour to impact communities and SDMP beneficiaries is identified as a positive exercise to broaden awareness and appreciation of extractives, especially in the areas of impacts, whether that is negative or positive, public finance and compliance in monitoring processes. They highlighted the viability of community-based subnational analysis and capacity development to affirm civic space quality.

The respondents believe that PH EITI remains valuable both as an initiative and as a space. Ultimately, it is the responsibility of the CSOs within the MSG to take the helm of its constituency through various processes and tools for constituency building. Yet, PH-EITI is not set apart from the total space wherein civil societies operate.

“The respondents believe that PH EITI remains valuable both as an initiative and as a space.”

Civic space in the EI Value Chain

Also, part of the observation is that we have already understood that the constitution did provide this kind of civic space engagement and quality. The local government code also enumerated that. However, within the various areas in the value chain of extractives industries, this has not been totally studied either. And so, taking a broader look at that, I think it is supposed to be in order.

Mr. Llanos shared to the crowd a quote from the report:

“How are things going to move towards stability if there is no anchor, no one to synthesize varying experiences.”

-CSO MSG KII Respondent

One of the respondents asked how things are going to move towards stability if there is no anchor, no one to synthesize, and the need to come together again. I think perhaps the pandemic has limited that.

In search of a vibrant civic space

We did a site visit to CARAGA, and there are a few things that we have seen. One is that civil society organizations in CARAGA are observed to have exercised substantial influence, but only a few, not many. Still, there are in the governance and development processes in their respective LGUs.

Academic institutions can still operate, do research in the area, and assist communities, and CHR in CARAGA has observed that other government agencies are beginning to avail of their fact-finding and community-based dialogue services. Meaning to say, that compared to a few years back, we did not have.

Recommendations for addressing identified challenges

So what could be the recommendations by our CSO MSG? One is organizationally to affirm what is organic to them, the process of coming together in meetings. Understanding the agenda and building it. Administrative-wise, they need certain assistance so that they can be assured of getting into the technology. I think that is one of the problems with our CSO MSGs. The continuation of upscaling of capacity development and of course, network and partnership.

Short-term objectives are to show evidence that the CSOs have leadership within PH-EITI, initiate the development of the primary constituency, and develop linkages and networks. Of course, this includes internal governance, constituency building, network partnership, and relationships with the CSO MSG and the secretariat.

Actions Items

What did they recommend? Strengthen their own internal processes, qualify primary constituencies through continuous consultations, and cap development expand the network, as well as, of course, the intra-MSG communication dialogue and other processes.

Due to the time constraints, Mr. Llanos no longer went over the recommendations in detail. He swept through the recommendations and culled out crucial recommendations provided by the CSOs. Mr. Llanos mentioned that the secretariat will provide copies of the report.

Mr. Llanos concluded his discussion by quoting one of the respondents in the report:

“An effective CSO space entails active participation in governance, leadership in creating their own work plan, an incumbent voice in dissent and the power to build consensus. It is also essential to show that primarily leadership of the CSOs within the MSG and the evidence supporting this.”

Master of Ceremonies, Mr. Tiensim, implored the audience to note down and hold off questions to be addressed during the panel discussion and open forum until all conversations were done.

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES

2nd Conversation: Towards a Sustainable and Clean Energy Future

Discussion on the nation's evolving energy landscape, focusing on the shift towards sustainable and renewable energy sources and its implications for the extractive industry.

“5th tayo sa most mineralized country in the world. But, of course, it is in the hands of the extractive industry to develop these resources in a sustainable and efficient manner.”

Marissa P. Cerezo

Director IV, Renewable Energy Management Bureau (REMB)

Department of Energy

“Evolving Energy Landscape: The Shift towards RE”

Good morning everyone! I am pleased to represent the Department of Energy in this gathering. It is a great opportunity for us to give you an update on what we are doing in the renewable energy sector. I will focus on the critical roles of extractives industry in this Philippine Energy Transition.

The presentation was divided into three parts. The first part is on the renewable energy profile, the second part is on the national renewable energy program, and the last part is about renewable energy and green metals.

Part 1: Renewable Energy Profile

In 2008, the Renewable Energy Act of 2008 (RA 9513) was passed, which aimed to accelerate the exploration and development of renewable energy sources in the country by providing fiscal and non-fiscal incentives. The objective is to also achieve self-reliance, considering that the Philippines is still a net importer of energy, and, of course, to respond to the call to clean the earth because we know that renewable energy utilization mitigates the effect of climate change.

RE Capacity Addition

Since the passage of the law, how much have we achieved? Since 2008, or more than a decade ago, we have added 2,707 megawatts (MW) into our mix, which entails a PHP 279.5 billion investment. So, the Philippines received this much investment from the private sector. Considering that the generation industry is now given to the private sector, it also generates a lot of green jobs: 357,248 green jobs. And, of course, because it is a clean energy source, it produced and resulted in a reduction of greenhouse emissions of about 29 Million tons of carbon dioxide per year.

2002 Power Statistics

This is our power statistics as of 2022. Still, coal is the dominant supplier in our mix. Followed by renewable energy. Our share is 29.2% in terms of installed capacity. This is only 22% in terms of generation mix or in terms of generation or power generation.

Power Generation Mix Percentage

The percentage of our e-share is not much. While we have added more than 2,000 megawatts, the share still seems flat at 22%. And this is because of the utilization of coal to address our energy security. Considering that coal is much faster to deploy. This is something that we also have to consider because our energy security is the primary aim of the government, which is to ensure that we have an energy-secured country.

Awarded RE Contracts

In terms of number of projects, we have more than a thousand (1,300) projects as of today. They are covered by renewable energy contracts if the projects are being used for commercial purposes. We have 58 biomass projects, more than 350 solar projects, 225 wind projects, and 37 geothermal projects. We have nine projects for ocean energy and 430 hydro projects. If you take note of the bars, they speak on the capacity. While the number of projects in the wind sector is quite small compared to solar and hydro, the capacity of wind nowadays is bigger, especially in offshore areas.

Part 2: National Renewable Energy Program 2020-2040

We go to the National Renewable Energy program. We set a target in 2022, covering 2022-2024. We set a target of having at least a 35% share of renewables by 2023 and 50% by 2040. This is quite ambitious because currently, we are only at 22%, but we are confident that we can achieve this target because of the number of contracts that we have and the abundant resources that we have.

The reason why we need to have this ambitious target is to have energy security, as renewable energy sources are indigenous. We only import the technologies. Of course, the resources are ours. We want sustainable development, of course, in response to climate change. We need to capacitate our people. Overall, this leads to inclusive growth in our country.

Critical Materials in Energy Transition

Atty. Cerezo identified the following elements to be critical materials in energy transition: lithium (Li), nickel (Ni), copper (Cu), cobalt (Co), dysprosium (Dy), and neodymium (Nd). Rare earth metals such as dysprosium and neodymium are essential for permanent magnets used in wind turbines and electric vehicles. Batteries for electric vehicles and stationary battery systems typically use lithium. Solar energy technologies use large amounts of copper and silver and, of course, silicon (Si). The transmission and distribution of cables that make up the electricity grid are composed largely and dependent on copper.

These are the things that we also need to revitalize in our country because, without the grid and the line that will transport the power from the resource, the project will not succeed. It will not reach its customers.

Philippines: 5th most mineralized country in the world

The number of materials for technology from wind, solar, nuclear, natural gas, and coal, ito yung mga materials na kailangan natin para ma-deploy natin ang mga energy projects na ito. Of course, the good news is that the Philippines is rich in natural resources. Sabi nga nila, as far as the natural resources are concerned, the Philippines is the richest country in the Far East. 5th tayo sa most

mineralized country in the world. But, of course, it is in the hands of the extractive industry to develop these resources in a sustainable and efficient manner.

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES

3rd Conversation: Subnationalizing Extractive Industry Governance

Unpacking the process of decentralizing PH-EITI implementation, highlighting local government's leadership and more nuanced, context-specific extractive industry governance at the subnational level.

“We have to know the terrain. We need to know, assess, and understand the major issues of mining in every locality.”

Beverly F. Besmanos

National Coordinator, Bantay Kita

Chuckles and laughter echoed across the hall as Ms. Besmanos broke the ice with, “*Do not publish what you know.*” She continued: *Thank you po. Maayong buntag sa mga Bisaya! Good morning po sa lahat.* Today, I will be sharing the Mindanao experience of subnationalizing the extractive industry governance.

BK-UNDEF Project: Institutionalizing Community Participation in Minerals Management at the Sub-National Level in the Philippines

In 2018-2020, Bantay Kita received a grant from the United Nations Democracy Fund to institutionalize community participation in Minerals Management at the local or subnational level. The said project was in partnership with three Bantay Kita members from Visayas and Mindanao.


Project Goal

The project intends to replicate the national PH-EITI system at the subnational level, simultaneously empowering marginalized sectors in engaging in the said governance mechanism with the hope to contribute towards: first, developing effective, transparent, and accountable institutions at the level of government that is closer to the community; second, to promote social economic and political inclusion of marginalized sectors of the society; and third, ensuring women's full and active participation and equal opportunities for leadership at all levels of decision making in political economic and in public life.

Objectives

The project aims to pursue a two-pronged approach to implement the Philippine EITI governance model closer to the community by establishing a subnational participatory minerals management governance mechanism at the provincial level. With equitable gender representation, it strengthens the representation and active participation of indigenous peoples, women farmers, and the fisherfolk sectors.

Our pilot areas are the provinces of Agusan del Sur and South Cotabato. Both areas have active large-scale mining and numerous formal and informal small-scale mining operations. While South Cotabato is a rice granary and the food basket of Mindanao, Agusan del Sur is home to the Agusan Marsh, a key biodiversity area. These provinces are also home to the indigenous peoples; thus extractive industry governance is a huge challenge for the local governments.



Protection of watershed and rice fields from mercury contamination and poisoning informality of small-scale mining, child labor, unsafe mine working conditions, and dealing with the looming threats of climate change vis-a-vis the presence of the mining sector were among the issues that played the localities. However, the provincial LGUs are proactive enough to sustain a functional local multi-stakeholder group that never ceases to innovate measures to address the issues. And this is where Bantay Kita and the Philippine EITI comes in.

Strategies/Activities

Through the existing multi-stakeholder groups, the project supplemented capacity-building activities such as the following: multi-stakeholders forum on extractive industry governance, training needs assessment, capacity-building activities such as community training and learning exchange in the mining areas, stakeholder engagement, sectoral *pulong-pulong* and consultations with women miners, small-scale miners' representatives, ball mill plant operators, and the tribal councils. We also conducted fact-finding on mercury poisoning and contamination, hands-on training on mercury-free gold processing techniques for women miners, multi-stakeholder dialogue and action planning, and the introduction of the provincial LGUs to the PH-EITI.

Good Practices: Agusan del Sur

The project was able to document and promote good practices in both provinces. For Agusan del Sur, there is the presence of a multi-stakeholder environment and sustainable development council (ASEDC) with an embedded Mineral Resource Management Committee (MRMC) that expanded its membership for grassroots sectors: women, Bantay Danao (for Agusan Marsh), the indigenous peoples, institutionalized with a regular annual budget for researches policy development meetings and per diems of community members. They also have the commitment and political will of the local chief executives, which is very commendable, the support and commitment of the tribal council in the mining community, the active participation of the small-scale mining sector, the small-scale mining associations, ball mill associations and the women miners, and the commitment of the target sectors: the women of Agusan marsh, the women miners, Bantay Danao, and the IP leaders in the other impact areas.

Good Practices: South Cotabato

For South Cotabato, they have the presence of the functional and pro-active Provincial Mining Regulatory Board (PMRB), the presence of a CSO-led peoples' coalition for transparency and accountability in the extractive industry. They have the provincial LGU's commitment to open government partnership (OGP). They have an open mining portal, which was developed and managed by the Provincial Environment and Management Office of South Cotabato, the presence of a competent PLGU department head, proactive MGB regional office, particularly the regional director and his staff, compliant and formalized small-scale sector and institutionalized small-scale mining policies, such as the Minahang Bayan program mainstreamed in the local governance of South Cotabato.

And what have we learned?

The first is to reduce bureaucracy and find and asses existing MSGs or multi-stakeholder groups in the locality. Creating new MSGs may add new layers of bureaucracy in local governance. Some MSGs' functions are redundant with other existing local bodies. Some MSGs may not be sustainable or no longer needed when other special bodies are more functional. So, the question is, would it be

more effective to strengthen the PMRBs rather than create new multi-stakeholder groups to address the local mining issues? Is it possible to expand the composition of the PMRB to include academia as sectoral representatives from mining-affected communities?

The second is to include and empower marginalized communities and sectors. The inclusion of grassroots organizations may require tedious accreditation processes, but the accreditation process justifies the acceptance of per diem and other allowances for community representatives. So we need to check if the local people's organizations are registered to DOLE to SEC or other government entities such as CDA. Some PPOs or people's organizations do not have enough funds to process the registration and accreditation documents. Hence, we need to ask who will cover such expenses and if we can include this as additional support to our people's organization so they can occupy space and participate in the extractive industry engagement at the local level.

Next, to manage our expectations, we need to clarify the specific issues that can be effectively addressed at the local level to the stakeholders. This is particularly important for the small-scale mining regulation of the local government units.

Fourth, we have to know the terrain. We need to know, assess, and understand the major issues of mining in every locality. We need to know the current political climate, local dynamics, and historical background or context, especially in engaging with the small-scale mining sector, because in the case of Mindanao, there are a lot of political leaders who were small-scale miners before or political leaders who are also financing or investing in small-scale mining. And please do not publish what I know.

“Most of the sector that uses mercury is primarily the women who are involved in the processing of gold and who are in the lowest hierarchy of the working laborers in small-scale mining.”

Next, gender in mining is a big issue. In Mindanao, small-scale mining is not traditional. It was only introduced by miners from the northern part of the Philippines in the 70s and the 80s, so the use of mercury is the common practice of small-scale mining in Mindanao. This is a big problem because most of the sector that uses mercury is primarily the women who are involved in the processing of gold and who are in the lowest hierarchy of the working laborers in small-scale mining, so then the women are seldom included in the decision-making processes in the mining sector and even in the IP related processes in the engagement with the mining companies because most of the IP tribes are led by tribal chieftains who are males.

Next, we need to consider the limited absorptive capacity of our communities. Some communities, IPs or non-IPs, are immersed in surviving their day-to-day living. Training them to engage in extractive industry discussions and processes is sometimes too much for their current capacities. Our training need assessments revealed that the communities' priority is more on actual livelihood assistance rather than engagement in government processes such as EITI, even if such communities are directly impacted by mining. And this is a big issue that we need to look into.

And next, we need to resolve legal issues ahead of time. This is very particular for small-scale mining and engaging with women and child labor in the sector. However, there are a lot of toolkits on the human rights-based approach to engagement with the informal sectors, which are all available online for our information and adaptation. We need to ensure the sustainability of the local multi-stakeholder groups. How do we sustain our local MSGs in the province? What strategies and

support are needed? And when subnationalization is institutionalized, regular funding is assured, and hence, the potential to have a functional local MSG.

Lastly, more than providing a platform for a multi-stakeholder dialogue, subnationalizing extractive industry governance must emanate from the stakeholders' collective pursuit of a better and more beneficial extractive industry. That is effectively governed by responsible, competent and honest stakeholders.

Daghang salamat!

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES
Panel Discussion and Open Forum on the 1st, 2nd, and 3rd Conversations

Moderator:

Rodne R. Galicha

Executive Director

Living Laudato Si' Philippines

Mr. Galicha entered the stage with enthusiasm, immediately engaging with the audience. Initially, he inquired about the language preferences of the stakeholders, aiming to accommodate all participants effectively. He then expressed his gratification at the opportunity to moderate the panel discussion. Following this, he formally reintroduced the presenters before graciously opening the floor for questions.

Prof. Mangada: *I have a comment on the presentation of Sir Chad. First of all, the presentation mentioned about key informants [which] I found very small. It was only ten (10) [respondents]. Although it is a work in progress, but for me, this ten (10) was not enough. The respondents were civic space within the PH-EITI. It seems that it is limited to the government and on CSO. You've mentioned about CHR and listed some government agencies but there is no industries. It should be balanced. Everyone must have a voice: the industry, the government, and the CSOs. Maybe, if possible, to make the presentation [study] balanced because I am interested in the perspective of CSO on civic space and what is the perspective of the government and industry. I acknowledge the logistics and time are constrained, but it should not be compromised because you know what evidence that is helpful for us, because it looks on condition of civic space.*

Mr. Llanos: *To answer, this ten (10) CSO-MSG was the preliminary aspect of the research, actually. This is the one that informs what will be ordered about the trajectory. So, we are looking for what will be ordered from you because our presumption is that you have the leadership on what to tell me, what to do.*

And because we haven't interviewed yet, we are supposed to present the results of your discussion of the ten questions. We are supposed to do that in the whole of December, our one-on-one interviews with the informants. And you're right. I realize that the industry is not there yet, but one of the schedules of the last two weeks, after writing all of this, I would have asked for a meeting with the Chamber to present it to them.

Prof. Mangada: *I'm worried because you haven't put any definitive findings.*

Mr. Llanos: *We haven't put any final findings yet.*

Prof. Mangada: *I'm worried because the word you're using is observation. So, in my opinion, observation is personal. It's not included with the stakeholders. That's the reason.*

Following Prof. Mangada's inquiry, Mr. Galicha transitioned to the next question posed by an audience member.

Ms. Gonzales: *I'm Gisela Gonzales, a geologist, and a law student. And I would like to comment as, aside from the lack of representation to the mining industry representatives, I would also like*

to request or, if ever, suggest that you should include the Academe. Because, as to the academe, it's good that I saw in Sir Chadwick's presentation that in CARAGA, there's an academe that helps.

Mr. Llanos: No, we did talk to one particular, a few persons in an academic institution.

Ms. Gonzales: Yes, I will just add what Ma'am said earlier, that it's better to be inclusive. Aside from representatives from the extractive industry, it should also be with respect to the academe, especially as to the technical, legal, and business aspects of the extractive industries so that it can be put into context so that everyone can understand the aspects, what makes the extractive industry profitable, and then how it relates as to the socio-economic and political and whatever, so that it's easier for common people to understand because that's what PH-EITI does well, to facilitate communication and better solutions as to problems.

Mr. Llanos duly acknowledged Ms. Gonzales's suggestion to incorporate the academia perspective into his study and to elucidate the factors contributing to the profitability of the extractive industry. After this,

Mr. Galicha catered another question from the audience.

Ms. Beth: Good morning! To Director Cerezo, my question is, how can the government assure that while we are pushing for green energy, which is a good program, to ensure that life and the livelihood of the communities will not be put into danger, and the few biodiversity will not continue to be destroyed because this is the only thing saves us to fight and balance the effect of our problems on the climate change? That's all. Thank you.

Ms. Clare De Jesus responded on behalf of Director Cerezo to the concern of Ms. Beth

Ms. De Jesus: The project of the Department of Energy, as you saw earlier, our goal is to have a 50% share of our renewable energy, which means these are natural energy resources from us. So, for now, the projects that were presented earlier, the almost 1,000 projects, all of those go through the process. So, we have permits [like] DENR permits [and] NCIP, so all of those are looked at by our stakeholders, these are private companies that develop energy projects. So, all of those consulted [to] LGUs. So, I think while we develop our renewable resources, if the private companies will continue to comply with our guidelines, we will still be able to retain our environment, our biodiversity. So, I think it's a good project and it will really help.

Mr. Galicha clarified that Ms. Beth was from the province of Romblon, which may be considered the renewable energy capital of the Philippines due to its extensive utilization of renewable energy sources. He then gave the floor for another question from Mr. Chito Trillanes to Ms. Besmanos and Ms. De Jesus.

Mr. Trillanes: Here with Ma'am Bon. There is a proposal by Usec. CP David, that small-scale mining will be organized into cooperatives so that this will be within reach of regulations. With your scoping studies in South Cotabato, and Agusan del Sur, have you ever proposed to the communities that they have to organize themselves into cooperatives or even into a corporation so that it would be efficient for the government to regulate the industry?

And how do you react with – there was a publication, and it was Atty. Ron who posted that small-scale miners prefer the black market rather than selling that to the central bank.

And that's for Ma'am Bon. Now, here with renewable energy, we believe that the context will be the crisis that we are facing, the existential threat that we are facing nowadays as far as climate change is concerned. The point raised by one of our constituencies in Sibuyan is the fear that once we venture into just transition, there will be larger areas for mining. And these areas might include biodiversity areas. So that's the point of the issue: how the Department of Energy would address this given the regulatory powers that DENR has on that matter. Thank you.

Ms. Besmanos responded with insightful commentary, sharing anecdotes that shed light on the experiences and grievances of Small-Scale Mining (SSM) miners. She articulated their rationale for resorting to selling gold in the black market.

Ms Besmanos: *Three points, maybe, for two questions. First, Sir Chito, the presentation that I gave is actually not a scoping study. It is an actual implementation of the UNDEF project.*

SSM Organizations

And on the question of whether our small-scale miners are organized. Yes. There is a Mindanao Federation of Small-Scale Mining, and there is a National Federation of Small-Scale Mining. They are being supported technically and maybe financially for capacity building by BANTOC 6. There is an Artisanal Gold Council. And yes, there are also many projects being done on child labor, on the formalization of small-scale mining, [and] their best practices. That's why Bantay Kita is thinking if we can discuss with these federations so they can join on the matters of EITI. But we have a problem with the materiality issue.

Issue of gold selling to the Black Market

And then on the issue of the black market of small-scale mining, number one, our first question is, because the majority, 80% of our small-scale mining in the Philippines are informal. Or when we say informal, they are operating without any legal documents. Or the areas they operate in are not yet declared as Minahang Bayan. Even sometimes, even if it's traditional or indigenous way, if it's not declared as Minahang Bayan, because it's already inside a large concession of large-scale mining, it will be illegal and informal. So then it will lead to black market.

One of the problems, why don't small-scale miners sell gold in Banko Sentral, which is what's in the law. The first question is accessibility. Is there an established buyer, gold buying representative of Banko Sentral in the areas where we have the small-scale mining? Second, the problem is the requirement. The requirement for us to sell small-scale mining of gold to Banko Sentral, the minimum requirement is [that], the minimum amount of gold that you have to sell is half kilo. And if you are a small-scale miner, you are not organized or just a loose operation, you will only get a small amount of gold. And because small-scale mining primarily depends on hard labor, you can't wait for it to be half kilo before you sell it, because tomorrow, the day after, you will have to eat, because tomorrow you will have to go back down the tunnel.

So we asked, is it possible to consolidate once it's organized? Is it possible not to use mercury? The miners said, "it's possible, ma'am, if there are small CIP plants established by the government and will help us, so we can go there and process it." But those mechanisms are still being piloted, but it's still not widely done.

So now, another problem we have, the most important question, I will say this, but do not publish what I know, the miners said the direct flight from Davao to Singapore was created or established to bring out a lot of gold outside of Tagum City. Tagum City is where all the gold vendors are.

Gold from Diwalwal, T'boli, even Agusan del Sur, goes to Tagum City, and anyone there can be a black market. If you buy gold, you can be part of the black market. So our gold comes out when we don't get any money because it's informal. But the question is, who benefits from the informality of the sector? If you go to the small-scale mining areas, again, do not publish what I said. During elections, in the small-scale mining areas, the most expensive thing to sell is votes. Five thousand pesos, one vote.

Where does that money come from? So the benefit from the informality is that it is now very intertwined with politics, with the everyday life of our people. And yet, what else is the government doing? When Bantay Kita did the first scoping study, my organization and I were the ones who did the first scoping study to understand small-scale mining. And that was 10-12 years ago.

What the miners in Baguio are saying is, "Ma'am, the small-scale mining act is no longer implementable. We need to change that. Even the definition of small-scale mining in the law, that's not what it is anymore." In the law, it's like a "pico bara." But if you go to Benguet, if you go to Diwalwal, the mine site there can be passed by a bus or they can use heavy equipment. But is there an effort to improve, to amend the law? Yes, there is. But it's very slow. Again, we don't know. Maybe we know, but we don't want to act because there are some people who benefit from the informality.

Ms. De Jesus then responded regarding the Renewal Energy concerns.

Ms. De Jesus: *I will just clarify, about our RE share, that even if there is no RE, we still need to build coal power plants, [or] natural gas turbine plants. We need all of that by 2040. So, whether there is or there is no renewable energy, we will build new plants. And those new plants also need extractive minerals. So, it's the same, copper, nickel, it's still the same. What we are doing is to balance them.*

That's why the goal is to have a 50% share, so that we have indigenous energy resources. Because [if we have] these projects, like wind projects, solar projects, we don't need to continue or add more coal mining facilities. So, it can be replaced. If we can do it, we will do it. We will replace it with renewable energy resources. We will just balance it.

And hopefully, we won't reach [the need for] more destructive facilities. We need to work together. Let's help our private companies if they need to comply, let's help them. Or we, private companies, let us comply with environmental regulations and involve our stakeholders and communities.

Mr. Galicha shared his perspective on the concept of just transition, highlighting the importance of relevant government agencies engaging in discussions on this topic. He then passed the microphone to Atty. Recidoro for his question.

Mr. Recidoro: *I'm Attorney Ron Recidoro from the Chamber of Mines. Before I ask my question, I'd like to express my appreciation that we are finally together to discuss about civic space and enhancing civic space in the framework of natural resource governance. I say this because, having been part of EITI for the last ten years, I see that it is important that the effort be a three-legged initiative. It cannot just be government and industry. Civil society plays a very important part in making EITI a success. And it cannot be a token. Participation of CSOs cannot be a token*

for it to be a true three-legged effort. All of us should be equally strong, equally informed, and equally engaged. Because if one foot is weak, it will fall.

So that leads towards my question, which is, in the initiatives that you mentioned, Bon, and maybe also in the study of Chad, is there an aspect of training and capacity building for civil society participants who will be appointed or placed into these spaces within the governance framework? Whether it be at the MMT, MRFC, at the People's Councils, or wherever CSOs are put into balance in the equation?

Because if we do not capacitate, if we do not put the right people in these spaces, their participation will be tokenized. So when we put them in there, they should know what we're talking about. We need to capacitate them in terms of learning what mining is.

What is Mining 101? When they talk about stokes and 'adits', do they know what they're talking about? So is there opportunities for training and capacity building for CSOs? Not just for mining, but also mineral economics, basic geology, that sort of thing. Because if they don't know it, they can't ask it. And if they can't ask the right questions, how can they then challenge government or the mining industry to account? That's what we're trying to avoid here.

Let's avoid just giving CSOs space for the sake of giving them space. Let's make them count. That, to me, is the challenge. That's why I'm asking; I didn't hear earlier if there was that opportunity.

Ms. Besmanos provided the initial response to Atty. Recidoro's question concerning capacity building for Civil Society Organization (CSO) participants. Following her response, Mr. Llanos briefly supplemented it with additional insights.

Ms. Besmanos: That is right, Atty. Ron, in terms of whether there is capacity, whether there are trainings being given to civil society, there is. But the problem is, where will they engage? Because as of now, correct me if there is, but what we experience and currently being lobbied in the regional MGB is that there are still no clear guidelines on the CSO selection process to become a member of the MMT and the MRFC.

So, choosing the MMT is discretionary for the MGB or the mining companies. We have people's organizations that want to be a member, but if you're noisy, [like for example] like Sir Ben, they're not allowed to join. They have given a per diem, but they still talk a lot, and the self-monitoring reports take a long time to be signed. So, at the next meeting, you should rest first and [you are not included]. We have [on] academe, we have here a member of the Regional Development Council in CARAGA, Sir Jeff. They're also noisy. So they're not allowed to join the RDC. Noisy, and they don't want mining. So that's how it is.

There is training. There is capacity, but the space that had been given, the process of choosing, how is that? That's, yesterday I presented our proposal on the selection process of the civil society for the MMT and MRFC. And we wanted the Philippine EITI-MSG to endorse it to maybe DENR-MGB, to the DILG, so that they can be given the necessary fund and the right process so that they can join. They said that there are available spaces, then maybe we will maximize that. And then when it's established, then maybe that's the time that we can process everything, the trainings, the capacity building, what needs to be understood so that we can improve the monitoring of our operations down there.

Especially because due to the global move for just energy transition, where we will be using a lot of 4 billion tons of critical minerals to be able to transition to a greener future, we will need

more critical minerals. And the government data said, in the next four years, there will be 190 more mining operations that will be happening in the country. So it's too fast because we are seen as a global leader in terms of producing nickel.

But we are not ready yet. The civil society is not ready yet. The spaces that were given to us, we are not yet able to move around.

And thank you, Attorney Ron, that coming from you, we hear this question and this empathy for the civil society. Thank you so much.

Mr. Llanos: *In the conversations with the CSO-MSG, it's very clear that the connection between them and their primary constituency lies in the capacity development, whether that's upscaling or retooling, things like that. But one issue that they see is that you need mobilization resources to do that. And at the moment, there's really that challenge as well.*

I think the CSO-MSG can also provide input into your work planning so that when we roll out activities all throughout the year for PH-EITI, those kinds of things can be reflected there. And that's part of the strategy, I think.

Mr. Galicha concluded the discussion by expressing assurance that civic spaces and numerous available platforms across different sectors exist. He extended gratitude to Ms. Claire, Ms. Bon, and Chad for their contributions, noting that attendees still have opportunities to engage further during the break and throughout the conference.

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES

4th Conversation: From Extraction to Empowerment: The Essence of Social Development in the Extractives

A discourse on the integral role of SDMPs in ensuring that local communities benefit directly from extractive projects within their vicinity, focusing on its challenges, successes, and future trajectory. Revisit the guidelines and framework for SDMP implementation.

“Our goal is to help create responsible, self-reliant, and resource-based communities capable of developing, implementing and managing community development programs, projects and activities in a manner consistent with the principles of people empowerment and sustainable development.”

Gilbert L. Aquino

Chief, Mine Safety, Environment and Social Development Division
Social Development and Management Section
MGB Central Office

Mr. Gilbert Aquino began his discussion with an anecdote:

Magandang umaga po sa inyong lahat!

First of all, I would like to congratulate PH-EITI for their 10th anniversary. Actually I remember ‘yung PH-EITI the first time noong 2013, bigla na lang may dumating sa office namin, tapos sabi, “pwede hong makita iyong mga data niyo para sa expenditure?” Tapos “sandali ho titingnan namin sa baul.” Kasi pinatingnan namin sa baul kasi tinitingnan lahat ng records from the start up to the present. So bulto-bulto, kung alam niyo lang ang dokumento ng isang SDMP, ang pinakamanipis siguro, ganito (demonstrates a measure of around an inch or so). So ang gusto nila, summary data. So, sabi namin noong tinanong namin sa representative nila, anong hinahanap mo? Particularly sa SDMP? So lahat ng expenditure. Ano specific na parte sa expenditure? To make the long story short, Happy Anniversary sa PH-EITI.

Ito yong i-discuss ko ngayon, isa sa mga pinuntahan nga nila noong 2013, at nag-bago bago na nga ‘yung personnel na pumupunta sa MGB. So, one of the introduced na chapter sa Mining Act natin, which is a unique one, comparatively sa lahat ng mga mining industries abroad, dito lang sa atin sa Pilipinas ang mayroong development of mining community, sciences and mining technology. Ito lang, dito lang sa Pilipinas po iyon. Iyon ay matatagpuan sa chapter 10 ng mining act natin, section 57 at 58. Remember dalawang chapter, dalawang paragraphs lang ang nakalagay, noong 1995 yon.

Noong 1996, ikwe-kwento ko muna ang context nito bago tayo dumating sa main discussion. Noong 1996 kasi, ang nakalagay lang sa mining act 1995 is the long paragraph lang. then noong 1996, nagpalabas ang DENR ng 1996-40 na administrative order, mandating na one percent (1%) of the direct mining and milling cost shall be used for the development of mining community, at saka development of mining technology.

Then in year 2000, yong 1% ng DMMC (direct mining and milling cost) 90% shall be used for the development of mining technology and 10% for the development of mining technology. Then 2004-

54, nakalagay na don ang pag-aapprove na. kasi first of all sa 1995 noon, ang approval ng SDMP ay sa central office. Then noong 2004, dinownload na namin sa lahat ng regional offices for their approval. Yon ang pinaka-essence noon. Ang topic natin ngayon ay 'yung under ng 2010-21 which is pinalabas na daw na administrative order, which is the SDMP under the development administrative order.

Rationale

Ang pinaka-rationale natin para sa SDMP na atin ngayong ini-implement. Ang SDMP is a tool for the development and implementation of community programs and projects. It is a five-year plan, prepared by the Contractor/Permit Holder para sa community, in consultation and partnership with the host and neighboring communities.

Ang goal natin is to help create responsible, self-reliant, and resource-based communities capable of developing, implementing and managing community development programs, projects and activities in a manner consistent with the principles of people empowerment and sustainable development.

Legal Basis

Mr. Aquino ran through the legal basis of the SDMP:

- Chapter X of the Republic Act No. 7942 or the Philippine Mining Act of 1995
- Chapter XIV of the Department of Environment and Natural Resources (DENR) Administrative Order No. 2010-21
- Executive Order No. 443. Adoption of the Comprehensive and Integrated Delivery of Social Services (CIDSS) as the national delivery mechanism for the minimum basic needs approach; and
- United Nation's Summit Report on the adaptation of the "Seventeen (17) Sustainable Development Goals as The New Global Goals for Sustainable Development from 2016-2030"

Scope

As a participatory approach and strategy in project implementation, SDMP shall cover and include all Programs/Projects/Activities (P/P/As) identified by the Contract/Permit Holder together with the host and neighboring communities in all phases of the mining operation. Ang scope ng SDMP ay para sa lahat ng nagmimina na approved ng MGB. So mainly ang pag-uusapan lang natin ay 'yung operating phase, 'yung scope natin ngayon na sinasabi ko, for your information 'yung number of barangays, na mayroon nang SDMP ngayon is around 1,560 plus.

Goals and Objectives

The goal of the SDMP is to uplift the quality of life of the people towards the end of the 9pmine life, even long after the mining company ceases operation.

To achieve this goal, the following are the objectives: Help meet the minimum basic needs of the mining communities and enhance human welfare and prevent/reduce social ills, optimize the advancement of human resources, provide opportunities for a sustainable livelihood, promote conservation and intellectual use/management of the environment vis-à-vis community and mining

activities, protect the socio-cultural values and local patterns amidst improved economic condition and human advancement, and improve the economic and social empowerment of women, as well as to improve the well-being, safety, and security of women and children.

The Framework for the Formulation and Implementation of the SDMP

Mr. Aquino presented the framework on which the SDMP is founded.

A. Identification of the host and neighboring communities as per the Philippine Environmental Impact Statement System (EIS)

Specifically, in Section 134 of the DAO No. 2010-21, host communities were defined as “barangay(s) where the mining is located” and neighboring communities as “barangay(s) adjacent to the host community.” The identification of the host and neighboring communities shall adhere to Presidential Decree No. 1586 or the Philippine Environmental Impact Statement System and its implementing Rules and Regulations as stipulated in the DAO No. 2003-30. Also, as stated in Annex 2-2 of the Revised Procedural Manual of DAP No. 2003-30, the direct and indirect impact areas shall serve as the main reference in the determination of the stakeholders to be possibly affected by the project.

B. Organization of a Community Relations Office

It was also mandated that the Contractor/Permit Holder shall incorporate in its organizational structure a Community Relations Office that is primarily tasked to marshal the resources needed and serves as facilitator/coordinator for the successful implementation of the SDMP.

C. Conduct of Social Assessment Methods

These are the methods used for the formulation of the SDMP

- Participatory Rapid Appraisal
- Social Impact Assessment

D. Source of the SDMP Fund

2010-21: the source of funds is the operating cost. A minimum of one and a half percent (1.5%) of the operating costs shall be allotted annually for developing the mining community, mining technology, and geosciences and institutionalizing public awareness and education on mining and geosciences. The fund is divided into three components: 1.125% (75% of the 1.5%) shall be allotted for the development of the host and neighboring communities, 0.150% (10% of the 1.50%) for the Development of Mining Technology and Geosciences Program, and 0.225% (15% of the 1.50%) for the implementation of information, education, and communication program.

E. SDMP Formulation and Development

The Contractor/Permit Holder shall prepare the SDMP or ASDMP (Annual SDMP) in consultation and partnership with the host and neighboring communities. The SDMP should be aligned with the local government's existing development plans. The identification of priority PPAs should be based on the results of the SIA, PRA, or any similar social assessment methods used. In areas where Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) exist, SDMP shall conform to the provisions of Republic Act No. 8371 or the Indigenous Peoples Rights Act of 1997

In addition, the project formulation and development shall contain the following areas of concern: Human resource development and institution building, enterprise development and networking, assistance to infrastructure development and support services, access to education and educational support programs, access to health services, health facilities, and health professionals, and protection and respect of socio-cultural values.

F. Credited Activities or Expenditures

Under the first component the development of the Host and Neighboring Communities: human resource development and institution building, enterprise development and networking, assistance to infrastructure development and support services, access to education and educational support programs, access to health services, health facilities, and health professionals, protection, and respect of socio-cultural values, and the use of facilities/services within the mining cap or plant site.

For the second component, the development of mining technology and geosciences: basic and applied research on mining technology, geosciences, and related subjects. Advance studies, related to mining which are conducted by qualified researchers who are not employees of the mine; expenditures for scholars, fellows, and trainees including grants for dissertations on mining technology and geosciences and related subjects; and expenditures on equipment and capital outlay as assistance for research and/or educational institutions that serve as avenue for development mining technology and geosciences. Furthermore, the Contractor/Permit Holder shall include in the Program at least one (1) study/research on mining technology, geosciences, and related subjects. The provincial and municipal government concerned shall be consulted in the determination of beneficiaries of scholarships and training, as well as the subject of researches and training programs.

Lastly, under the third component focused on the public awareness and education on mining technology and geosciences: establishment/enhancement/maintenance of information and publicity centers where stakeholders can access information on the performance of a mining project. Publication of information, education and communication (IEC) materials on social, environmental and other issues/concerns relative to mineral resources development and responsible mining operations. Expenditures for continuing public awareness and education campaigns such as radio and web-based broadcasts, publications, and other forms of mass communication on mining-related information, issues and concerns on a local and national scale and expenditures on equipment and capital outlay as assistance to the institutionalization of public awareness and education on mining technology and geosciences.

G. Program Management

Program management shall include the application of planning, organizing, directing, and controlling functions of all community PPAs of the mining companies.

H. Monitoring, Control, and Evaluation

The contractor/permit holder shall conduct monthly internal monitoring of the ASDMP together with the representatives of the host and neighboring communities to determine the level of implementation of the PPAs following the approved programs.

I. Periodic Reporting

The contractor/permit holder is mandated to submit to the MGB RO concerned quarterly reports of the accomplishments on the implementation of ASDMP and establish and continuously update a database following the template presented in Annex 1, Quarterly Monitoring Report, and Annex 2 SDMP Database. It shall likewise prepare and submit an annual report to the MGB RO concerned; copy furnished the MGB Central Office (CO). The MGB RO concerned shall conduct semi-annual monitoring of the implementation of the approved programs and submit its monitoring reports together with the updated SDMP database to the Bureau within thirty (30) calendar days after the conduct of monitoring as a basis for periodic audits.

Ito rin po yong ini-strengthen namin, dinagdag namin sa manual namin, 'yung SDMP database at mga ini-enhance namin based sa requirement din ng mga iba't-ibang mga sectoral needs tulad ng EITI din.

Monitoring and Audit of the Approved ASDMP

In parallel to the periodic reporting, an audit is done.

The MGB RO concerned shall furnish the MGB CO with the approved annual Programs within seven (7) days from its approval

The Contractor/Permit holder shall provide the MGB RO concerned with the quarterly report of accomplishments on the implementation of its ASDMP, including the detailed database established.

The MGB RO concerned shall conduct semi-annual monitoring of the implementation of the approved programs and submit its monitoring reports together with the updated SDMP database to the Bureau within thirty (30) calendar days after the conduct of monitoring as a basis for periodic audits.

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES

5th Conversation: Ensuring Transparency: Beneficial Ownership and Integrity Checks in the Extractives Sector

Delving into these critical topics, the session explores methods, best practices, and real-world applications aimed at ensuring transparency, combating corruption, and promoting accountability in the extractive industries.

“BO Transparency facilitates informed decision-making to reduce corruption risk, as well as analysis to deliver anti-corruption insights.”

1st Presentation:

Atty. Brenda Jay Angeles-Mendoza

Advisor - Asia

EITI International Secretariat

Atty. Angeles-Mendoza started her presentation by outlining the collaborative efforts between their organizations, EITI and Open Ownership, in implementing the Opening Extractives (OE) program. The initiative aims to enhance Beneficial Ownership (BO) data availability and utilization. Atty. Angeles-Mendoza highlighted the program's focus on facilitating transparency reforms regarding the beneficial owners of companies, emphasizing its global impact with over 120 jurisdictions committed to enhancing the visibility of company ownership.

So, who benefits? Is a question on the need for beneficial ownership transparency. The standard encourages countries to maintain a publicly available register of beneficial owners of these companies, that includes the identity of beneficial owner; the name, nationality, country of residence, as well as politically exposed persons.

We still don't have definition in the Philippines, but there are some legal instruments already. These are the elected or appointed government officials, their level of ownership and how ownership or control is exerted.

Continuing her discussion, Atty. Angeles-Mendoza acknowledged the Philippines EITI's efforts in establishing a Beneficial Ownership (BO) registry as an interim measure. She noted that while commendable, only 34 companies have voluntarily agreed to disclose their BO information. Additionally, she highlighted the Securities and Exchange Commission's (SEC) role in hosting a central register of BO data accessible solely to law enforcement and competent authorities via data-sharing agreements.

Lastly, Atty. Angeles-Mendoza ended her presentation by stating the significance of BO transparency in the extractive sector.

- 1. It enhances the sector's integrity. It can also allow investigation of corruption in extractives value chain.*
- 2. It facilitates informed decision-making to reduce corruption risk, as well as analysis to deliver anti-corruption insights. So beneficial for those of us who would be interested in how and who benefits from the extraction of resources.*

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“BO data is not just for the government, it's also for the businesses themselves to use.”

2nd Presentation

Emily Manuel

Regional Manager, Asia Pacific

Open Ownership

Ms. Manuel continued the discussion about beneficial ownership (BO) and emphasized that she would further explain the benefits of using beneficial ownership.

By the way, if you go outside in our booth, you will find the resources which we brought. A lot of the use cases are actually in this resource, “Who Benefits?”, so by the title itself, we understand what beneficial ownership is trying to reveal. Who are the ultimate owners behind these companies?

Beneficial Ownership

- Enhance Domestic Resource Mobilization (DRM).

What is the meaning of this for the communities? It's for the community to actually get the benefits from the mining activities.

- Using BO data to enhance DRM in Nigeria

From the time that they required BO declaration, they were able to increase tremendously their revenue profile. And these are just the fees that are due to the mining cadastre. So our equivalent would be the DENR, for example.

From 2019 to 2021, 15,483 applications were rejected and 4,997 revoked. In 2021, the revenue generated by the office reached its highest-ever level at NGN 4.3 (approx. USD 9.5M).

According to Ms. Manuel, the staff diligently verifies the true beneficial owners of the companies applying. They discovered that mining companies were abandoning their existing entities, establishing new ones, and seeking fresh licenses while leaving liabilities to the affected communities. Through the Beneficial Ownership (BO) declaration, the staff successfully identified the consistent interests driving these entities, revealing the interconnected nature of their operations.

- Using BO data to improve due diligence and managing supply chain risk

A mining equipment manufacturer in Zambia uses BO data to perform due diligence on artisanal mining companies seeking to purchase equipment

BO data is not just for the government, it's also for the businesses themselves to use. So this data, previously, it actually cost thousands of dollars to purchase, but now it's free.

Ms. Manuel clarified the advantages of Beneficial Ownership (BO) for businesses, citing a compelling case from Zambia. There, BO data was instrumental in conducting thorough due diligence on artisanal mining enterprises. Delving deeper, she elucidated that if these small-scale mining ventures were found to have Politically Exposed Persons (PEPs) associated with them, it could heighten the risk of contract cancellation.

Obviously, those manufacturers didn't want it to happen. Imagine if someone orders equipment to them, and that company's contract be cancelled, [what will happen]? So they actually use BO data as part of their due diligence.

- Use of BO data to detect conflicts of interest

Ms. Manuel presented the “Joining the Dots” tool on cross-referencing BO data that was developed by the CSOs of Argentina.

She added that the main idea of this tool is to unveil potential conflicts of interest and identify any “red flags” associated with companies holding extractive licenses. It integrates beneficial ownership data with information regarding Politically Exposed Persons (PEPs) and asset declarations, or what we call [Statement of Assets, Liabilities, and Net Worth] “SALN” in the Philippines.

So, what happens here is very easy for CSOs to use. They just need to search the PEP, and they can instantly see what mining licenses these PEP is holding. This particular tool uses algorithms. The point that I'm trying to make here is, if BO data is available in structured format, there were a lot potentials or use, particularly on CSOs and LGUs.

Benefits of making beneficial ownership transparent

When combined with other datasets, beneficial ownership data can:

1. Inform government and other stakeholders on corruption risks.

Because when you know who's behind these companies, you're able to make better informed decisions on conducting an [Environmental Impact Assessment] EIA on getting [Free, prior and informed consent] FPIC to indigenous communities.

2. Strengthen the governance of extractive licenses.
3. Enhance domestic resource mobilization.

According to Ms. Manuel, the Bureau of Internal Revenue (BIR) has already entered in a data sharing agreement with the Securities and Exchange Commission (SEC), facilitating ongoing investigations into mining companies. Regarding taxation or potential tax fraud, some mining

companies divert their earnings to foreign jurisdictions, leveraging multiple tax treaties to do so. Ideally, taxation should be based on where the economic activity occurs.

Therefore, if mining operations take place in the Philippines, taxes should be paid here. However, there are numerous methods employed to circumvent this obligation, such as through transfer pricing tactics.

4. Ensure the flow of economic benefits for the affected communities.

This is the importance of [Beneficial Ownership Transparency] BOT in reducing corruption across the extractive sector value chain. You can also use this table when we talk about energy transition. Because on clean energy transition, you're talking about contracts that the government is going to enter into. BO data would also be useful for that.

Recommendations:

Ms. Manuel listed their recommendations and emphasized to increase BO data use to strengthen extractives sector integrity.

- Increase company participation in BO disclosure
Currently, there are only around 31 companies in the PH-EITI website. If you increase that, the more data that you have, the more valuable it is, the more that you can use it. And then to make the SEC register public as well. Currently, it's only available to competent authorities.
- Use of BO data in licensing application processes
Currently, this is not a requirement but this is very helpful as we saw in the Nigerian experience, if it is integrated as part of the approval of the licensing. And for renewable energy also, the award of the contracts.
- Build registers that meet user needs
Build register that meet user needs. So this data should also be made available to CSOs and LGUs. BO data is underutilized in Philippines as far as LGUs are concerned. Maybe because they don't know yet the potential of its use. LGUs can enter into a [Data Sharing Agreement] DSA with the SEC.
- Raise awareness and capacity for data use
So capacity building. We know that the beneficial ownership is a very highly technical subject. But under the Opening Extractors Program, we're offering to support you, to help you to understand where to get this data from. And it could be across jurisdictions.
- Invest in innovation
- Embed the use of data into existing and new processes
Embedding the use of data into existing and new processes. Businesses can use BO data and integrate it as far as and include it in their due diligence checks.
- Build sustainability into reforms

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES
6th Conversation: Digging Deep: The A-Z of Small-Scale Mining
Discover the intricacies, gain practical insights, and equip with the knowledge essential for fostering responsible and sustainable small-scale mining practices.

“RA 7076, its main goal is to promote sustainable development in the small-scale mining industry, as well as protecting the environment and welfare of the small-scale miners and their communities.”

1st Presentation

Engr. Theodore Rommel E. Pestaño

OIC-Chief, Mining Technology Division
DENR-Mines and Geosciences Bureau
(represented by Engr. JP Miraña)

Due to unforeseen circumstances, Engr. Pestaño was unable to attend. Engr. Miraña presented on his behalf, sharing insights on small-scale mining and Minahang Bayan. Engr.

Small-scale Mining and Minahang Bayan

Engr. Miraña began by establishing the definition of small-scale mining as outlined in Republic Act No. 7076. According to him, it encompasses mining practices dependent on manual labor, employing basic tools and methods without the use of explosives or heavy machinery. This form of mining is typically conducted by individuals or small groups with limited capital investment. Unlike large-scale mining, small-scale operations are restricted from employing heavy equipment or explosives.

Engr. Miraña then continued to discuss and define Minahang Bayan.

Some are kind of confused between small-scale mining and Minahang Bayan. That's why we have also included Minahang Bayan to be defined. So for this one, Minahang Bayan, or people's small-scale mining area, refers to the entire area declared by the board for the conduct of small-scale mining operation pursuant to RA No. 7076. The total allowed area for the Minahang Bayan shall not exceed to two contiguous meridional blocks, or equivalent to more or less 162 hectares.

He elaborated that in accordance with Executive Order 79 and consistent with Republic Act 7076, the government permits small-scale mining exclusively within designated Minahang Bayan areas.

So technically, Minahang Bayan is a land classification where small-scale mining operations is allowed. And through the Minahang Bayan scheme, the government can better monitor and regulate the small-scale mining activities since they are contained in the Minahang Bayan area and will eventually discourage illegal mining activities.

Small-scale Mining Contract

Engr. Miraña explained that it refers to a co-production, joint venture, or mineral production sharing agreement between the government and a small-scale mining contractor for the small-scale utilization of a plot of mineral land inside Minahang Bayan.

Basically, it's a legal agreement between the government and the small-scale miner or group of miners. This contract is required before they proceed to the actual small-scale mining operations.

Under the small-scale mining contract:

- Total annual production limit - 50,000 metric tons.
- Authorized capitalization - PHP 10 million pesos during the entire term of the contract.
- Validity of the small-scale mining contract - two (2) years renewable for like periods.
- Area for the SSM contract - not be less than to 1.25 has. and not more than 20 has.

Engr. Miraña clarified that small-scale mining applies to metallic minerals like gold, silver, chromite, and non-metallic minerals. He noted that most designated Minahang Bayan areas in the Philippines predominantly focus on gold mining. In fact, out of the 57 declared Minahang Bayan, 47 are primarily engaged in gold mining.

Mining Methods for Small-Scale Mining

Engr. Miraña discussed the difference between panning and underground small-scale mining.

- Panning involves using a pan to sift through sediments and extract small amounts of gold and other minerals.

Often, we can observe this from the small-scale mining area along the river, where they hold a flat pan, they will continuously shake it to separate the gold from the mineral.

- Underground small-scale mining - horizontal or vertical tunneling and drifts will be driven following a narrow vein gold deposit, primarily using moil, peat, and shovel.

Small-Scale Mining Policies

- Republic Act No. 7076, or the “People’s Small-Scale Mining Act of 1991”.

Its main goal is to promote sustainable development in the small-scale mining industry, as well as protecting the environment and welfare of the small-scale miners and their communities.

- Revised implementing rules and regulations of RA 7076, or the DENR Administrative Order, or DAO 2022-03, enacted last March 4, 2022.

MGB's initiatives to incentivize the compliance of illegal small-scale mining

1. Revision or amendment of the Republic Act No. 7076.

Engr. Miraña described the initiative as inclusive of streamlining the Minahang Bayan Declaration process and simplifying small-scale mining-related work programs and reports. Additionally, it aims to encompass the forms utilized by small-scale mining stakeholders. Addressing further concerns, efforts will be made to incorporate them into the revision of Republic Act No. 7076.

2. Provision of technical assistance in the processing of MB petition and requirements for the small-scale mining contract.

This is an ongoing effort of the MGB, and with our partners from the MGB regional offices, they conduct the IECs simultaneous with their field monitoring. The goal is to educate the small-scale mining [contractors] regarding the declaration process, as well as the application of small-scale mining contract.

3. Government assistance programs

He described it as the concerned government agencies or NGOs, including foreign or international organization projects, and or aids relating to development and improvement of the small-scale mining operations.

So the small-scale mining areas that have declared Minahang Bayan issued small-scale mining contract and or MPL holders, they are the target priorities as grantees for the programs and projects of concerned government agencies and NGOs. In fact, for example, we have Planet Gold project facilitated by the Artisanal Gold Council and the Mines and Geosciences Bureau.

Engr. Miraña further explained that this project has two pilot project sites in Sagada Mountain Province and Paracale, Camarines Norte. The main objective of the project is to establish a mercury-free processing technology.

4. Promotion of the Big Brother-Small Brother Scheme

Under this scheme, the large-scale mining supports the small-scale mining operations under a profit-sharing scheme.

Best practices of the small-scale mining operations – Province of Cotabato

Engr. Miraña presented various exemplary practices observed in Small-Scale Mining (SSM) operations, notably those implemented within Cotabato Province.

- Tree Growing and River Clean-up Drive Activities

So as part of their obligations in their small-scale mining contract and work programs, the small-scale mining contractors and MPL holders conduct tree-planting activities to prevent soil erosions. They also create a nursery where they propagate fruit trees and other plants, which will also be used for their tree-planting. They also conduct quarterly clean-up drives in Kematu River, the major river near the declared Minahang Bayan.

- Financial assistance to the construction of classrooms, churches, sports amenities, playgrounds, and COVID-19 isolation facilities

- Pickup truck for San Lorenzo Ruiz Parish
- Distribution of school supplies to less fortunate pupils and students within the community, particularly the indigenous people
- Feeding program to surrounding community
- BAYANIHAN: Road repairs and widening of access roads to remote areas
- Regular monitoring of the SSM and mineral processing operations
- Convergence of various agencies to promote stakeholders' participation and empowerment (Partner agencies/groups: MGB, DNR, PNP, PSEM, DOLE, DILG, DTI, and other NGOs)
- Minahang Bayan Center - for easy access to permit processing and as a center for small-scale mining affairs and various training.

To end, Engr. Miraña showed and provided update on the current map with all the declared Minahang Bayan (total of 57), all over the country.

- CAR - 13
- Region 4A - 1
- Region 5 - 3
- Region 6 - 1
- Region 8 and 9 - 2 each
- Region 10 - 8
- Region 11 - 13
- Region 12 - 8
- Region 13 - 6

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES
6th Conversation: Digging Deep: The A-Z of Small-Scale Mining
Discover the intricacies, gain practical insights, and equip with the knowledge essential for fostering responsible and sustainable small-scale mining practices.

“We already have established gold buying program, we are continuing to monitor the developments in the gold supply chain. We recognize the challenges, we partner with our stakeholders, and we are undertaking pertinent activities to further improve our services.”

2nd Presenter

Dexter Ian C. Valerio

Bank Officer VI, Compliance and Technical Services Group
Regional Operations and Subsector Department
Bangko Sentral ng Pilipinas

Before beginning his presentation, Mr. Valerio cordially greeted the audience and extended heartfelt congratulations to PH-EITI on reaching its 10th year anniversary.

The Importance of Gold

Mr. Valerio emphasized the significance of gold for the Bangko Sentral ng Pilipinas (BSP) and the Philippine economy, particularly in relation to the country's Gross International Reserves (GIR). With this context, he defined GIR as foreign assets of the BSP held mostly as investments in foreign-issued securities, monetary gold, and foreign exchange.

The GIR serves as the external liquidity buffer for the country. It supports economic growth. And it is safe to say that the higher its level, the greater the ability of the country to meet any foreseeable net demand for foreign currencies.

BSP's accumulation of gold is supported by the BSP's domestic gold buying program.

Enabling legislations

- Section 17 of RA 7076 - All gold produced by small-scale miners in any mineral area shall be sold to the central bank.
- Section 69 of RA number 7653, or the New Central Bank Act - the BSP may buy and sell gold in any form subject to such regulations as the Monetary Board may issue.
- RA 11256 of 2019 - encourages the sale of gold by registered small-scale miners and accredited traders to the BSP by exempting such sales from taxation.

So, for going considered, the BSP's domestic purchases of gold using Philippine pesos strengthen the GIR, which in turn enhances the BSP's ability to meet net foreseeable demands on the BSP for foreign currencies. We, thus welcome the sales of gold to the BSP by domestic sellers.

Gold Process Cycle

Mr. Valerio proceeded by outlining the gold process cycle, explaining that the BSP purchases gold through its regional buying stations at prevailing global market rates. The purchased gold is then refined and converted into London bullion gold delivery bars before being transferred to the BSP's bullion vault, where they become part of the country's reserves. He mentioned that the final step involves periodically entering into location swap transactions to facilitate international trading of the gold bars.

BSP Gold Buying Stations

Mr. Valerio then presented the gold-buying stations in the country and the sources of gold.

1. MROD in Quezon City, the security plant complex.
2. Baguio City, BSP NLRO
3. Naga City, BSP Naga
4. Dava City, BSP MRO
5. Zamboanga City, BSP Zamboanga

Sources of Gold

- Small-scale Miners (SSM)
- Large-scale Mining Companies (LSM)
- Gold traders
- Other sources

BSP Responsible Gold Sourcing Policy

Mr. Valerio quickly mentioned that BSP is an LBMA-accredited refiner, indicating adherence to the responsible gold guidance issued by the LBMA.

Breakthrough Legislation

Before 2011, the BSP had not collected taxes. From 2011 to 2019, BIR ruled that BSP shall withhold taxes from the gold sellers. From 2019 to the present, under RA 11256, the gold sold to the BSP by registered SSMs and accredited traders is tax-exempt.

Here, you can see the effect of taxation. From 2012 to 2019, BSP had almost no gold purchases during that period. So, from 2020 to 2022, we can see that gold purchases are starting to rebound, but not at the same level or quantity compared to those years before taxation.

Challenges

Mr. Valerio continued by stating that he would now discuss the challenges encountered by the BSP in its gold-buying program. These challenges were identified through a study comprising a review of related literature and dialogues with Small-Scale Miners (SSMs) and multi-stakeholder groups.

- Existence of the black market

What we say is that selling of gold to the BSP is helping address the problem on smuggling as it prevents the sale of gold to the black market.

He then explained that the gold sold to the BSP is also pegged at international market price, which ensures fair trade for our miners and traders and subsequently benefits their entire communities.

- Formalization of SSMs

So, we found out that SSMs are encountering challenges on their application for registration due to numerous requirements by the concerned national and local government agencies.

Mr. Valerio added that SSMs normally do not have the financial and technical capacity to proceed with their application for formalization. While the initial registration stages were not within their mandate, they actively collaborated with the concerned stakeholders to address the matter.

As a matter of fact, Sir JP, who was the speaker before me, we've always been in communication. So BSP, MGB, we're asking for updates on the number of Minahang Bayan. It aids us in our study on where to put up these gold buying stations.

- SSMs access to gold buying stations.

According to Mr. Valerio, the logistical and security challenges arising from the distance of BSP gold buying stations are leading small-scale miners (SSMs) to sell their gold on the black market.

To tackle this issue, they explored the possibility of establishing additional regional gold buying stations and accrediting more traders in areas with a significant number of Minahang Bayan. Additionally, he pointed out that access to financing is a concern for SSMs, with individuals or groups from the black market often serving as financiers. Consequently, mined gold is sold to these financiers as part of loan agreements. The BSP is collaborating with an international organization to develop a financing scheme through a supplier agreement for small-scale miners to address this.

Initiatives and programs of the BSP

- Development of a Gold Buying Roadmap

We developed a gold buying roadmap which includes a study on the establishment of additional gold buying stations, collaboration with stakeholders, intensive information drive on the BSP gold buying program including the law on tax exemption for small-scale miners, and we also would like to establish a more attractive pricing and payment scheme for the BSP's gold sellers.

- Increased the initial payment from 99% to 99.5% and increased the weight of gold to be accepted from 10 kilos to 12.5 kilos.
- Continuous improvement of production capacity and processes in the refinery to respond to the requirements of prospective and existing sellers.

Mr. Valerio concluded by summarizing that while the BSP has already established a gold buying program, they are continuously monitoring developments in the gold supply chain. Acknowledging the challenges, they are actively partnering with stakeholders and undertaking relevant activities to enhance their services.

We already have established gold-buying program, we are continuing to monitor the developments in the gold supply chain. We recognize the challenges, we partner with our stakeholders, and we are undertaking pertinent activities to further improve our services.

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES

Panel Discussion and Open Forum on the 4th, 5th, and 6th Conversations

Moderator:

Atty. Ronald Rex S. Recidoro

Executive Director, Chamber of Mines of the Philippines

Atty. Recidoro enthusiastically launched the panel and discussion, engaging the audience from the start. He inquired whether they knew key concepts like the Social Development Management Program (SDMP), Beneficial Ownership Transparency (BOT), and Small-Scale Mining. His aim was clear: to elicit thoughtful questions from the audience and optimize the opportunity to interact with Mines and Geoscience Bureau (MGB) representatives.

After his introduction, Atty. Recidoro promptly invited the audience to pose the first question.

***Ms. Emma :** I have two (2) questions, one, regarding SDMP and the other is on Beneficial Ownership. On SDMP I just want to know if there is a monitoring system besides the MGB and the mining owner and their report to SDMP. In several years of mining, majority of our funds go to Bikini Opens. And that violates of your goals [like] human resources, human trafficking, culture and woman issues. That's a lot.*

And the second question is regarding beneficial ownership. I just want to, it's not a question actually. But when you say beneficial ownership, it's the owners that listed as a stock exchange, right? The stockholders, no. Well, how about dummy owners? Yeah. And how about no dummy owners but the financiers are political figures? You too? I need to know that list because most of the mining companies in my area are owned by political families.

Mr. Aquino addressed concerns regarding the Social Development Management Program (SDMP), specifically discussing the allocation of funds and potential misuse in inappropriate activities.

***Mr. Aquino:** Good afternoon. With regards to the monitoring scheme of SDMP, upon implementation of SDMP, we conduct a monthly internal monitoring report, which is conducted by the mining company with the recipient or beneficiary of the PPA, the Project and Programs and Activities. After that, they submit that report quarterly. Then, it is monitored by the MGB regional office, the conducted or implemented activities.*

So beforehand, those activities that are implemented or what we call PPAs, the annual SDMP, every year or before the end of the year, all of them conduct consultations. So they call for an assembly. Then, the communities are asked, there is a sectoral representative, LGUs, especially our barangay heads there, before the end of the year, these are the activities that we will plan. That will be their proposal. So together with the MGB and sectoral representatives, as well as the government agencies that are concerned with those PPAs, that is what they will plan. Then after that, that is what is monitored by the MGB and the mining companies.

Atty. Recidoro requested any answers regarding how Bikini Open was authorized.

Mr. Aquino: What is the particular PPA of the Bikini Open? I know that Bikini Open is not mentioned there. What is the particular implementation of that?

Ms. Emma: Sir, Bikini Open is not included in the liquidation. It is included as Fiesta. There is something that is not specified in your implementation. Because, regardless of your health or whatever, the leader in the barangay will ask for a “Fortuner” to transport his constituents to the hospital. There are a lot of issues. Because we don’t see the benefits of the SDMP.

What we see is the money received by the government officials per shipment, per shipload, from the mayor to the vice mayor and down to the barangay. Even during the election, they tell “Tanggapin ninyo ang mina dahil mayroon kayo”. So your answer should be standard, sir.

Mr. Aquino: Thank you for mentioning that the activity [Bikini Open] falls under Fiesta. Because the usual PPA, especially for our LGUs, is Assistance to Cultural Celebration. That’s what they call it.

So, the company really provides finances for the preservation of culture or socio-cultural. Sometimes, we don’t see the details. What will it include? Because when you plan, you look at a lot of things. That’s how it is. That’s why they request PPAs. So, one thing we talked about earlier, if you saw the moving forward earlier, is the capacitation of the COMREL to capacitate them as well as the recipients or LGUs as to the goals of their PPAs. If you saw earlier, what I put here, the moving forward, is we should align it to the SDGs so that it can lessen or totally eradicate the problem you mentioned.

Atty. Recidoro: I just want to ask, Gilbert, does the MGB have the power to deny certain proposed projects for being not aligned with your government?

Mr. Aquino: Yes, during the, especially in MGB 13, as far as I know, there is a community technical working group represented by the sectoral representatives. So, they are the ones who endorse. Then, for the question is, does it have the power to deny? Yes, if there are complaints like that and if it is presented [proven] as it’s not really aligned, absolutely, they can deny it.

For the interest of time, Atty. Recidoro ended the conversation on the SDMP concern and transitioned to the next query: Beneficial Ownership. Ms. Manuel then took the microphone to share her insights on the matter.

Ms. Manuel: So, the BO should be a natural person. There are nine categories under the SEC, Memorandum Circular. It not only includes the shareholders. It includes the people, very explicit though, those who benefit or profit from a particular activity. So, it includes our Politically Exposed Persons (PEPs). Unfortunately, they declare a lot of officers of the company. There’s a very stiff penalty for declaring the officer if there are other categories that are applicable. So, we can share with you the number of the SEC Circular, the SEC MC15.

Anonymous: MGB. Sir, this is my question. On your presentation, you didn’t include farming. The SDMP really needs in farming because everything we have there is being destroyed. The camping top, our farmer there, the area was destroyed because of a mining. It’s been a long time. It was surveyed by the MGB back then. I came here during the time of Gina Lopez. Nothing was done. My problem was not solved back then.

Now, I'm here again. I hope the MGB. Because the result of the MGB that they did, when they surveyed, that was the reason why my problem was not solved. Because, let me just say this. Our dam was filled with gravel. The gravel went into our land area. The landowners there, they wanted the mining [companies] to pay [for the damages] for several years that they aren't able to plant anything.

But the mining didn't want to pay because they said they weren't the ones who destroyed this place. They honored the result of the MGB which states that the mining didn't destroy our area. Then who did? They were the ones who damage the mountain. And what they did was, they put mud on top of our dam.

And the farmers need the SDMP to help us so that we could farm again. What solution will you give? To our problem? Because it's been a long time. It's been several years.

When I came here before, but there was no result. Now, here it is. Maybe it's the MGB. Because it's the MGB who gave the [survey] result. I hope they can give a solution to our problem there.

And I don't know what teeth that mining has. Why don't they know how to give? The two MGB [officer] who went there and did the survey, said, we are now included in the SDMP. But until now, the farmers didn't received in fund from the SDMP.

The mining company said they would give 2 million or 1 million for rehabilitation. But until now, nothing has been done. And the 1 million, it's not enough, maybe it's just for area cleaning only. That's what I hope, sir.

I hope the matters on farming be included in SDMP because it's important. Our land need to be cleaned so we can plant again and the mining must pay for the damage they've incurred for several years.

Mr. Aquino responded thoroughly to the concerns and grievances raised, explaining the necessity of a structured process for your inclusion in the SDMP.

Mr. Aquino:

How SDMP works?

There were a lot of problem that Ma'am mentioned. Regarding the environmental, which is where there is degradation in her farm caused by the mining activity. So that's environmental.

Then Ma'am wants to know about rehabilitation, which is still an environmental aspect. Another thing is, someone told you that you can help the SDMP. Of course, as long as you're there, because I know you're there in the host community, because the land degradation came from the mining.

What I want to know is, who told you that you are now included in SDMP? Because there's a process on how for you to be included to the SDMP. There's a planning assessment as well as planning and consultation with the host and neighboring [community] and all the representatives. In your particular case, the area was damaged. So what they're doing is, to compensate the damage, they're giving you help through the SDMP. So, there's no problem with that. But maybe there was a miscommunication between you and that someone who told you that you can be included in the SDMP as I mentioned there's a process before you can join the SDMP. In CSR,

I think there's no problem if you're going to be included. In CSR, as long as the company has money, you can be listed.

With regards to the mining company and if you can join the SDMP, maybe later, you can tell me who told you that. Because there are a lot of MGB members. And the SDMP should have a community-wide impact not individual. Because, ma'am, if it's just compensation-wise, there's a fund. There's a fund when there's an investigation. Because there's an investigation that's conducted when there's damage to land and properties. It's automatic, ma'am. Once you lodge a complaint, it should be there. Then if the company really found fault, they will give you compensation and whatever assistance they can give you.

It's all based on operating costs of the company when implementing the SDMP. So, what I didn't explain to you, during the planning stage, which is something that really needs to be explained, is that the costing will depend on how strong the operation is of the previous year. Because the basis of our fund is the previous operating costs.

For example, if you're in 2023, if in 2022, it didn't operate or its operation is low, your annual SDMP for 2023 will also be low. So, that's the basis. So, maybe I didn't explain it to you, but I didn't ask you what's particular.

Is it particular on how it goes specific to your barangay or specific to your project? Why is it just like this? Or how? But the allocation, regarding allocation, it's yearly. Then, it's a consultation because the SDMP fund is just limited resources. There are many of you who are also sharing there. So, sometimes, they look at the prioritization, what is the real need within the area. So, maybe it can also happen, either it goes down, because if you remember, we had a pandemic. Everything went down. Many operating costs went down. Then, it's just now taking off with regards to how it will be allocated.

SDMP Consultation

Hopefully, you can join their yearly consultation or you can join during the consultative meeting of planning the annual SDMP. Now, it's November. So, they will submit before December 1. So, hopefully, this November, their consultation is not done yet. I hope you can join.

Then, you can ask there how you got the costing if you want to qualify. Don't be afraid to ask. Don't be shy to ask because you are there. The representative of the company is also there. The representative of the regional office is also there. Because if I were to say, I can't just say what their data is. The real data is there in the regional office, while the planning is still there, it's better to ask.

Penalties

With regards to penalties, our penalty is still anchored in the Mining Act. In the first penalty, there is a financial payment. The company will pay. That's the first violation, non-implementation. The second non-implementation, second penalty, suspension of operation.

That's already heavy and that's what they are afraid of. If the PPA is not implemented, for example, my annual SDMP is 1 million, for 2023. A school [project] and the company fall short of fund then it is automatic. My shortcomings will be included in the succeeding year. It will be added and you still need to implement that non-implemented project.

Sometimes, it's up to their planning whether the project will be realigned or not, or whether it will continue. That's really the crucial point that you need to look at during the planning and consultation aspect.

An anonymous audience member interjected, raising questions about the MGB's actions concerning companies with pending cases or those violating SDMP yet continuing to operate.

Anonymous: *I also don't know where. That's the question of the community. Where is the annual plan?*

Every year, there's a plan. A lot of SDMP plans but there's no implementation. That's why I'm asking, sir, if there is a violation, why do several mining companies can still operate? That's why I'm asking, is there a violation? Is there a fine for these mining companies if they violate to implement their SDMP? Because that's what usually happens in the mining companies of Dinagat Islands.

I am from Dinagat Islands. I'm not anti-mining, but based on what I've observed. There's a huge negative impact of mining. Based on what I've learned, based on what I've heard, these mining companies say that they can only pay on the extent of their violations to MGB. That's why their operations are still ongoing. That's why I'm really angry. MGB is the only one that can stop the operations of these mining companies. Why are there so many mining violators that are still operating? That's it, sir.

Mr. Aquino clarified that these complaints should be directed to the nearest Regional MGB office in Dinagat Islands and other overseeing organizations such as MICC and PH-EITI. He acknowledged the prevalence of mining violators but cited the challenge of limited manpower within the MGB, making comprehensive monitoring difficult.

Mr. Aquino: *It's good, sir, that you brought that up because it would be better if you lodged a complaint yourself. Did you lodge a complaint? There's an MGB satellite office in Dinagat. There's also a regional office and there's also an MGB central office. We can all be partners. My goodness, sir.*

You can just lodge a complaint. We have the MICC. We have the MICC. They are also conducting their own investigations. They are investigating MGB. They are investigating Mining Company and the implementers. So, there are a lot of roles that are being played. There is also the EITI who is looking to see if they are really complying.

I can't deny that there are a lot of violators. And one of the things that we are really looking at, in the MGB central office, there are only four of us who are looking at the SDMP nationwide. That's how limited the personnel gave us by the DBM. Then, in the regional office, there are only three personnel or three items to monitor the SDMPs. We are also pushing for additional. We are also pushing for the DBM to have additional manpower to augment such instances of cases where we can pay more attention to such problems and complaints.

Atty. Recidoro concluded the conversation about the SDMP concerns related to MGB to give way and hear concerns about the other topic. He then accepted a question from Mr. Jeffrey Karin, from Father of Saturnino-Uris University Foundation in CARAGA Region.

Mr. Karin:

Questions about:

1. SEC and Beneficial Ownership

About the Open Ownership or Beneficial Ownership first. I already asked this question last year. As to the access of data, especially for SEC, because our target for Open Ownership is, number one, is anti-money laundering. May I know as to, are we, what's the status or what's the take of SEC between Beneficial Ownership as to the data privacy? Can we access really as to the, in terms of like, audited financial statement, can we freely see it? Can we determine if the extractive industries submitted the right information? Or just for show? So, how reliable data is if we can access to SEC?

2. Comprehensive details on best practices presented by the MGB

My second question is for the one who presented in the best practices. Sir, best practices for MGB. You made mention, I just would like to know, to clarify, as you said a while ago, these are the best practices, Feeding [Program].

When you say feeding [program], was it a dole out? Or a long-term or short-term feeding program? Like, everyday feeding? Because if this is a best practice, then we should check all aspect. Meaning, we don't mis-conceptualize the people on what is best practices. Even with tree planting. Does the tree planting have monitoring [activity]? How many indigenous trees, how many fruit-bearing trees on the ground? Is there a monitoring on the survival rate? So, do not just present best practice, when details were not comprehensive. Even cleanup drive, is that a best practice? So, that is my question.

3. Royalty Fees

And for tax exemption in gold, [question] for central bank [representative], I would like to ask, just for you information, we do have IPOs or Indigenous Peoples Organization in Agusan del Norte and they have this royalty fees. I don't know if you can answer this one, because right now, they have this royalty fee. There is one percent (1%) that they can receive quarterly as to the total sales or gross of mining [operation]. So, they're asking, especially we have visitors here, Datu Moran and Dacula Korobebe, they was collected 20% of their royalty fees. Their concern is more on gold for tax exemption.

4. MGB or mining companies' achievements?

Last question is for MGB. Regarding the one you've presented, the achievements and output, I saw you covered more or less six (6) million plus individuals. Another is 4,000 plus or 6,000 plus scholars, as well as other PPAs.

My question, are those the achievements of MGB, you've mentioned that you only have four personnel, or are those output or achievements of the mining companies? If you have the PPAs, can we extract the data, statistical data, the focus on CARAGA region? As we all know, CARAGA region is the mining capital in the Philippines.

For the first question, Ms. Manuel moved to respond first to answer the inquiry regarding Beneficial Ownership (BO).

Ms. Manuel: *About BO, let's differentiate. BO is different from from legal ownership. Legal ownership, you can access that actually. You can request from the SEC the GIS of the company, as well as their available audited financial statements.*

Currently, the BO declaration form is not available. But as far as I know, SEC has planned by 2025 to have a public BO register. So that's in the works.

As far as data accuracy is concerned, CSO can hugely help because you can point out to the SEC, "that declaration is not correct, fine those company."

Mr. Aquino answered the concerns about best practices of mining presented by the MGB.

Okay, for the first question, on feeding program, actually, due to limited time earlier I've only presented is the summary of achievements. The feeding program presented there is "feeding program for the malnourished children", specifically. Then with regards to the question on achievements, the numbers, they were not achievement of MGB, that was achievement of SDMP. With regards on the availability of data, it is on the MGB website.

Atty. Recidoro then shared his short sentiments about the community's fund for SDMP and their ability to utilize it. He also asked Mr. Aquino if there were any frustrations he had about the SDMP programs and asked Mr. Valerio what he thinks the BSP should do to bring back the level of their purchasing volume of gold.

That is the challenge for everybody. In 2022, mining companies program two (2) billion pesos worth of programs and activities. Two (2) billion, can you imagine what we can do with it? And yet, our capacity to imagine what projects we can fund with 2 billion is sort of limited, right?

Atty. Recidoro posed a question to Mr. Aquino and Mr. Valerio.

Gilbert, my question to you. Since you are on SDMP for a long time. What is your frustrations about SDMP programming? And if you have something to do or change about it, then what it is?

For Dexter. Earlier, on your slides, you showed us that at its height, BSP was purchasing something like a million troy ounces of gold per year. And then when you started to withhold taxes, it plunged to zero, right? And now with all the efforts being done to encourage sales, and by exempting them from income and excise taxes, we see the rise. But it's not gone back to a million troy ounces. What do you think the BSP should do or the other agencies to bring it back to that level?

Mr. Valerio responded by articulating his viewpoint on the necessity for BSP to intensify its efforts, particularly through intensive information campaigns.

Mr. Valerio: *There's a lot, we are aware that we need to do more and that we cannot do it by ourselves. So, it's mentioned earlier, not just the whole of government approach, but also the civic societies and everyone involved in the supply chain.*

One thing that we [BSP] need to do is the intensive information campaign. During our dialogues, we heard SSMS telling us that one of the reasons why they don't sell gold to the BSP even after-tax exemption is that they are afraid that BIR might still go after them. So, any source of documentation that they may have with the BSP could be used against them.

So some of them still have that kind of perception. And for formalization, previously, the BSP, I don't think has the same level of strictness on the requirements from registration side or formalization.

However, since we are under or we are a member of the gold delivery bars, LBMA, which has its responsible gold sourcing guidance, so we prescribe by it. Which means, our measures are stricter in terms of responsible gold sourcing. It must mercury free, no terrorist financing, so things like that, which is really difficult. So, we are trying to balance on how to do it. And I think what we are doing is we are beginning again to really go close to them. So, we would know what are their concerns. And then if it's the BSP who can resolve those issues, then we will do it. Thank you!

Ms. Besmanos, shared her valuable insights into the challenges surrounding SSM, particularly regarding the sale of gold to the Bangko Sentral ng Pilipinas (BSP).

Ms. Besmanos:

Issues of SSM on selling gold to BSP

Another problem that we saw on why small-scale miners do not sell their golds [to BSP]. First, they are not legal [authorized]. They are applying but their areas are still not declared as Minahang Bayan. Several applications but unhurried approval. See? So, how they can sell their golds? They don't have papers [permit].

Second, the application itself of Minahang Bayan. They told us: "why does our application and the requirements for the large-scale and the small-scale, were the same? The amount of fees they need to settle was almost at par on the fees that the large-scale is paying." They added that, they are Filipinos while the large-scale [mining], they have financiers." It seems that the government preferred to fast-track the application of the large compared to us".

We all know that the areas of small and large-scale mining are the same. So, the problem that we saw here, sir, sorry but this is what we notice, that the government was not serious to help the small miners. They are blind.

That's why South Cotabato became a model. Because it is the provincial government who reached out to the miners and asked them what things they should do to legalize their operations and committed to help. In fact, the small-scale mining area of Tiboli, South Cotabato, it's a large-scale mining area but the small-scale mining is also located there. They co-exist, maybe we can ask South Cotabato how do they get there.

The danger of Mercury

If we are talking about the whole of government approach, maybe we cannot see it in the discussion of small-scale miners. We've conversed a lot to different people. They said: "Ma'am, we are willing to be legalized but the process they are giving was so difficult for us to accomplish, and we need help. We don't want to use mercury, 9,000 ang kilo ng mercury. It killed our ladies and our children."

We have documented children with a very high level of mercury in their bodies, and you will notice it in their gums. According to toxicologist, these children have smoker's gums. Because of the high level of mercury.

Now, we wanted a clean gold without mercury but we didn't provide any help. How can we eradicate mercury? We studied this, sir, the pilot areas for eradication of mercury. It is on the areas with least of small-scale mining. So, where is the whole of government approach?

I hope the voice of the small-scale mining be heard. Why? We have a lot of good programs, a lot of pilot areas, and a lot of best practices. But it was gradually killed by mercury, cyanide and other environmental impacts. And as we are speaking right now, they cannot stop on working inside the tunnels because they will starve. We also know the danger and difficulty on work of this miners, but they didn't benefit.

Miners' incentive when selling gold to BSP

If you look at the sharing scheme, the financiers were more advantage. And the reason they don't sell to Bangko Sentral, is because they are already chained to the Chinese who are the rich financiers of Tagum.

What are their incentives if they sell [their gold] to Bangko Sentral? To Chinese, sir, no tax, no requirement to the amount of gold. They were not required to be legal or illegal. Then, what is the advantage of the government so they can buy more gold from the small-scale miners? None, because the black market is alive. Yeah, and [they] very efficient and very fast. At loans, they provide advanced financing. Does the BSP can provide those to our miners, maybe not? Because our requirements, like targeting clean gold, no child labor, no bad acts on small-scale mining, sir, 90% of our gold goes out of the country free of tax. And our environment is being killed by informal small-scale mining.

Mr. Valerio: Ms. Bon, thank you so much. A while ago, during my presentation, although it was very quick, those are the same issues that I mentioned. And that I also said that we recognized.

However, the BSP, we are on the end [of the process] because we are on the sales side. It has a lot of process to pass, from the registration, there's PMRP, and so on. But we on the BSP, we have been attending, maybe we already attended so much conferences or even meetings with our other counterparts. The intention is really, in the end, they must sell to BSP. We know that before we reach that a lot of process to pass.

What I am trying to say is, we need the starting point. And if we get the gold, it will be accepted so we can trade it to international market. We want all the steps to be cleaned and organized. So, I feel sad the efforts of the government were not felt. But, maybe, if you could ask other provinces that has the presence of BSP gold buying stations, we've been very active.

We were always talking with SSMs. We know their issues that you've mentioned. And I think our knowledge, the information that we have on their concerns, which you have emphasized, it will help us on how we plan on our direction moving forward.

And I think it will begin there. But, of course, it is not the end, it's just the start. And to start and to solve all those issues that are so many is indeed so difficult. But then, I, at least in my capacity on BSP, we are doing what we can do to help SSMs. And we are starting it by hearing them out.

Attorney Recidoro graciously fielded the final question posed by Edgardo Sabado from Nueva Vizcaya.

Mr. Sabado underscored the imperative of enhancing Civil Society Organization (CSO) engagement throughout the Sustainable Development and Management Program (SDMP) planning phase, citing a recognized deficiency in the quality of their involvement. He emphasized that CSOs should be actively engaged from the initial planning stages through to the monitoring and evaluation processes. Achieving a harmonious balance among the three pillars - industry, government, and CSOs - is crucial for the success and effectiveness of the program.

Mr. Sabado: *We need to focus and oversee that one area, and it is the same issue, we have on MRFC. It is always infra [infrastructure] that the council see. They can justify that it's included in SDG since infra [infrastructure] is cross-cutting. The infrastructure had the biggest portion with 90% while only 10% for non-infra.*

Again, we saw the need to look on that area, we need to strengthen CSO participation to give new angle when they do the planning. Of course, barangay governance is included in that area. Maybe we also need to check whether there's a fund allocated for that and whom should finance or appropriate since governance as a program is not allowed to SDMP which cuts across. Actually, we really trying to balance advising but still the results were always the same when reviewing SDMP of different host communities.

Mr. Sabado also shared that the communities within the protected area that have ancestral domain titles were always following up with them on the status of their application to Minahang Bayan. These communities were engaged in small-scale mining and noticed that their application to MGB seems “dead-on-arrival” because they are located in protected areas.

Mr. Sabado: *Is there any means to legalized their activity within a protected area?*

Mr. Aquino concisely addressed and clarified matters regarding CSO participation before delving into the MGB's forthcoming strategies regarding the SDMP.

Mr. Aquino: *In the stage of SDMP, everyone is welcome. Even you are CSO or not, every sectoral representative or member of the community are welcome. Then when it comes to the approval, like what have you told sir in SDG, it's cross-cutting. But the plan sir, if you saw my slide earlier, the strengthening or enhancing on the conduct of social impact assessment was included and we will align it to SDG. Even you said its cross-cutting, but the goal we plan to do is, upon the conduct of SIA or social impact assessment, we will evaluate what SDG needs to be improved in your particular community. We aim to re-focus the resources to SDMP.*

Attorney Recidoro suggested concluding the session. He reminded the audience that if they have any additional questions or comments about the speakers, they can freely approach them as they are available throughout the day.

MINED AND REFINED: CONVERSATIONS ON THE EXTRACTIVES PROGRAM PROCEEDINGS

November 29, 2023 (Wednesday) | Seda Manila Bay Parañaque

SYNTHESIS

“As we conclude today’s session, let us carry forward the spirit of collaboration, the insights gained, and the resolutions made. May the momentum generated today serve as a catalyst for ongoing positive change within our industry.”

Atty. Odette A. Javier

VP and Assistant Corporate Secretary
Lepanto Consolidated Mining Co.

Has it been only a day? Before anything else, I would like to thank each and everyone of you who took the time and effort to join us in this year’s Constituencies Meeting of the Extractives Transparency Week. And as we officially bring today’s session to a close, I hope we somehow got the answers to most if not all of our burning questions.

With not a second wasted, the day has been really productive! Our timely and relevant conversations span a broad spectrum, reflecting the complexity and urgency surrounding this key sector.


We brought to light insights and perspectives that encompassed the state of our civic space, the trajectory toward sustainable and clean energy, the decentralization of extractive industry governance, the essence of social development, transparency through beneficial ownership, and the nuanced world of small-scale mining.

Not to mention, our gripping and rich open forum, that I would like to say you have not gotten enough of just yet.

Right off the bat, our first conversation let us deep dive into the state of our civic space. Drawing from this conversation starter, I believe we will all agree that civic participation proves to be more crucial and imperative more than ever. We are faced with challenges that demand a more proactive and purposive involvement in extractive governance. After all, it is through proactive engagement that we can collectively cultivate civic spaces that can thrive, ensuring accountability and meaningful representation.

Transitioning to our second conversation, we thread the path towards a sustainable and clean energy future. Our energy landscape is evolving, and we find ourselves at a critical juncture. The shift towards sustainable and renewable sources has profound implications for the extractive industry. Today, we discuss not only the challenges but also the opportunities that lie in embracing a cleaner and more sustainable energy paradigm.

As we proceed to our third conversation, we delve into the process of subnationalizing extractive industry governance. The decentralization of PH-EITI implementation spotlights the leadership of local governments and the need for context-specific governance at the subnational level. This shift recognizes the unique challenges and opportunities that each region presents. By empowering local leadership, we



can foster a more inclusive and tailored approach to extractive governance that resonates with the diverse needs of our communities.

Our fourth conversation centers on the essence of social development transitioning from extraction to empowerment. We engage in a discourse on the integral role of SDMPs. These programs ensure that local communities directly benefit from extractive projects within their vicinity. Today, we revisit the guidelines and framework for SDMP implementation, celebrating successes, acknowledging challenges, and charting a trajectory that aligns with our shared vision for sustainable development.

In our fifth conversation, we pivot to the critical theme of transparency through beneficial ownership and integrity checks in the extractives sector. We explore methods, best practices, and real-world applications aimed at combating corruption and promoting accountability. Transparency is the cornerstone of a responsible extractive industry, and today's session equips us with the tools to uphold the highest standards in our endeavors.

And by our sixth conversation, we delved deeper into the A to Z of small-scale mining. We discover the intricacies, gain practical insights, and equip ourselves with the knowledge essential for fostering responsible and sustainable practices in this vital sector. As we explore the depths of small-scale mining, we acknowledge the need for balance – extracting the wealth while preserving the environment and ensuring the well-being of those engaged in this industry.

I think for the most part we all looked forward to the constituency-specific breakout sessions. We all took the time to engage in nuanced discussions, amplifying our voices to be heard and contribute to the crafting of recommendations.

At the heart of all our discussions lies the implementation of EITI standards - a commitment to openness that extends across the entire value chain of the extractive industries. Our engagement in these standards is not just a symbolic gesture; it is a tangible demonstration of our resolve to combat corruption, uphold good governance, and ensure the equitable distribution of resources.

Let us make it a point to always pursue the broader impact of our actions. Our actions ripple through local communities, the environment, and the global landscape. Therefore, as we move forward, it is imperative that our priorities are guided by a sense of responsibility, accountability, empathy, and a genuine desire to leave a positive imprint.

As we conclude today's session, let us carry forward the spirit of collaboration, the insights gained, and the resolutions made. May the momentum generated today serve as a catalyst for ongoing positive change within our industry. Without a doubt, the day has been a testament to our collective dedication to fostering transparency and accountability in the extractive sector.

MINED AND REFINED:

CONVERSATIONS ON THE EXTRACTIVES PROGRAM PROCEEDINGS

November 29, 2023 (Wednesday) | Seda Manila Bay Parañaque

CLOSING REMARKS

“The 10th-anniversary celebration, thus, is not just a reflection of the past, but a strategic moment to collectively chart the course for the continued enhancement of the transparency and accountability efforts in the Philippines' extractive sectors.”

Hon. Governor Dakila Carlo E. Cua

Governor, Province of Quirino

National President, Union of Local Authorities of the Philippines

(represented by Ms. Maricor Cauton)

Due to unforeseen circumstances, Hon. Governor Dakila Carlo E. Cua was unable to attend the session. However, Ms. Maricor Cauton stepped in to deliver closing remarks on his behalf.

Ms. Cauton commenced her speech by extending a warm greeting to the attendees of the PH-EITI constituencies meeting, delivering the closing remarks on behalf of Governor Dakila Cua. She expressed gratitude for the collaborative efforts of various stakeholders.

As we draw the curtains on this insightful gathering that is our meeting today, we find ourselves at a juncture where the collective voice of our diverse stakeholders, our civil society organization, our industry partners, our national and local representatives has resonated in our breakout session.

Ms. Cauton lightened the mood by sharing some experiences from the breakout session, recounting the diverse reactions of the participants.

The industry was very lively earlier, while we, in the government and local government [unit] breakout session is a bit sincere. We had a bit of a heated discussion. Our CSOs were a bit mysterious because they came out of our plenary hall.

Ms. Cauton commended the participants' dedication in addressing concerns and formulating recommendations for implementing the EITI standard.

But one thing is for sure, your dedication to addressing concerns and formulating recommendations for the implementation of the EITI standard is a testament to our shared commitment to transparency, accountability, and public participation in the extractive industries.

Ms. Cauton highlighted the year's significance as it marks a decade since the establishment of PH-EITI. She emphasized the organization's unwavering dedication to improving governance in the nation's extractive sector since its inception in 2013. Ms. Cauton praised PH-EITI as a beacon for fostering transparency and accountability in mining, oil, gas, and the extractive sector.

And as we celebrate a decade, 10 years, unwavering dedication to enhancing governance across our nation's extractive sector, and since its inception in 2013, the PH-EITI, for me and for ULAP, has stood as a beacon, fostering transparency and accountability in the critical domains of mining, oil, and gas.

And extractive sector in general. The annual reports and the ongoing stakeholder engagement, such as this meeting facilitated by the PH-EITI, have been instrumental in providing critical insights into the revenues generated from our natural resources.

Ms. Cauton continued by highlighting PH-EITI's achievements over the past nine fiscal years, from 2012 to 2020.

PH-EITI has published eight comprehensive country reports covering information on more than 100 extractive projects nationwide, reconciling over 405 billion in government revenue.

She emphasized that this wealth of information is readily accessible online in machine-readable formats, which proves their commitment to transparency.

Moreover, Ms. Cauton added that by publicizing extractive data, PH-EITI has facilitated informed discussions among policymakers, industry stakeholders, civil society players, and the general public and increased scrutiny on revenue management, leading to impactful reforms in extractive governance. As they commemorate a decade of transformative work, she urged everyone to reflect on past achievements and look forward to the opportunities that lie ahead.

The 10th anniversary celebration, thus, is not just a reflection of the past, but a strategic moment to collectively chart the course for the continued enhancement of the transparency and accountability efforts in the Philippines' extractive sectors.

Ms. Cauton affirmed ULAP's commitment to supporting and actively participating in fostering transparent and improved management of the country's resources. She assured the audience that ULAP will stand by them in all efforts, programs, and initiatives of EITI, emphasizing the collaborative partnership between the two organizations.

Kasama niyo po kami sa lahat po ng magiging efforts, programs, and initiatives ng EITI.

Ms. Cauton concluded by emphasizing that the discussions, concerns, and recommendations voiced during the constituency meeting will serve as the foundation for a collective effort to elevate governance standards in the extractive industries.

She emphasized the importance of collective commitment in shaping the journey towards a more transparent, accountable, and sustainable future for the country.

“The journey ahead is shaped by our collective commitment, and together, we shall continue to forge a path towards a more transparent, accountable, and sustainable future for our country.”

Ms. Cauton expressed gratitude to the people who participated in this program, for their contributions and active participation, and to the PH-EITI National Secretariat for their hard work in ensuring the success of the meeting.

Allow me to also thank our distinguished speakers and resource person who shared their expert insights, all our participants for their gracious presence, and very, very active participation, especially during the breakout sessions.

She expressed appreciation for a decade of impactful change and looked forward to continued progress in enhancing governance in the Philippine Extractive Industry.

And of course, my other family, the PH-EITI National Secretariat, for their hard work in making this meeting a resounding success. Again, thank you, and here's to a decade, more decade, of impactful change and the promise of a future marked by enhanced governance in the Philippine extractive industry.

Maraming Salamat po!

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

November 30, 2023 (Thursday) | Seda Manila Bay Parañaque

Opening Remarks

“I stand firm in the belief that together with our partners from the public and private sectors, mining communities, and civil society, a bright future awaits for natural resource governance in the Philippines.”

Benjamin E. Diokno

Secretary of Finance

Ladies and gentlemen, good morning.

It is my honor to welcome you all to the 2023 FORGE Philippines or the Philippines' EITI National Conference.

The 2023 Extractives Transparency Week is a celebration of the 10th Anniversary of the Philippine Extractive Industries Transparency Initiative.

Ten years ago, the Philippines-EITI embarked on a mission to set the extractive sector on a path towards transparency and accountability. To align itself with global EITI standards, the Philippines joined an esteemed international community that strives for excellence in the governance of oil, gas, and mineral resources.

We have made substantial strides over the past decade. With eight country reports published covering nine fiscal years, and reconciling more than 405.4 billion pesos in government revenues, the PH-EITI has shone a spotlight on the financial flows from over one hundred extractive projects across the country.


Beyond statistics, these numbers represent the establishment of a governance culture where the voice of every Filipino is heard and every peso is accounted for.

The initiative has played a crucial role in strengthening the confidence of our citizens in the government's management of our natural wealth.

It has empowered citizens, civil society, and government entities to engage in informed dialogues about the industry's operations and contributions to society. By opening up data to public scrutiny, the PH-EITI has driven reforms that have reshaped our extractive governance.

But the work of the PH-EITI extends beyond the pages of these reports. We see transformation in the communities that bring life to our mines, the landscapes that hold our natural wealth, and the concrete policies shaped with transparency at their core.

Looking ahead, we must make sure that the PH-EITI has the tools and the voice to stand as a beacon of accountability in the extractive sector. Much work lies ahead in strengthening the sustainability of extractive projects, enhancing community engagement, and ensuring that the



wealth from our natural resources can provide much-needed financing for the Philippines' sustainable development.

The PH-EITI is especially relevant now as we introduce game-changing reforms to the mining fiscal regime. These policy enhancements will make local mining more competitive and attract more foreign investments.

From January to July 2023, the Philippines has drawn in 6.8 million US dollars in investments for mining and quarrying. We look forward to seeing these numbers increase as we reconcile data through the end of the year.

I often say that the road to any real, meaningful change will be long and difficult, but surely rewarding. What matters is that we continue hammering on, as metalworkers do in a forge, to transform, reshape, and strengthen the extractive sector into a powerful driver of sustainable and equitable prosperity for the Philippines.

Through collective resolve and multi-stakeholder cooperation, the PH-EITI has already made a solid foundation for transparency and accountability reforms to take root and flourish.

I stand firm in the belief that together with our partners from the public and private sectors, mining communities, and civil society, a bright future awaits for natural resource governance in the Philippines.

Maraming salamat at mabuhay kayong lahat!

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 1: Advancing Responsible Resource Governance through EITI Reporting

*Preliminary Findings of FY 2021 Country Report
Contextual Information Chapter*

“While we have achieved a lot, PH-EITI's efforts do not stop here. We've set our sights on several goals, taking into account the priorities of the current administration and our local and international commitments.”

1st Presentation:

Ms. Ma. Pamela P. Quizon

Acting Deputy Executive Director

Bureau of Local Government Finance, Department of Finance
(BLGF-DOF)

Exec. Dir. Quizon began by extending a cheerful and cordial welcome to the audience. She expressed excitement at having everyone gathered for the FORGE PH event.

Good morning and a warm welcome to all our distinguished guests and participants!

We are thrilled to have you all here with us today at FORGE PH, the PH-EITI National Conference. On behalf of the PH-EITI MSG, we express our heartfelt gratitude for joining us in celebrating over a decade of transparency, Fostering Open and Responsible Governance in the Extractives.

Ten years of PH-EITI

She emphasized the organization's steadfast dedication to the Extractive Industries Transparency Initiative (EITI) over the past decade, highlighting its mission to enhance transparency, accountability, and good governance in managing natural resources.

For the past decade, we have remained committed to the Extractive Industries Transparency Initiative (EITI), which aims to promote transparency, accountability, and good governance in natural resource management. In fulfilling our pledge to this cause, PH-EITI has been disclosing data, providing policy recommendations, and collaborating with stakeholders.

Over the last ten years, we have made significant strides in promoting open and responsible governance in extractives. We have achieved various milestones, including:

1. Being the first among EITI member countries to achieve satisfactory progress in revenue transparency, contract and ownership transparency, and systematic disclosure in 2017;
2. published over 266 contracts through PH-EITI's Contracts Portal;
3. provided PH-EITI collated datasets in an open data format through our online data tool, EDGe;
4. assisted in the development of the DBM National Wealth Shares Portal;
5. and published eight (8) Annual Country Reports covering FY 2012 to FY 2020.

Exec. Dir. Quizon outlined several goals aligned with the priorities of the current administration and existing local and international commitments:

While we have achieved a lot, PH-EITI's efforts do not stop here. We've set our sights on several goals, taking into account the priorities of the current administration and our local and international commitments.

- Institutionalizing transparency and accountability in the extractive industry through legislation;
- ensuring timely and systematic public disclosure of extractive data;
- increasing transparency in extractive ownership by publicly disclosing the beneficial owners of extractive companies;
- promoting extractive industry transparency in the Bangsamoro region;
- monitoring small-scale mining production and revenue;
- and using PH-EITI disclosures to inform public debate and policy recommendations on energy transition and integrity.

FY 2021 Country Report

Exec. Dir. Quizon transitioned to the focal point of the event, the annual country report of PH-EITI. She underscored the primary objective behind these reports, emphasizing their role in fostering transparency and accountability within the extractives industry.


Moving on to our main topic this morning, the annual country report of PH-EITI. Our primary objective in publishing these country reports is to ensure transparency and accountability in the extractives industry. Through these reports, we were able to reconcile over Php 405.4 billion in government revenues from more than 100 extractives companies.

We're thrilled to announce that we're almost ready to publish our FY 2021 Country Report, which focuses on the theme 'Recovery: Regaining Ground and the Need to Expand Civic Spaces.' To give you a sneak peek, we'll be sharing the initial findings of FY 2021 Annual Report.

She further elaborated on the structure and contents of the country report, delineating its chapters and their respective focuses.

The FY 2021 Annual Report of the Philippine EITI has essential financial information and context about the mining, oil, and gas sectors in the country for the fiscal year 2021. Additionally, the report emphasizes the current status of civil engagement within the PH-EITI to ensure the effective involvement of all stakeholders in the extractive industry. The report is categorized into three chapters:

- I. Contextual Information Chapter:** This chapter gives an overview of the Philippine extractive industries in 2021. It includes information on sectoral development, updates on the legal and institutional framework, and a summary of the extractive sector's contribution to the economy.
- II. Reconciliation Chapter:** This chapter presents the results of the reconciliation of payments made by extractive companies to the government and the revenues received by the government. To ensure credibility and impartiality, an independent administrator is responsible for the reconciliation process.

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- III. **State of Civic Space Chapter:** This chapter provides an initial assessment of civic engagement's status in the country, particularly within the PH-EITI sphere.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 1: Advancing Responsible Resource Governance through EITI Reporting

*Preliminary Findings of FY 2021 Country Report
Contextual Information Chapter*

“...we saw a glimmer of hope as restrictions were eased and cases began to decrease. This gave us a sense that the Philippines was on its way to recovery.”

2nd Presentation:

Engr. Romualdo Aguilos

Chief, Mineral Economics, Information and Public Division
DENR-MGB

Engr. Aguilos greeted the guest and participants warmly and expressed his pleasure in presenting the preliminary findings of the Contextual Information Chapter. He explained that it is structured into five sections, each intended to provide a comprehensive understanding of the context surrounding the extractive industry.

Good morning, everyone! It is my pleasure to share with you the preliminary findings of the 9th report's Contextual Information Chapter.

Five sections of the chapter:

- I. **Introduction** - wherein we provide a brief overview of the EITI, the EITI Standard, and PH-EITI (including our accomplishments for the past decade and our current goals).
- II. **Legal and Institutional Framework** - This section reports on significant updates during the year 2021 in legislation and administrative policies affecting the extractive industries.
- III. **State of Extractive Industries** - For this section, we present an overview of the economic performance of the extractive industries, putting into focus their contributions to the national economy.
- IV. **Beneficial Ownership** - here, we provide an update on PH-EITI's reporting on the beneficial ownership data of extractive companies, including a brief analysis of the BO data collected.
- V. **Lastly, the Conclusion** - wherein we synthesize all the information presented in this chapter and provide policy recommendations in line with our commitment to foster open and responsible governance in the extractives.

Engr. Aguilos acknowledged the undeniable impact of the COVID-19 pandemic on the global landscape, including the extractive industries.

Without a doubt, 2021 has been a year marked by significant advancements in the extractive industries, despite the ongoing Covid-19 pandemic. Although there were similarities between 2021 and 2020, with COVID cases remaining high for most of the year and restrictions in place, towards the end of the year, we saw a glimmer of hope as restrictions were eased and cases began to decrease. This gave us a sense that the Philippines was on its way to recovery. Against this backdrop, we will be looking at the preliminary findings of the contextual information chapter.

Engr. Aguilos presented highlights on the Legal and Institutional Framework to the guest and participants.

Legal and Institutional Framework

1. Economic Cha-Cha

On June 1, 2021, the Philippine Congress initiated another attempt at “economic” cha-cha, seeking to lift restrictions on the economic provisions of the 1987 Constitution to ease foreign ownership restrictions by adopting Resolution of Both Houses (RBH) No. 2. However, this ultimately did not push through as policymakers shifted their attention to the upcoming 2022 national elections. RBH No. 2 has since been refiled in the 19th Congress on June 6, 2022, and is currently under review.

2. CREATE

Next, we have CREATE, a fiscal reform aimed at accelerating the country’s economic recovery. The CREATE Act’s Corporate Income Tax (CIT) adjustment provides immediate relief to businesses, particularly MSMEs affected by the pandemic, and brings the country’s CIT closer to its ASEAN neighbors, which provides foreign investors with an attractive alternative for investment in the region, namely us. The Act’s new fiscal incentives system can also help attract more foreign investments, create employment opportunities, and expedite the country’s economic recovery.

3. Lifted the ban on open-pit mining

And then we have the shift in the previous administration’s policies on mining with the issuance of EO 130, s. 2021, which lifted the ban on new mineral agreements, and the issuance of DAO 2021-40, which lifted the ban on open-pit mining. These issuances are expected to revitalize the mining industry and generate significant economic impacts, providing the mining industry with a greater opportunity to contribute to economic development. In fact, the government estimated that they would be generating around PHP 21 billion in revenues from potential excise taxes and royalties from 100 new mining agreements. Furthermore, the Tampakan project, considered one of the largest undeveloped copper-gold minefields in Southeast Asia and previously affected by the open pit mining ban, is now expected to start commercial operations in the last quarter of 2026.

4. The EO 130 and DAO 2021-40

Lastly, we highlight the response from the Philippine civic space to the newly implemented policies. Both EO 130 and DAO 2021-40 have been met with opposition and criticism from various stakeholders who doubt the industry’s ability to contribute to the country’s economic recovery. They point to the historically small economic contribution of mining to the national economy and the negative impact on the environment and communities. Of course, the effects of these newly implemented policies will have yet to fully materialize. So we at the PH-EITI will continue publishing extractive data to help inform this debate on the industry’s ability to contribute to national development.

2021 prospects and economic performance of the extractive industries

Engr. Aguilos then focused on discussing the prospects and economic performance of the extractive industries in 2021. Beginning with examining the sector’s potential, he emphasized the importance of analyzing the information and developments from that year to gain insights into the extractive

industries' trajectory and outlook.

- Utilization of our mineral-rich lands
First, we explore the extractive industries' potential based on 2021 information and developments. We have an abundance of untapped mineral resources, with 30% of the country's land area identified as having high mineral potential, but only 2.54% of our land is covered by mining tenements. With the lifting of the moratorium on mineral agreements, we expect that the utilization of our mineral-rich lands will go up in the following years.
- The increased mineral reserves
Our mineral reserves have increased by 32%, reaching PHP 378.05 billion by the end of 2021. Likewise, our coal, oil, and gas reserves also went by 68.4% in 2021, appraised at PHP 241.99 billion. While the increase in the valuation of our reserves can be attributed to higher market prices, the data still suggests that much profit can still be gained from our abundant natural resources.
- Demand for critical minerals
There is also an increasing global demand for critical minerals, in response, global investment in critical mineral development went up by 20% in 2021. This brings about tremendous opportunities for the local mining industry, especially with the Philippines ranking high among the world's largest nickel producers.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 1: Advancing Responsible Resource Governance through EITI Reporting

*Preliminary Findings of FY 2021 Country Report
Contextual Information Chapter*

“...despite the shutdown caused by the pandemic, the mining industry continued to grow and even registered positive performance during the lockdown.”

3rd Presentation:

Atty. Ronald Rex Recidoro

Executive Director

Chamber of Mines of the Philippines

Atty. Recidoro initiates his interaction by infusing a dose of humor into the atmosphere to capture the audience's attention.

Okay let's look at how the mining industry performed in 2021. Teka, take notes kayo ha, I suggest you to take notes kasi may exam, bago kayo bigyan ng certificate of attendance, 75% ang passing. Seryoso 'ko. Okay, let's move on to the economic performance of mining industries in 2021. Bumawi ang mining industry.

State of Extractive Industries

Atty. Recidoro discussed the current status of extractive industries, emphasizing their substantial GDP contribution. He also discussed the pandemic's impact on employment rates, identified critical drivers behind increased production values, and provided concise updates on the coal, oil, and gas sectors.

Atty. Recidoro showed some graphs displaying the % share to GDP of extractives from the previous years up to 2021.

While the extractives' contribution to GDP remains relatively low at 0.8%, its gross value added did show significant improvement, growing by a remarkable 5.1% in 2021 following its sharp decrease the previous year. The main drivers for this recovery were the mining for nickel ores (which went up by an amazing 21%), mining for other precious metals (up by 17.6%), quarrying (up by 12.28%), and coal mining (up by 7%). With the recent policy changes put in place in 2021, by this current administration, we sincerely hope that extractive industries' recovery will continue at this accelerated pace.

Atty. Recidoro highlighted the gender distribution within the mining industry, emphasizing the abundant opportunities available to women.

Amidst persistent restrictions and widespread lockdowns, the mining and quarrying (MAQ) sector experienced a notable downturn in employment, with a recorded decline of 16.6% in the number

of individuals employed within the sector. The total count of employed persons in the mining and quarrying sector was approximately 202 thousand people. I think the scope is not just only for large-scale metallic but also includes quarrying and small-scale mining.

Now, among the entire workforce employed by these reporting companies, a substantial 56.3% were permanent employees, with the remaining engaged on either contractual, seasonal, project-based, or probationary basis. A notable observation pertains to the gender distribution within the extractive sector, revealing a notable disparity. Only 14% of employees in this sector were female, highlighting a gender gap in employment opportunities within the extractive sector. So, there are tremendous opportunities for women to be part of the mining industry. The question is, are they up for mining? There is a lot of work in this industry, if you look at the executive level we're seeing more women in charge. I think the mid-level and rank-and-file needs significant improvement.

Atty. Recidoro illustrated trends in the production value of metallic and non-metallic minerals, exemplifying the pivotal role of critical minerals in various industries.

In 2021, the production value of metallic minerals demonstrated a consistent upward trend, surging to a notable PHP 147.2 billion. Key contributors to this remarkable increase were gold, accounting for nearly 50% of the total production value, and nickel, which contributed about 38.2% to the overall production figures.

Clearly, this was driven by the demand for critical minerals needed by rapidly emerging electric vehicles and the renewable energy sector. Moreover, the volume of production from Large non-metallic mines experienced substantial growth, with a significant increase of 35.87% compared to previous years. The total production value for 2021 within this sector amounted to PHP 5.5 billion.

Despite the economic downturns experienced in 2020, mineral products showed remarkable resilience. In 2021, exports continued their upward trajectory, recording a substantial increase of 31.97%. This robust performance underscores the resilience and adaptability of the sector, showcasing its ability to withstand economic conditions and even a pandemic. I think that's one realization from all of these, despite the shutdown caused by the pandemic, the mining industry continued to grow and even registered positive performance during the lockdown. So, we can say that the mining industry is, in fact, pandemic-proof.

Atty. Recidoro briefly explained the status of Coal, Oil, and Gas Production.

In 2021, coal production rebounded from the previous year's decline, reaching a total of 14.3 million metric tons in local production. This resurgence was primarily attributed to Semirara Mining and Power Corporation, contributing a staggering 99.4% to the country's overall coal production.

Simultaneously, coal exports displayed a marked recovery in 2021, experiencing a substantial increase of 28.3% from the preceding year. The total coal exports amounted to 9.33 million metric tons.

Amid the extractive industries, the oil and gas sector bore the heaviest impact from COVID-19. It encountered substantial challenges, witnessing a persistent decline in both oil and gas

production as well as export figures, a consequence of the ongoing global uncertainties stemming from the pandemic.

Nevertheless, as the economy continues to recuperate and reopen, there's an expectation for the sector's eventual recovery.

Atty. Recidoro highlighted that despite the substantial hurdles encountered in 2021, the extractive sector has shown impressive resilience and performance.

The favorable economic indicators paint a promising picture for the extractive industries, indicating an optimistic path ahead due to the outlined policy changes and anticipated opportunities.

Beneficial Ownership

Atty. Recidoro concluded by discussing the Beneficial Ownership reporting within the PH-EITI framework, emphasizing the continued public disclosure of beneficial ownership data and extractive industry information through the accessible Beneficial Ownership Registry on the PH-EITI website.

Lastly, we look at the Beneficial Ownership reporting in PH-EITI. We continued to publicly disclose beneficial ownership data and information on the extractives through our Beneficial Ownership Registry accessible via the PH-EITI website.

As of November 2023:

- 44 out of 70 extractive participating companies disclosed their BO data to PH-EITI,
- 31 companies (or 45% of reporting companies) committing to the publication of their BO data to the BO Registry.

Atty. Recidoro cleared that reporting and agreeing to publish the data are two separate things. Reporting to the SEC is mandatory, while publication of your BO data is optional. That is why PH-EITI requests mining companies to execute a waiver allowing them to publish their Beneficial ownership data. He also added about SEC's memorandum circular.

Despite the SEC's memorandum circular requiring companies to disclose beneficial ownership (BO) information and the DENR's administrative order mandating mining companies to participate in PH-EITI, still, not all companies reported in 2019, and not all of them continued to report in 2020. Such transparent, consistent, and full disclosures in the ownership structure of pertinent companies can contribute to transparency in extractive governance. It is seen to address fraud, conflict of interest, and the like.

“We deal with the people's patrimony and it is only right that the people know who exactly are doing the mining for them. It is good corporate citizenship and we wholeheartedly embrace it.”

After his presentation, Atty. Recidoro shared a personal note.

That, more than just addressing fraud or conflicts of interest, BO transparency should be part and parcel of our commitment as contractors of the state. We deal with the people's patrimony

and it is only right that the people know who exactly are doing the mining for them. It is good corporate citizenship and we wholeheartedly embrace it.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 1: Advancing Responsible Resource Governance through EITI Reporting

*Preliminary Findings of FY 2021 Country Report
Reconciliation Chapter*

“We trust that the valuable data and insights generated will serve as instrumental tools for your research and advocacy endeavors.”

4th Presentation:

Atty. Jose Ma. Emmanuel A. Caral

Secretary

Philippines Petroleum Association of the Upstream Industry

Atty. Caral began by articulating the fundamental objective of EITI reporting, which revolves around reconciling company payments with government receipts.

Reconciliation from the previous reports

He sets the stage by providing context from past reports before delving into the preliminary findings of the reconciliation chapter, highlighting the extensive data collected over eight years from 2012 to 2020, encompassing various revenue streams and mandatory expenses.

- Reconciled amount
 - From 2012 to 2020, the PH-EITI has reconciled PHP 405.7 billion in government revenues.
 - PHP 112.1 billion came from the mining industry,
 - PHP 293.6 billion came from the oil and gas industry.
 - On average, oil and gas companies brought in PHP 36.6 billion per year, while the mining industry raised PHP 12.5 billion per year.
 - 2018 saw the highest level of reconciled revenue at PHP 64.3 billion,
 - The year with the lowest amount was in 2015 at PHP 27.1 billion.
 - Historically, the amount reconciled from the mining industry far exceeded non-metallic mining. DOE and BIR always bring in the largest share of revenues among agencies, garnering an accumulated reconciled amount of PHP 163.4 billion and PHP 162.4 billion, respectively.
- Mandatory expenditures
 - A total of PHP 46.1 billion was reconciled over the years prior to 2021.
 - Annual Environmental Protection (AEP) and Enhancement Program (EPEP) have historically had the largest share in mandatory expenditures, followed by the Social Development Management Program (SDMP), the Annual Safety and Health Program (ASHP), the Rehabilitation Cash Fund (RCF), and other mandatory expenditures.

For the SDMP alone, PHP 5.4 billion was reconciled from 2012 to 2020. Of this amount, PHP 3.8 billion was reconciled for Social Development and Management (SDM), PHP 777.5 million for

Information, Education, and Communication (IEC), and PHP 499.7 million for Mining Technology and Geosciences Advancement (MTGA).

After providing insights into the reconciliation process of the previous report, Atty. Caral shifted focus to the main topic of the presentation: the 2021 reconciliation report.

Coverage

- 55 operating metallic mines
- 33 non-metallic mining mines
- 45 metallic mining projects
- 22 non-metallic mining projects
- 2 oil and gas projects
- 0 coal project
- 7 national agencies
- 51 local government units

Among the participating national agencies were the Bureau of Internal Revenue, the Mines and Geoscience Bureau, the Department of Energy, the Department of Budget and Management, the Bureau of the Treasury, the Bureau of Customs, and the Philippine Ports Authority.

Atty. Caral presented the slide showing the list of the revenue streams and mandatory expenditures covered in the 2021 country report.

List of revenue streams

- Withholding Tax
- Output VAT
- Excise Tax
- VAT on important materials
- Government share
- Annual Rental fees
- Local Business Tax among others

List of mandatory environmental and social expenditures

This also shows the list of mandatory environmental and social expenditures, which, while included in the reconciliation process, did not or do not go to the government as revenues. Instead, these payments go straight to host and neighboring communities through projects and programs for environmental protection, rehabilitation, and social development.

Metallic and Nonmetallic Mining

- EPEP - Environmental Protection and Enhancement Program
- Annual Work and Financial Plan (WFP) for FMR/DP - Actual Expenditure
- Compensation for claims for Damages from MWTF
- Environmental Trust Fund - Actual expenditure
- Final Mine Rehabilitation and/or Decommissioning Fund - Actual expenditure
- Mine Annual wastes and tailing fees (MWTF)

- Monitoring Trust Fund - Actual expenditure
- Rehabilitation Cash Fund - Actual expenditure
- Safety and Health Programs - Actual expenditure
- Annual SDMP - Social Development and Management Programs
 - DHNC - Development of Host and Neighboring Communities
 - DMTG - Development of Mining Technology and Geosciences
 - IEC - Information, Education and Communication

BIR

- Corporate income tax
- Withholding tax - Final
- Withholding tax - Profit remittance to principal

BOC

- Customs duties

DOE

- Government share from oil and gas production

LGU

- Local business tax (head office and mine site)
- Real property tax - Basic (head office)
- Real property tax - Special Education Fund (SEF) (head office)

Revenue Share per Sector

Atty. Caral presented the preliminary reconciled revenue amount from each sector: metallic, non-metallic, and oil and gas.

For Fiscal Year 2021, we reconciled a preliminary amount of PHP 39.4 billion, an 11.88% decrease from the previous year's amount of PHP 44.7 billion. The reconciliation process involves the tedious synthesis of receipts from 71 participating mining, oil, and gas companies, alongside receipts collected from National Government Agencies. Out of this amount, for metallic mines, reconciled revenues came from, Nickel for PHP 14.8 billion, Gold/silver/copper for PHP 8.4 billion, and other metallic for PHP 2.8 billion.

As you can see, the big part of the reconciled revenues from metallic mining continues to be nickel. Meanwhile, for non-metallic mines, reconciled revenues came from Limestone - PHP 4.7 billion, Basalt - PHP 28.2 million, and other non-metallic - PHP 6.3 billion. Again, historically, basalt is the largest contributor to reconciled revenues. And for oil and gas, we gathered PHP 6.2 billion. The pre-reconciled variance for 2021 is 0.97%. This, of course, is subject to change since the reconciliation process is still ongoing.

Revenue Stream Collection

In addition to detailing the reconciled revenue share, Atty. Caral also delved into the specifics of revenue stream collection within the extractives sector.

Per revenue stream

- Overall, corporate income taxes contributed PHP 10.7 billion
 - PHP 8.9 billion from metallic companies
 - PHP 1.7 billion from non-metallic companies
- Excise tax on minerals contributed PHP 6.2 million
 - PHP 6.0 billion from metallic companies
 - PHP 158 million from non-metallic companies
- Output VAT contributed PHP 6.5 billion
 - PHP 2.5 million from metallic companies
 - PHP 6.5 billion from non-metallic companies
- and government shares from oil and gas production brought in PHP 4.5 billion.
- Corporate income taxes remain the highest source of revenues for the government.
- BIR
 - PHP 28.7 billion which covers corporate income taxes, excise taxes, and withholding taxes
- BOC
 - PHP 1.8 billion which covers customs duties and VAT on imported materials
- LGU
 - PHP 6.2 billion which covers local business taxes
- MGB
 - PHP 2.3 billion which covers mineral reservation royalties
- PPA
 - PHP 220 million which includes wharfage fees
- NCIP
 - PHP 960 million was reconciled for IP royalties

The companies with the highest contribution to LGU collections were Carmen Copper, which contributed PHP 118 million; Apex Mining, which contributed PHP 118 million; and Republic Cement, which contributed PHP 97 million.


ASDMP

- The Annual SDMP (ASDMP) funds for FY 2021 are worth PHP 819 million.
 - For metallic companies, PHP 784 million was reconciled,
 - For non-metallic, PHP 34.5 million was reconciled.
- Total allotment and expenditures for both sectors were a respective PHP 1.4 billion and PHP 129 million.

Atty. Caral ended by expressing appreciation. He acknowledged the dedication of reporting entities in advancing transparency and accountability within the extractives sector over the past years.

The FY 2021 Report concluded with 98% representation for the mining, oil and gas, and coal sectors based on revenue streams and other taxes reported by government agencies. Without coal, the combined percentage of participating projects from the mining and oil and gas sectors would have reached 81%.

So, these are the salient findings of the 2021 Report. The final copy of the 2021 Report will be available on the PH-EITI website (<https://pheiti.dof.gov.ph/country-reports/>).



In closing, we extend our heartfelt gratitude to our reporting entities, including extractive companies and government agencies, for their unwavering commitment to the EITI process. The EITI reporting journey demands dedication, and over the past eight years, each of you has demonstrated commendable diligence alongside PH-EITI in advancing data transparency and fostering greater accountability within the extractives sector. We trust that the valuable data and insights generated will serve as instrumental tools for your research and advocacy endeavors. On behalf of the Department of Finance and the PH-EITI Multi-Stakeholder Group, I extend congratulations to those involved for yet another successful reporting cycle.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 1: Advancing Responsible Resource Governance through EITI Reporting

*Preliminary Findings of FY 2021 Country Report
State of the Civic Space Report*

“...while we have made progress, there is a need for continued effort to reinforce the quality of civic space in the extractive sector. This includes community-based situational analyses, and also hearing from the grassroots organizations, their concerns, their problems, and their successes.”

5th Presentation:

Aniceta C. Baltar

Vice-Chairperson

Concerned Citizens of Abra for Good Governance

“Naimbag nga bigat tayo amin apo!”

Ms. Baltar greeted the audience warmly in the local language and then addressed esteemed stakeholders and partners in the extractive industries. She expresses her privilege in presenting the preliminary findings of the "State of Civic Space in the Philippines" chapter of the FY 2021 country report of the Philippine EITI.

Civic Space Report

Ms. Baltar introduced the report titled "Recovery: Regaining Ground and the Need to Expand Civic Spaces," which focuses on civic space in the Philippine extractive sector. She explained that this chapter is part of their ongoing efforts to address recommendations from the 2021 Validation and to broaden their assessment beyond PH-EITI. She also explained the limitations, plans, and initiatives that the PH-EITI MSG is doing regarding the civic space report.

Due to time and resource limitations, the scope of the analysis for the civic space engagement chapter is relatively narrow. Instead of relying on a consultant, the Philippine EITI Secretariat took on the task of drafting this chapter. The Secretariat plans to publish additional reports in early 2024 to expand the assessment beyond PH-EITI.

Yesterday, you heard the presentation of Chad, who is the consultant for the CSO engagement, and also the presentation of “Bon”, Beverly Besmanos. Also, we tackled the initial findings at the constituency workshop in the afternoon, so these are two studies conducted. But this one, as the paper tells, is an initiative of the secretariat for they delve on the different meetings-participation of CSO and MSG.

Ms. Baltar shared their dual methodology for the assessment, which includes two main approaches. First, they reviewed PH-EITI's compliance with EITI Requirement 1.3 regarding civil society engagement by examining secondary research and documented activities since the 2021 Validation. Second, they incorporated preliminary findings from their CSO Engagement Specialist, specifically

focusing on the extent and quality of civil society representation within their Multi-Stakeholder Group (MSG). This involved key informant interviews with the 10 CSO representatives in the PH-EITI MSG.

Obstacles to participation

She also addressed the challenges regarding CSO participation and provided recommendations to address these gaps.

Our findings point to several areas for improvement. Despite strides in complying with EITI Requirement 1.3, challenges remain in ensuring active and meaningful participation of all stakeholders, particularly civil society. We have the SE committee as part of the reorganization or enhancement of the structure PH-EITI MSG. So the SE committee in the PH-EITI MSG created to ensure civil society's participation, has yet to fully demonstrate its mandate due to limited meetings. The committee's composition and operation need revisiting, and the civil society constituency of the MSG should develop its mechanism to ensure that primary constituency concerns are addressed.

Significant progress has been noted in multi-stakeholder participation along the extractive industries value chain. However, there is still room to strengthen this participation, particularly by defining terms like "EITI-related activities" and "obstacles to participation" for clarity and alignment among all stakeholders.

Moreover, our efforts to institutionalize broader MSG membership and redefine roles through amendments to EO 147, series of 2013, are pivotal. This will enhance stakeholder engagement and create a safe, constructive environment for all. So for the revision of EO we recommended more representation from Indigenous people, there's a lot more today than before but this is still working in progress since other stakeholders aren't here in MSG.

Ms. Baltar then mentioned that while holding a recommitment ceremony with the PH-EITI MSG is a positive move, it would be even more effective if all EITI participating groups clearly expressed their support for civic participation in all PH-EITI activities. This would showcase a stronger commitment to ensuring that civic engagement within the EITI is both inclusive and effective.

Anti-Red Tagging bills

According to Ms. Baltar, PH-EITI has drafted a support statement for Anti-Red Tagging bills in the PH Congress, pending review and approval by the PH-EITI MSG. To enhance public participation, she suggested initiating discussions with relevant agencies to address concerns about red-tagging and shrinking civic space, especially for CSOs involved in PH-EITI, to maintain a safe and supportive environment for public engagement.

Including a report on the state of civic engagement in the annual PH-EITI report ensures that the developments related to civil society's ability to engage in the EITI are regularly and accurately documented. The inclusion of this chapter in the FY 2021 report, which I am currently discussing, is an action step toward addressing this recommendation. Proper implementation in all future reports can increase awareness of civic concerns in the extractives sector. Additionally, PH-EITI can incorporate CSO initiatives on extractive activities in PH-EITI publications to legitimize civic action within the PH-EITI sphere.

We also examined the level of civic engagement in our MSG. The preliminary assessment highlights the need for clearer leadership within the civil society community, comprehensive frameworks for engagement, capacity development, and strategic agenda building.

There is a need to conduct community-based situational analysis and capacity development to reinforce the quality of civic space. There should also be evidence of improved interactions within the civic space, but there is a need to test the limits and strengths of these improving spaces.

Lastly, she presented the 4 cases that had been filed in the governance committee. This is a new committee that has been established under the PH-EITI MSG. Ms. Baltar emphasized the importance of ensuring that these issues were heard, so they could plan what agenda to push at the national level within the PH-EIT MSG.

There are 10 CSO seats at the national level PH-EITI MSG, we need to hear from people's organizations and civil society, especially in the communities that are impacted by the extractive's operations. We would meaningfully be able to push forward in the PH-EITI MSG meetings for agenda building, policy reforms, and other recommendations that should be addressed.

Currently, in the governance committee, there are 4 cases filed coming from the communities.

- 1. First, is the Sibuyan;*
- 2. the second is the Ipilan Nickel Mining Corporation, operating in my own residence now in Brookspoint;*
- 3. then, we have one in Lake Sebu, the one filed by Bantay Kita;*
- 4. and the SR Metals in Agusan Del Norte, municipality of Loreto. These 4 cases are really closely interlinked and related to civic space engagement.*

Ms. Baltar ended her presentation with the following conclusion.

In conclusion, while we have made progress, there is a need for continued effort to reinforce the quality of civic space in the extractive sector. This includes community-based situational analyses, and also hearing from the grassroots organizations, their concerns, their problems, and their successes (success stories). Capacity development is a big challenge and a more robust platform for discourse. These efforts are crucial in ensuring that our natural resources are managed in a way that is open, accountable, and responsive to the needs of all Filipinos.

Maraming Salamat po!

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 1: Advancing Responsible Resource Governance through EITI Reporting

Reaction to the Preliminary Findings of FY 2021 Country Report

“I think it's time for EITI to evolve itself beyond the minimum satisfaction of global standards.”

Reactor:

Dr. Marian S. Delos Angeles

Board Member

Resources Environment and Economics Center for Studies
(REECS)

Dr. Delos Angeles, a natural resource and environmental economist with 45 years of experience, provided profound insights and valuable recommendations in response to Transparency Talk 1.

I am reacting very positively to the first 10 years of EITI, to the various reports on governance, transparency initiatives, and the involvement of the civil society. But having gone through 10 years, I would like to challenge you to do more in the next 10 years. And I have several reasons for this. I have benefited from being part of a large team that the MICC requested to assess or review the metallic mining industries. And having stepped back from it for the past two years, I now have more refreshed insights.

EITI to evolve itself beyond the minimum satisfaction of global standards

Dr. Delos Angeles started her reaction by stating three (3) reasons why it's time for EITI to go beyond merely meeting global standards and evolve further.

- First, with the Philippines poised for high economic growth, there's an opportunity to prioritize environmental protection and invest in natural, social, and human capital for a better future.
- Second, given the increasing vulnerability to climate events, monitoring and preparing for adaptation is necessary. Additionally, as a land-scarce economy facing coastal flooding, consideration could be given to utilizing rehabilitated mining sites as settlement areas with proper infrastructure.
- Third, with the forthcoming approval of the Philippine Ecosystem and Natural Capital Accounting Statistical System (PENCAS), there's potential to develop statistics that hold individuals accountable for their actions regarding natural capital and ecosystem services. She prompts exploration of potential improvements beyond current standards.

“That's great that you are accounting for the revenue, and reconciling the different sources of data. And also showing some details of where the money is going. It's very important for us. Because mining is not a sustainable activity.”

I really think that the reconciliation report is fantastic. That's great that you are accounting for the revenue, and reconciling the different sources of data. And also showing some details of

where the money is going. It's very important for us. Because mining is not a sustainable activity. Minerals get depleted, but income from mining can be sustainable if the returns are invested in renewable assets. And these renewable assets include education or human capital, renewable natural resources, forests, fisheries, and water, though abiotic can be to a certain extent protected from pollution. And social capital, which is governance. And this is what you are trying to do now in the EITI.

Initial Observations

- Royalties of Indigenous communities

Dr. Delos Angeles shared her observations on the importance of further disaggregating where the money is allocated, particularly regarding royalties, which are crucial for indigenous communities.

I did not see yet where the money is going from royalties. And that's a concern for indigenous peoples because we know that in some cases they are captured by the local elite. And we want that to be a better situation so that more of the indigenous communities will really benefit.

- Environmental deterioration

Additionally, she mentioned the inclusion of Environmental Protection Expenditures such as remediation, rehabilitation, and protection expenditures in the Philippine Ecosystem and Natural Capital Accounting Statistical System (PENCAS), which contribute positively to Gross National Product (GNP) that aims to address environmental issues.

So we need to find out whether indeed the environmental deterioration has been corrected or whether or not there is a residual that still needs to be addressed.

- Adjusted net savings

She introduced the adjusted Net Savings (ANS) as a measure of future savings, adjusted for factors like depletion of natural resources and negative impacts of pollution. She explained the importance of positive adjustments, such as investments in human capital, to enhance future productivity. She notes that while the preliminary estimate of ANS for the Philippines is positive, it has been decreasing. She also highlights the need to include pollution damage and depreciation of resources like fisheries and non-metallic minerals in future estimates.

- Positive and Negative adjustment

One such adjustment is the depletion of natural capital. That includes the depletion of our mineral resources. It's a negative adjustment because when you deplete, there's nothing for the future. And it's something that we need to accept. The other adjustment has to do with the negative impacts of pollution which is residual pollution. Maybe air pollution happening and health impacts either on the workers or in the neighboring communities. If the watering of dusty roads is not done properly, you still have particulate matter affecting the lungs. Also, damage that may happen on the land. Damage may happen if the mine tailings facility pond is not properly lined or properly maintained. And if the canals where silt traps are located is not properly monitored nor cleaned. So there is still some silt to go into the coastal areas. And therefore, some residual damage. That too needs to be estimated and subtracted from savings.

Okay, but there are positive adjustments too. Investments in human capital in education add to future productivity. So adjusted net savings also have a positive adjustment. And you do all these negative and positive adjustments and finally arrive at ANS. We have such an estimate from the World Bank, but it's very preliminary. For the Philippines, it's positive, and that's good news. The bad news, is it's been going down, but not yet zero. And the even not-so-good news is that pollution damage is not yet included, nor is fisheries depreciation. And also depreciation of non-metallic mineral resources. So those need to be looked into.

The Spirit of ESG

Dr. Delos Angeles challenged the mining sector on their Environmental, Social, and Governance (ESG) efforts. She mentioned that extractive industry must be transparent about their own self-monitoring. She emphasized the importance of transparency in the extractive industry's self-monitoring practices. Dr. Delos Angeles outlined various types of self-monitoring that she expects to see reflected in the reports of PH-EITI.

- Self-monitoring in water

The self-monitoring includes the quality of the receiving waters that's important to look into. Because sometimes the pollution is not caused only by mining, but also caused by human activity, by road building, by depredation, all that. So we need to know, need to account for who needs to correct their actions.

- Self monitoring of workers and accidents

There's also self-monitoring of the health of the workers and accidents. There's self-monitoring there.

- Self monitoring on wildlife

And in some cases, we've seen monitored wildlife in the mine tailings pond that is now well rehabilitated and where wetland fowls have inhabited the area. So there's a positive impact in well-managed mine tailings pond. But this is not reported in the EITI yet. Maybe in case studies in the future.


- Self monitoring on carbon and greenhouse gas

There is also, of course, there's easy monitoring of carbon sequestration and greenhouse gas sequestration. But this can be valuable in an export market if we do participate in the global carbon market.

- Self monitoring on social impacts

Okay, so the monitoring of the social impacts is there because of the SDMP. We would still like to see that continuing. And I have suggestions, though, that beyond the civil society work, we need to complement your work with scientific evidence because that's really what's missing. For us economists, we need to value damages. It's difficult to do that unless you have all kinds of indicators.

- Self monitoring of reforested area



And now that we have improved remote sensing, improved radar monitoring, and we've seen good radar monitoring in one mining site is looking at what's happening in terms of the movement of the mountain beyond its site, which is really good, monitoring of reforested area coming up in an indicator, and monitoring through drones. And MGB has drones, and so do the mining companies. And university folks would also have that.

Dr. Delos Angels concluded her reaction to Transparency Talk 1 by highlighting the importance of complementing subjective and community-based monitoring with objective data for credible analysis. She expressed anticipation for future developments, particularly in the next decade.

So data needs to be triangulated from government sources, from independent sources, and from community grassroots sources. So we thus look forward to what could happen in the next 10 years. And we hope that the evolution of the partnership will continue and strengthen itself. Thank you very much!

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 1: Advancing Responsible Resource Governance
through EITI Reporting
Panel Discussion and Open Forum

Moderator:

Ms. Jeanira G. Okubo

Member

PILIPINA, Baguio-Benguet Chapter

Before going to the panel discussion, Ms. Okubo commended the substantial reaction of Dr. Delos Angeles, afterwards, she then read the question on the panel members.

Ms. Okubo: *the first question is, how do you think we can make our reports more accessible to the public in a sense that it is easily understandable or more digestible?*

She elaborated that having data is insufficient if it's not comprehensible; in such cases, it lacks practical value. While reporting entities may offer transparency by providing extensive data, if the information is not intelligible, it becomes unusable. Consequently, accountability cannot be ensured.

Ms. Okubo asked Director Pamela Quizon first to start the answering of the question.

Dir. Quizon: *Yes, thank you, Ma'am Jean. So two scopes, accessibility and making the public understand more our data sets. So ten years ago, we don't accessibility. Currently, we have four (4) websites that the public can access, I've mentioned that earlier in my message: first, the PH-EITI website, second is the DBM National Wealth Share Portal, third one is our website at the Department of Finance, and the fourth one, all the agencies that you have seen earlier reporting to the country report. They are all accessible websites.*

But yes ma'am, Dr. Angeles, we take on the challenge. More granular data. We've got the collection, but where the money goes? Where's the utilization? Right now it's not that granular. We have, yes, by PSMOOE and capital outlay for those not in the government. It's personal services, expenditure for maintenance and operating, and other expenses and capital outlay. Also segregated by sector, economic services, social services, and general public services. If they have debt, maybe it can be paid through loans. But not really on the granularity of where does the money goes?

On the PHP 405 billion that I've mentioned earlier of the total revenues that the government received, PHP 4.5 billion of that goes to the local government - let's go there because that is our area scope. This is small, it might be 1% of the total only, but for barangay, municipality, that are low income class, it's already a big amount of money.

I'll go back on the granularity of data, we hope we can see where it goes? Is there a daycare center? Can student go to schools? Right? Environmental control, did we addressed it? So yes, again, we take on the challenge on the granularity of the data. Ma'am, promise, when we see each other 10 years from now, we hope to have that one. Thank you, from the Bureau of Local Government Finance.

Director Quizon responded by enumerating the existing websites accessible to the public and pledged to offer more detailed data on reporting to ensure that the information is easily understandable and digestible for the public.

Following Dir. Quizon, Atty. Recidoro shared his insights, experience, and he challenged the mining companies on how to provide extractive industry data to communities that are worth pursuing.

Atty. Recidoro: *Yeah, in terms of access for communities, I remember we did a Bayaminahan board project some years back and I think it's something worth pursuing. We'd like to see all mining companies put up billboards showing the taxes they've paid, not just taxes but all benefit streams that they've contributed to, not just in their areas of operation but also perhaps in population centers like the barangay hall or the municipal hall, so everybody can see it. It's a very low-tech approach but the data is there, everybody can see it.*

Second, is I think we should also take advantage of current technology. Everybody's into TikTok, everybody's into Instagram, Facebook, that should, that we should take advantage and our data should be up there and not just as dry data. It needs to be entertaining, it needs to generate questions. That's the only way that people will be interested because right now we are somehow left behind in how we present the data, how to make it interesting, how to make it come alive.

There's a lot of things that we can do but off the top of my head, those are the two things that we can start on. That is all for me. Thank you!

Ms. Okubo presented the next question for the panel members.

Ms. Okubo: *The other question is actually tied up to the first. I don't know if anyone from the group would still like to pick this up. How can we make the benefits of implementing EITI, so it's EITI, more visible or tangible so that more of the public are able to appreciate the findings in our reports? How can it be relevant on the lives of the community?*

Ms. Baltar took the challenge on answering the question.

Ms. Baltar: *On CSO and on the MSG, we continuously discussing this matter, that we have been producing and producing country reports but the question is, do the information reach the communities that are affected of extractives? This is really a big challenge for us. So we talk of technology, attorney Ron said, but we know that not all communities has connectivity. So how do we address that? So that vital information can penetrate, especially on the the worstly affected one, or the host communities of extractives.*

On my perspective, CSO-PO partnership on the ground is still vital . If the CSOs were more often invited in this kind of gatherings. "Yung big brother, small brother, big sister approach ba?" So if we have our community meetings for example, we will insert then the discussion, "this is the data from PH-EITI, how do we use it? This is the revenue figures, this is what on the report. Is this helpful for us? Can this kind of data has any effect to us?" Hope we have this kind of dialogue, right?

Like what attorney Ron said, it should create questions. It should really push us to discuss if it is really relevant? Like what we know, in extractive sector's discussions that it must uplift lives. It should really be empowering, it should drive socio-economic development, etc.

Ms. Baltar concluded that it presents a significant challenge to everyone. It's essential that everyone contributes to articulating how we can ensure that the information doesn't just remain confined to reports and documents, but rather becomes relevant and usable for all stakeholders.

In response to the next question regarding "Ridge-to-Reef Ecosystem Services, biodiversity loss, carbon emission of trees affected by mining," Ms. Okubo herself affirmed that the government had indeed taken these factors into account, as clearly indicated in the previous presentations.

Ms. Okubo: *Maybe the visibility, the manifestation, the evident results, that translating in the community, is what we are looking for. But they are considered. The question is have you considered all of this.*

Ms. Okubo then accepted last question from the audience.

Ms. Emma: *This is Emma from Cantilan, Surigao del Sur, Baywatch. My question is, with those listed, has it been considered, I mean, in quantifying the income, vis-a-vis the loss of biodiversity and how much carbon emission does a tree emit once it's filled? And considering mining destroys trees, bulldozes trees by hundreds of hectares, thousands of hectares. And how about the ecosystem services? We have a case in Cantilan where we're suing a mining company for environmental damage and the judge ordered, it was court mandated to do a study by experts.*

We could only afford the study on flora and fauna and water. And the finding was for a mining company that mines for 25 years, the system loss equates to six quadrillion pesos. It doesn't even, I don't think it even compares to what we see that the economic boom, the money that mining brings to the Philippines.

We haven't considered the loss to the environment and to the ecosystem services that mining costs. I don't think that has been considered.

Engr. Aguilos provided his response to the last question, effectively bringing the discussion to a close.

Engr. Aguilos: *I think it was mentioned by the Dra. [Angeles], pertaining to PENCAS bill. In fact, the mining companies are actively addressing this through progressive rehabilitation and their pollution control are in-place regarding this matter. And any trees that are cut down are being replaced with one hundred seedlings.*

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 2: Transparency and Accountability: Ensuring Public Participation in Extractives
Increasing Public Participation

“I want to emphasize here that the citizens are the heart of government, the heart of society.”

Rolando U. Toledo

Assistant Secretary, DBM
Head of Secretariat, PH-OGP

The Open Government Partnership

Asec. Toledo began to discuss how the Open Government Partnership (OGP) has contributed to enhancing public participation, transparency, and accountability in government processes. Providing background information, he notes that the OGP was officially launched on September 20, 2011, with eight founding countries and nine civil society organizations endorsing the Open Government Declaration and announcing their country action plans. He highlighted that the Philippines is among the first eight founding governments, along with Brazil, Indonesia, Mexico, Norway, South Africa, the United Kingdom, and the United States.

So, OGP is a simple but powerful goal, that is: “government should truly serve and empower their citizens.” So, OGP’s vision is that governments become more transparent, more accountable, and more responsible to their own citizens, improving the quality of governance and services that citizens receive. Since 2011, OGP has grown to a partnership of 76 countries, a growing number of local government, and thousands of civil society organizations who come together to address the pressing governance challenges faced by these countries.

OGP brings together domestic champions of reform, of in-government and civil society, who recognize government is much more likely to be effective and credible if they open their doors to public input and oversight and collaborate with stakeholders outside government. So, that is one good thing about OGP.

OGP core principles

Asec. Toledo proceeded by explaining the four core principles of the OGP, which serve as guiding missions and initiatives.

- The first principle is transparency, which promotes openness and accessibility of government information, processes, and decision-making. It aims to ensure citizens have access to reliable and timely information about government activities, budgets, policies, laws, and public services. Transparency, he emphasizes, fosters public trust, enables accountability, and empowers citizens to participate in and influence government actions.
- Accountability pertains to the duty of the government to justify its actions and choices, and to be receptive to the concerns and welfare of its citizens.
- Participation emphasized the proactive involvement of citizens in public decision-making processes. It advocates for inclusivity, facilitating individuals and communities to actively

contribute to policy formulation, implementation, and assessment. Through citizen involvement, the government can guarantee that policies and services are aligned with the varied needs and preferences of the populace they serve, mirroring the approach of the PH-EITI.

- Finally, leveraging technology entails utilizing digital tools, platforms, and innovation to improve transparency, citizen engagement, and the overall efficiency of government operations.

Now, after 11 years as a member or active member of the OGP, we were able to institutionalize the PH-OGP, just like the PH-EITI, with your EO-147. Am I right, okay? Now we have Executive Order No. 31, institutionalizing PH-OGP in the country, which was signed last June 20, 2023, just this year, “na-institutionalize po ang ating PH-OGP.”

Creation of Steering Committee

After discussing the four core principles, Asec. Toledo then discussed a key feature of the Executive Order, which involves the establishment of a Steering Committee. This committee, chaired by the Department of Budget and Management and co-chaired by representatives from non-government sectors, will oversee the implementation of the Open Government Partnership (OGP) in the country. Drawing a parallel to the PH-EITI's multi-stakeholder group, he notes that the composition of the Steering Committee mirrors that of the PH-EITI, ensuring equal representation from both government and civil society organizations.

To broaden the participation of the CSOs in this Steering Committee, now it has increased its membership. Before it was only eight (8), but today it was raised to 10. So it's 10 members coming from the CSOs.

Okay. So basically, the Steering Committee aims to empower and link reformers at a different level of governance to provide support in ushering meaningful initiatives directed towards opening government. So basically, it is established for space, but we call it a safe space for ongoing dialogue and collaboration.

“OGP creates a safe space for government and civil society to partner for progress.”

Collaboration of government and CSOs

Asec. Toledo continued by explaining how National Action plan (NAP) became a platform for domestic dialogue between government and CSOs. The NAP involves a co-creation process where the government and civil society collaborate to develop country commitments outlined in the plan.

The OGP creates a safe space for government and civil society to partner for progress. And its center is a platform for domestic dialogue between the government and CSOs. And sometimes, of course, not sometimes, but also included is the private sector co-creating a set of contextualized open government commitments.

Additionally, he mentioned that the NAP is then submitted to the OGP Global, reflecting the collaborative efforts of government and CSOs. Currently, they are in the process of co-creating the sixth National Action Plan, which marks the first implementation of a medium-term NAP spanning four years, a departure from the previous two-year timelines.

I want to emphasize here that the citizens are the heart of government, the heart of society. Providing opportunities for citizens to give their input and oversight creates a more effective, efficient, and credible government. Now, citizens' participation is an indispensable component of the OGP, or PH-OGP process, and the essential element to realize the government's reform. Hence, the PH-OGP National Action Plans are a product of rigorous, intensive consultation with civil society.

There are regional and sector consultations, and the use of online platforms to solicit feedback from the public. As a matter of fact, we go around the Philippines, but this time, it would be by island only. We go to the islands of Luzon, Visayas, and Mindanao.

He concluded by highlighting that even before joining the OGP, the Philippines had already demonstrated a strong level of engagement between the state and civil society. Joining the OGP provided an opportunity to formalize these proactive efforts and mobilize coalitions to address issues important to the people.

Ultimately, this has resulted in various reforms, which have produced impactful and irreversible reform, which has proven to increase public participation and enhance transparency and accountability in government processes.

Highlights of National Action Plan

Asec. Toledo presented the some of the key governance reforms they have implemented through the country action plan.

1. In 2015, the Philippines committed in its fourth national action plan a reform to reduce bureaucratic red tape in the cost of doing business.

This reform program significantly improved the country's ranking in the World Bank's Doing Business report from 138 out of 189 countries in 2013 to 108 in 2014 and 95 in 2015. In this case, this improved the country's business climate and increased investment by 10% over the same period.

Recently, we had a meeting with Mayor Belmonte of Quezon City, and you know the fact that Quezon City is the one enrolled in this, their activities are related to ease of doing business. So, they have said and told us that they have to improve again and probably get a higher score as far as ease of doing business moving on.

2. The Department of the Interior and Local Government that committed in the second OGP national action plan, the Seal of Good Local Governance in 2014, to serve as a guide to local governments in how to better deliver services.

In 2019, the SGLG was enacted into law via Republic Act 11292. So, still, this institutionalizes the SGLG as a means for LGUs to continually progress and improve their performance as well as provide support for capacity building to LGUs.

3. Executive Order No. 2, Series of 2016, operationalizes people's right to information and mandates the executive branch to implement full disclosure and transparency in public service.

So, the Freedom of Information Program also includes efforts and initiatives toward the legislation of the FOI bill. So, the FOI PMO, through the commitment in the fifth OGP national action plan, also localized the FOI program which resulted in more than 50 local government units filing local ordinances and executive issuances on access to information.

“The International Budget Partnership recognized the Philippines in 2021 to be one of the four and the only Asian country to have achieved an adequate level of accountability in its early COVID-19 fiscal policies driven by the DBM...”

According to Asec. Toledo they were also recognized in the IRM or Independent Reporting Mechanism Report as one of the commitments around the world to have produced major results in opening government. He then mentioned that one good thing happened during the COVID-19 pandemic is the recognition received by the Philippines.

Wherein the IBP or the International Budget Partnership recognized the Philippines in 2021 to be one of the four and the only Asian country to have achieved an adequate level of accountability in its early COVID-19 fiscal policies driven by the DBM, commitment to fiscal openness enshrined in our fiscal openness program which is a commitment in the fifth national action plan.

4. The implementation of the Philippine Extractive Industries Transparency Initiative under the DOF.

So, the initiative aims to encourage countries, of course, like what we've discussed before, be more transparent in reporting the benefits they receive from their country's natural resources by publishing material information on payments and revenues. The EITI aims to address the resource curse phenomenon in resource-rich but poor economies.

You must know also that the EITI received awards or recipients of the EITI International Award that was in 2016 and in 2017 was declared the first among the 50 implementing countries to have achieved satisfactory progress in the implementation of the 2016 EITI standard. So, EITI has been a consistent program of the DOF that is enrolled and has a commitment to the PH-OGP since 2012.

Asec. Toledo concluded by summarizing the key points about the Open Government Partnership (OGP). He emphasized its role in facilitating government reform, fostering collaboration, and encouraging innovation.

OGP aims to be home to inspiring content that truly influences, incentivizes, and recognizes leaders in government and civil society to take risks and innovate in their own context. And, of course, international dimensions of OGP bring peer learning, inspiration, support, and peer pressure to do better. So, OGP provides outstanding opportunities for an exchange of good practices.

He highlighted the recent approval of the 6th National Action Plan and its focus on transparency in the extractive industries. This served as a final point to reinforce the opportunities offered by OGP.

Before I end, I would just like to let you know that the creation of the 6th National Action Plan which includes the PH-EITI, their program titled “Subnationalizing Extractives Transparency

Initiatives Ushering Participatory Governance” has been approved by the Steering Committee last week. It was now included again in the National Action Plan of our OGP.

I would like also to take this opportunity because as part of the co-creation process is to have the CSOs or the public should comment on that specific commitment by the DOF. So, I encourage you to comment on the commitment of the DOF as far as the PH EITI. So, you can visit our website or the “ogpdbm.gov.ph” where you can click the National Action Plan.

You can see there the commitment of the DOF as far as so that you can also share your comments for that particular commitment. So, with that, thank you very much and good morning.

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Transparency Talks 2: Transparency and Accountability: Ensuring Public Participation in Extractives

Public Participation and Fiscal Transparency in the Philippines

“Universities are in the position to help address local policy problems. Universities can become think tanks and capacity builders of CSOs.”

Francisco A. Magno

Senior Fellow and Founding Director
La Salle Institute of Governance

Dr. Magno started his presentation by informing the audience that the topic given to him was also the report they submitted to the Global Initiative for Fiscal Transparency (GIFT). He then asked the audience to refer to the report for an overview of the topic, suggesting it offers a comprehensive review of the evolution of these related concepts in the Philippines.

He then showed to the participants the model of the project he is pointing.

So, this is a kind of a model that we developed, actually, also with the Department of Finance because it was endorsed by the Department of Finance to the World Bank. At that time, Dr. Andrew Parker visited our campus and proposed this project. And it's something very unique because for the first time, they are actually providing this kind of grant that's usually given to government. So, I became coordinator, but the stipulation is I don't get honorarium because I'm supposed to be also like government. They were providing technical assistance.

Dr. Magno continued by narrating the process they've done and the people he collaborated with.

So, what we did was to get consultants. So, we developed some kind of a knowledge ecosystem. This is De La Salle University. I'm also from UP. Stock-taking report. So, that's what we did. We identified monitoring initiatives. And, of course, in the stock-taking report, I saw my friend, Annie Baltar, a long-time friend from TAN days. Are you familiar with TAN? Transparency and Accountability Network. But, Manang Pura Sumangil, was the younger executive director of CCAGG. So, this is a report incorporating all these tools.

So, there are lots of monitoring tools that we use. We had partner universities, six of them, all around the country. And, the role of the universities was to build the capacity of the local organizations. On Annie's group, it's already developed. In fact, we learned from them. But, others were not. I'm actually asking Annie to come out of retirement and to still help us.

Dr. Magno described a past project where mayors identified national programs for monitoring, like WASH (Water, Sanitation, and Hygiene). In partnership with Mindanao State University, Professor Rufa Guillam, they trained local NGOs to conduct "action research." One example involved discovering a WASH program with no actual water access. Instead of abandoning the program, they used creative solutions like students bringing their own water in bottles. The success of this project led the mayor to create an executive order institutionalizing joint monitoring and evaluation of LGU-funded projects in Malungo.

I have other examples, but you can refer to the report that's uploaded in the Institute of Governance website. So, very quickly, I'll go to another engagement, the Open Budget Survey. Basically, DBM is a partner here. But, I serve in the Open Budget Survey as an independent expert. Open Budget Survey measures three aspects of open budgets.

Transparency in the Philippines

Dr. Magno showed in his presentation the significance of transparency of how public resources are raised and spent.

So, we can see the progress of the Philippines, from 67, a score of 67. In 2019, the Philippines actually ranked in the top 10 countries under the Open Budget Survey. It dipped a little in 2021, but for very good reasons, as Asec. Rolly can explain later. We can see that the green dots would indicate that we are actually providing budget documents publicly. When you say publicly, it's in the website, and it's released in a timely manner.

Transparency in the Philippines, as you can see, we are a leader in Southeast Asia. Indonesia is also performing well. Let me now go to another project, which was actually in the National Action Plan of OGP in 2017. So, this is a continuation, in fact, of the model that we've been using, this knowledge ecosystem that we're using.

Partnering with the universities

Dr. Magno also discussed their experiences and collaboration with universities outside Metro Manila.

So, actually, we do a lot of work with the Ateneo schools. In fact, as you can see here, Ateneo Dinaga and Xavier University, together with Central Philippine University. It's part of the "Making All Voices Count".

According to Dr. Magno, Making All Voices Count is a global, or was a global initiative that supports innovation, scaling up, and research to deepen existing institutions and help harness new technologies to enable citizen engagement and government responsiveness.

We call it the Universities and Knowledge Partnerships for Open Government. So, we got a grant from this program to implement this project to capacitate local universities so they are able to serve as effective infomediaries. This is the term we're using in a digital ecosystem, information intermediaries, to make sense of the data, to make sense of what is provided openly. So, localizing it by enabling local stakeholders to read the budget, fiscal data that are provided in a transparent manner.

He also showed a slide from the knowledge dialogue that happened.

BICOL CSOs, I believe they are still part of the steering committee. Araw Chavez is a member of the steering committee of OGP. And Ateneo Dinaga Center for Local Governance discussed the development of infographics. We all know, right, if we look at budget data, it's a small type. Of course, the national budget is now uploaded to the DBM site.

Local government, we don't know, but they share key data in the full policy disclosure portal. Under the local government code, there are 17 or plus financial documents that are shared.

“But the challenge is understanding that data and using it. So, being able to use the data and being able to demand accountability from that data.”

Transparency and accountability online portals

Dr. Magno emphasized the limitations of just having data and underscores the need for both its meaningful interpretation and its application in holding authorities responsible.

But the challenge is understanding that data and using it. So, being able to use the data and being able to demand accountability from that data.

Dr. Magno then cited some projects initiated by different universities and described how LGU supported and cooperated on this.

What every Juan should know by Ateneo Dinaga University

Ateneo Dinaga University initiated a transparency and accountability online portal as a pilot project, successfully involving faculty and students. Dubbed "What every Juan should know," the portal aims to inform the public. The project produced an infographic and motion graphic illustrating the 2017 LGU-Naga budget for special purpose appropriation. Despite limited resources, the collaboration with the local government facilitated data sharing, suggesting potential for further expansion with increased resources.

But the nice thing here is that the local government is really being very cooperative in sharing their data.

Knowledge portal by Xavier University

Dr. Magno shared his experience of how he partnered with Xavier University. How they brought the local government units and the university and CSOs to one venue. This resulted to a more strengthened partnership on programs on DRRM, local budget analysis, and PWD advocacy.

I said, universities are in the position to help address local policy problems. Universities can become think tanks and capacity builders of CSOs.

So, this is an example of what they produced, infographics, developed by the Xavier University Governance and Leadership Institute. Actually, the People's Council of Cagayan de Oro and the CSO Office of the Local Government Unit committed to use the knowledge portal developed by Xavier University.

Dr. Magno explained that by utilizing common tools and data, there's improved understanding among participants, reducing the tendency for baseless criticism driven by sentiment rather than informed analysis.

Central Philippine University: “A workshop on the development of online hub for budget literacy in Iloilo City”

Dr. Magno highlighted a recent example involving the youth SK elections and the budget analysis of Iloilo City's youth budget by Central Philippine University, presented in an infographic. He

emphasized the importance of monitoring the budget of the youth council, considering past experiences where funds were used for activities like basketball tournaments, beauty contests, and uniforms.

The SDG City Concept

Dr. Magno wrapped up his discussion by introducing their new project, the SDG City concept, which they presented during the SDG Summit organized by NEDA.

He explained that the project involves building a consortium or area-based, focused on testing the SDG City platform in Manila. They emphasized the importance of localizing the Sustainable Development Goals (SDGs) and partnering with universities and the city government of Manila to develop an open data dashboard. Dr. Magno highlighted the need for a more dynamic and informative approach compared to traditional billboards, incorporating faces, people, stories, and accounts into the electronic data dashboard.

But we want to localize it even the citizens' budget. That's an innovation of DBM. Actually, that was a proposal that came from the IBP, International Budget Partnership, the citizens' budget infographic. There are snapshots of the budget and you tell the story. But the thing here is we will also conduct research regarding the localization of SDGs. And because under the Sustainable Development Agenda Platform, it's a kind of co-creation and co-production.

Dr. Magno continued by discussing the need to document achievements on the Sustainable Development Goals (SDGs) across various sectors, including industry, the private sector, civil society organizations, and universities. They noted the current lack of a centralized data platform for this purpose, with each entity reporting independently. Dr. Magno highlighted the importance of consolidating these reports to provide a comprehensive view of SDG progress and contributions from different sectors.

Examples of initiatives that may contribute significantly to local sectors

- Voluntary Fire Brigade in the City of Manila

There are a lot of public services being provided by non-government organizations. Voluntary Fire Brigade, for instance, it's not funded by government. It's funded by local businesses. The Binondo Fire Trucks... so how does that contribute?

- Local weather forecasting system

Dr. Magno further discussed the pressure public officials face, citing examples of radio broadcasters pressuring mayors to make decisions such as declaring class suspensions. They highlighted the importance of decision-making based on science and evidence rather than external pressures. Dr. Magno suggested that addressing this issue requires raising awareness and fostering a culture of informed decision-making.

Pag-asa is actually encouraging LGUs to also develop local data because pag-asa data is not—it's a broadband prediction.

Rainfall might happen in a very localized manner. But you can connect that with computer simulation or flood simulation so that you can actually make predictions regarding suspension

of classes or make certain decisions regarding suspension of classes, not just based on pag-asa weather data because that's broadband. Of course, the challenging part is the governance and data assessment.

Dr. Magno concluded by stressing the importance of introducing awareness building about the Sustainable Development Goals (SDGs) from an early age, citing examples from Japan. They discussed the challenge of incorporating such education into the Philippine curriculum and expressed plans to document partnerships in social accountability in Abra for inclusion in the senior high school curriculum.

One of my advocacies is really introduce awareness building at a very early age.

I think that's a challenge. Actually, I'm talking to Annie, that we can actually try to document and write about the partnerships we have with the social accountability in Abra and try to introduce it into the senior high school curriculum.

The good thing about the barangay is that it's small, right? And if you only have one room, why don't you talk to each other? So this is an example of a localized, more granular data. You don't need to perhaps localize everything because it may not be possible. So there is multi-stakeholder process in localization process.

Dr. Magno also mentioned benchmarking the concept of SDG City on Bristol and highlighted the need for better communication among different tiers of local government in the Philippines. They emphasized the importance of localized, granular data and mentioned discussing the possibility of an SDG City in the Agusan area with a colleague.

Just one final thing. I saw my friend, Professor Jeffrey Karin, from Saturnino-Orios College of Butuan City. So I actually pitched to him already the possibility of an SDG City in the Agusan area because they are already investing on smart city platforms. So maybe also develop SDG University Consortium.

"Maraming salamat!" And thank you again for the organizers for inviting me to be part of this.

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Transparency Talks 2: Transparency and Accountability: Ensuring Public Participation in Extractives

Clean Energy, Empowered Communities: Advancing Transition Mineral Host Communities Participation and Engagement in the Extractive Industry Governance

“The project aims to utilize community legal empowerment to strengthen marginalized sectors within multi-stakeholder engagement and address climate equity for communities that provide the critical minerals necessary for a carbon neutral future.”

Beverly F. Besmanos

National Coordinator
Bantay Kita

“Hello, Maayong Buntag sa mga Bisaya!” After greeting, Ms. Besmanos commenced her presentation by actively engaging the audience, specifically recognizing the attendees from civil society. With graciousness, she extended an invitation for them to momentarily stand, fostering an atmosphere of inclusion and active participation.

Clean Energy Empowered Communities (CEEC)

Ms. Besmanos likely explained that their project aims to address the significant potential for economic growth and environmental sustainability in the Philippines' mining sector, given its abundant untapped mineral resources. She probably emphasized the crucial role of minerals like nickel, cobalt, and copper in the production of clean energy technologies, aligning with global efforts to combat climate change as outlined in the Paris Agreement.

The Philippines is home to one trillion US dollars in untapped mineral resources, boasting the fifth largest nickel, and fourth largest cobalt and copper reserves globally, with nickel, cobalt, and copper elements fundamental to producing low carbon technologies. The archipelago remains highly attractive for foreign investment as global economies phase out fossil fuels and transition towards renewable energies. However, mining in the Philippines contributes a miniscule 0.8 percent to the nation's GDP.

She added that the Bantay Kita project was designed with a focus on addressing climate inequity in the Philippines. Despite the country's relatively low contribution to global greenhouse gas emissions (0.35 percent), it remains highly vulnerable to the impacts of climate change.

The Philippines is, we are a highly mineralized country, and we have one of the most big sources of critical minerals. And the Philippines was identified as the deadliest place in the world to be a land defender and activist.

Ms. Besmanos explained that the large-scale mining areas in the Philippines, despite being significant contributors to the nation's economy, paradoxically host the highest poverty rates and are exposed to the most severe natural disasters.

Additionally, high income countries often outsource environmentally destructive mining operations to low and middle income states such as our country where weaker human and environmental oversight exists.

Furthermore, she likely highlighted the disproportionate impact of mining externalities on vulnerable groups such as women, indigenous peoples, people with disabilities, farmers, and fisherfolk.

Presently, women, indigenous peoples, people with disabilities, farmers and fisher folks bear the brunt of mining externalities.

Ms. Besmanos might have noted the lack of enforcement of binding human and environmental rights diligence mechanisms throughout the green energy supply chain, which should hold corporations accountable for social and environmental negligence while ensuring climate equity and livelihood protection for host communities. Additionally, she probably pointed out the marginalized sectors' limited engagement in decision-making processes, indicating a need for greater inclusivity and empowerment in governance structures.

She also discussed the goal of their projects and shared some hosting mining operations that have faced extensive ecological devastation.

The Bantay Kita's Clean Energy Empowered Communities Project employs a community-centered participatory case study approach focusing on nickel, copper and cobalt within the three priority provinces in Mindanao: Dinagat Islands, South Cotabato, and Agusan Del Norte.

- Dinagat Island is recognized as a national leader in nickel ore production yet is highly vulnerable to climate change risks and remains amongst the poorest regions in the Philippines.
- South Cotabato is a rice granary in Region 12 and maybe even the whole Mindanao and hosts one of the world's most significant copper gold mining project which is proposed to operate within the Marbel Buluan Watershed alongside the increasingly severity of natural disasters, mining operations pose a significant threat to the critical livelihood and ecosystem services the Marbel Buluan Watershed provides.
- And Agusan Del Norte is home to one of the nation's most significant nickel and cobalt mining operations.

BK Partnerships

The indigenous Mamanua and Manobo communities hosting mining operations have faced extensive ecological devastation and impacts on livelihood and health since the beginning of mining operations in 2006.

To harness the project's success, Bantay Kita strengthens built relationships within its network by working alongside the rich knowledge of grassroots civil society and people's organizations currently engaging with target communities. Barangay Imelda Fisher Folk Association in Tubahon Municipality the Libjo Poblacion Payaw Fisher Folk Association in Libjo Municipality, the first one is in Tubahon and then Esperanza Can Simoang Irrigators Association of the Loreto Municipality in Dinagat Islands.

Ms. Besmanos shared how BK expanded its efforts of collaborating with various organizations to support different communities.

- Partnered with the Convergence of Initiatives for Environmental Justice in South Cotabato to aid local rice farmers and irrigators.
- Worked with Father Saturnino Urios University Foundation and Urian Legal Assistance Program to assist the Mamanua and Manobo tribal communities in Agusan del Norte.

A sub-grant is made by Bantay Kita to the aforementioned partners CSOs and community-based POs to provide technical and financial support within the local coordination of mining rights trainings. And in addition, these sub-grants strengthen the local CSO's capacities in providing legal empowerment assistance to the vulnerable groups.

The Clean Energy Empowered Communities (CEEC) project envisions building enhanced environmental governance and strengthened livelihood opportunities by using community legal empowerment and local coalition building to generate systemic change. The project has emerged from a local cause for change aiming to strengthen institutions, uphold mining accountability, and create local policy action within the Philippines extractive industry.

And to achieve this goal the project pursues the following outcomes:

- Enhanced participation of marginalized sectors
We want to enhance the participation of community members including the marginalized sectors in the mining oversight committees and involvement in the conservation and sustainable development of critical ecosystems affected by mining and climate change.
- Enhanced the sustainable management and control
Second, the communities including the marginalized sectors have enhanced the sustainable management and control of their traditional livelihoods as a result of the engagement with local development bodies.
- Sustained and effective and inclusive local coalition of CSOs capable of providing legal and paralegal empowerment assistance to communities and vulnerable sectors threatened or impacted by mining operations.

Milestones Accomplished

Ms. Besmanos outlines the achievements of their first year, focusing on several key milestones. They have supported the livelihood priorities of local partners and ensured the inclusion of marginalized groups such as women, persons with disabilities (PWD), LGBTQIA++, and senior citizens in their platforms.

We have conducted paralegal trainings to communities. Farmers and irrigators petition letter have been filed to the local government council on the water rights application of large mining company in South Cotabato. And there are two community mining cases that we have filed to the grievance mechanism of the Philippine EITI.

And we have initially lobbied the proposed CSO selection process of multipartite monitoring teams and the MRFC at the national, at the local level.

Ms. Besmanos concluded by expressing the organization's stance on transition mineral accountability.

It is defined by Bantay Kita as the need to address the global transition mineral boom alongside democratic principles of community defined justice and equity which operates through strengthened human and environmental rights due diligence across the length of the green energy and technology supply chain guaranteeing that frontline communities hosting the raw materials are socially, environmentally, economically and culturally protected from mining and climate externalities. Daghang Salamat!

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 2: Transparency and Accountability: Ensuring Public Participation in Extractives
Panel Discussion and Open Forum

Moderator:

Ms. Maricor Anne D.G. Cauton

Director, Finance and Administration
ULAP

Ms. Cauton initiated the discussion by articulating the question to the panel members.

***Ms. Cauton:** With the level of CSO participation we have right now, as presented also to us, do you think CSO participation has been sufficient? If not, how can we reach out to more people?*

Assistant Secretary Toledo was the first to address Ms. Cauton's inquiry. He referenced the platforms provided by PH-OGP and DBM, yet ultimately expressed his belief that the level of participation fell short in his perspective.

***Asec. Toledo:** From our end, as far as the national government is concerned, I think we have already provided a platform that features the PH-OGP. Another one is, of course, from the DBM side, we are opening our, we have what we call the CSO desk, where CSOs or even citizens can also put their queries, concerns, as far as well, in particular, budget.*

Okay, so I guess from the question, I guess, I think it's not sufficient, because there's still a lot of things that we can do still. Right now, I understand also from the local government side, they have already opening up their offices or the government, as far as the local government is concerned, through also the CSO desk. They also have CSO desks.

But I guess from our end, as a matter of fact, we are engaging, the OGP is also promoting what we call the OGP Local Program, wherein local government can also be active member in the OGP under the OGP Local Program, wherein, of course, just like in the national government, they engage their civil society organization at the local level. So that's an opportunity for the CSOs to participate in governance.

Just to mention to you, maybe, because we have a hand-hold right now, as far as the OGP Local Program is concerned, particularly the Baguio City, Quezon City, Cebu City, Laoi City, Tagbilaran, and Bohol. So, I guess for those CSOs who are present today, you can engage your local government units as far as their commitment in terms of the participation in the OGP Local Program.

Dr. Magno suggested enhancing media engagement and advocating for increased civic education efforts in order to increase CSO participation.

***Dr. Magno:** I would like to recommend a stronger engagement with media, both national and local, as well as social media. Maybe also have some ambassadors or influencers. Because I'm thinking of SDG ambassadors. And lastly, what I mentioned, that civic education integrate these new practices in civic education. Of course, we need to adapt what is to be learned from these*

processes. Civic education, I think, is very important. And media, I think, will be a great platform for dissemination.

For Ms. Besmanos, the CSO participation is sufficient given that they already utilized several platforms available, however, the crucial concern lies in determining whether the voices of CSOs are truly being heard.

Ms. Besmanos:*In the context of engagement of the civil society, grassroots organizations, in the extractives, I think if the question, if it's sufficient, if it's meaningful, I think yes. I think most of our civil society present here can say they're even tired and exhausted of participating and engaging in whatever platforms that are present for them to engage.*

But I think the question is, are they being heard? Because there are a lot of platforms, but I think there is no incentive for the civil society to actively participate. Sometimes there are platforms, but the requirements to be able for them to participate is very high. Like even the accreditation of local people's organization, they don't have money.

And the government, I think, doesn't do enough to facilitate a good participation from the civil society. Some of the civil society P.O. organizations are here, and they even said when we visited their areas, they said, "we're old, but we're still not being heard." So where really, what is our problem? Because we can speak, there is freedom of organizing, there is freedom to speak, to rant on social media.

"The government allows us to speak, but it seems like we're not being heard" - that's what the civil society always says. Sometimes we say, let's KMJS that! Because if it's KMJS, LGU is active. If it's KMJS, the government agencies immediately go to the concerned. So where is our problem?

Maybe it's not in the participation of the people, but maybe it's in the habit of the government to be loud when there's a problem, but they'll just say it, and it'll be silenced. They'll also get old. So it hurts, but this is the truth.

If you go to communities that are impacted by mining, you can say, PH-EITI has been here for 10 years, but even I, we're old in our work, but it's hard to see the impact.

That's why we brought here the tribal leaders of Habonga and Santiago, who have been complaining for delayed payment of their royalties. The farmers and fisher folks of Dinagat Islands are here. They have been there complaining and sharing whatever they know, what issues they have.

There's still no answer. I hope that as soon as possible, maybe we should ask the right questions and we have to act. Thank you.

Asec. Toledo also shared how OGP did advocacy campaign in promoting CSO participation in various regions of the country.

Asec. Toledo: *Yes, I think, what can I say? Much has been done, but much has been has to do... We should do more. We're getting far, but we're still far from the goal. That's what I want to put in that. Just to let you know that as far as citizen participation, one of the initiatives being done by the DILG is on the monitoring part of the program, which is what we*

call the third-party monitoring, which engages the CSOs themselves. They are the ones giving the monitoring.

Aside from giving them incentives, at least there's participation for the CSOs. That is one already, the initiatives being done by the DILG. Also, in promoting, of course, our OGP, we go around the Philippines.

We have done our advocacy campaign as far as the OGP since the institutionalization of the OGP. That's why we went to different places to of course inform that citizens, there is a platform for you to engage. This is the OGP.

We've been to Cagayan de Oro, Davao, Baguio, Quezon City, and Limayon. I forgot the other ones. We're going around really to promote the OGP as a platform for the citizens to engage the government.

After the response of Ms. Besmanos and Asec. Toledo, Ms. Cauton shared an anonymous question inquiring about the mining areas with high poverty incidence.

Ms. Cauton: *The question is, may we know which mining areas have high poverty incidence?*

Ms. Besmanos was the sole respondent to the question, pondering how the portion of wealth allocated to local governments from mining industries was traditionally utilized for the benefit of the community.

Ms. Besmanos: *If you look at the data, the CARAGA region, except for other Benguet and Palawan, but Caraga region, that's, there's almost all, more than 50% of the active large-scale mines.*

If you look at the poverty incidence of the municipalities where the mines are located, the poverty incidence is higher compared to the national data that we have. So the question there is not about mining. It's hard to directly correlate this to mining, but maybe, the question there is how are the wealth shares that go to local government from mining industries used to go to the community? Because if we say that the tax of mining is small, yes, it's small, but if you zoom in, into each municipality and each IP organizations or IP communities, it's also big.

It's a significant contribution. But how it's used by our local chief executives, or how the plans are made, how it's implemented, that's where the problem is. It doesn't trickle down.

The next question was posed by Mr. Trillanes, a member of PH-EITI MSG from Cantilan, Surigao del Sur. He inquired about the involvement of CSOs in local development planning, the community's perception of the progress in EITI implementation, and the challenge of insufficient funding for CSOs.

Mr. Trillanes: *Yes, we agree that there are institutional mechanisms for the participation of civil society or even public people's organizations in the development councils in the local governments. But it is high time for us to look into the percentage of the civil society organizations that will be allowed to participate in local development planning. So as of now, under the local government code, that's only 10% of the accredited civil society will be invited to local development council meetings. And that will leave greater room for discrimination of the local*

government executives who will be invited during the local development council meetings. So that's one.

We see that there is really a need for us to look into these institutional mechanisms because we believe that the civil society should be, our treatment should be inclusive. Giving opportunity for all civil societies to express their sentiments over project applications or project operations in the area. So we see these problems. So aside from that, on the part of EITI, we also need to address our low-lying fruits that we saw during the strategic meetings. So how can we reach out to the country sides. So we may be able to see the progress of the implementation of PH-EITI in the country over a decade now, but the communities really are not sensing that. They do not see this as a development.

That's why in our previous strategic planning, we identified what are the mechanisms. For instance, the media that we have, the radios, the newspapers, regional or even provincial, why don't we utilize these? Because, you know, barrios really tend to listen to radios. FM radios or even AM also, these things really can help us disseminate information. The good news coming from the central government, especially in the implementation of EITI.

So on our end, it's really difficult for us, especially civil societies are lacking also funds. So it's also a high time for us to invite our funders, especially those in the island provinces, in Dinagat. There needs to be a capacity development interventions for them because even if they are invited to local development councils, if they are not capacitated, still that is a wastage of time. Thank you very much.

The response of Asec. Toledo revolves around their plan of revising EO 325 for the inclusion again of the sectoral representation in the committee.

Asec. Toledo: Okay. Thank you very much for that manifestation or comments as far as the participation of our CSO on our government sector.

We know for a fact that we have already institutionalized the mechanism as to the participation of the CSOs through the EO 325. Now we are looking at revising this EO 325, that is to include again the sectoral representation in the committee. So hopefully, we can include the Environmental Committee as one of the committee members in the RDC. So it is a good opportunity for us right now reviewing that EO 325 in the RDC composition organization is being now reviewed. Aside from that, I guess, you mentioned the capacity building. It's really true that there are a lot of, how could the citizens can actively participate when they know how to participate, that is one.

And for them to understand what is supposed to be, like for example, budget, they need to be capacitated. What is budget all about? Probably, we can probably give them a briefing as far as budget 101, how and how they can access information as far as budget is concerned. So capacity building is integral part of our advocacy as far as OGP is concerned. That's why we're going around the Philippines to really inform and capacitate our CSOs at the grassroots or lower level. So that's all I can say. Thank you.

Ms. Cauton expressed her gratitude to the panel members before addressing Sir Chito's point about enhancing CSO participation in PH-EITI activities. She emphasized this as a primary goal for mainstreaming and sub-nationalization initiatives.

And I think moving forward, 2024 onwards, PH-EITI will try our best to cater to more CSO representatives as we can, as we go down, because we're planning also to have roadshows next year, hopefully. So on my end, as an MSG member, I think that's how I can respond to the second question.

Asec. Toledo: *Yes, because you're right, Maricor. That is the commitment of the PH-EITI DOF, that sub-nationalization of the PH-EITI. So that's the commitment as far as the OGP National Action Plan.*

Ms. Cauton: *Regarding the question of Sir Chito, Asec. Roly added that right now, we have the CSO Academy already, that's a project by DILG and DBM, so previous day, we had a graduate from Region 12, so perhaps the CSO MSG members could explore having a partnership with DBM, DILG, CSO Academy.*

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 2: Transparency and Accountability: Ensuring Public Participation in Extractives

Reaction to the Transparency Talks 2

“ I think public participation is given, but how do we enhance it?”

Reactor:

Filomeno S. Sta. Ana III

Executive Director and Co-founder
Action for Economic Reforms (AER)
(represented by Mr. Rafael Rivera)

Mr. Rafael Rivera started by acknowledging the time constraints due to the nearing break and briefly mentioned that some points have already been covered previously. He identified himself as part of the Regulatory Reform Support Program for National Development. Mr. Rivera also shared some brief information about RESPOND.

RESPOND was extended for three more years and the mining sector was included in the portfolio. That's why last November 16, we had an MOU signing with representatives from DENR, DTI, DOF, ARTA, DILG, COMP with Atty. Ron, and PNEA. We also talked to NCIP. For sure, if there are interested groups here, we can discuss on how to collaborate further for this activity.

So RESPOND is essentially technical assistance on how to enhance market competition and strengthen regulatory capacity and governance.

Mr. Rivera highlights three key points gleaned from the distinguished speakers regarding the enhancement of effective public participation. He echoed how Dr. Ben emphasizes the significance of research, how Sir Gilbert from the MGB mentioned the available funds for this and Secretary Diokno's earlier discussion about open data for public scrutiny.

Just three things that I got from our distinguished speakers. I think the main message is how to enhance effective public participation. I think public participation is a given, but how do we enhance it? And as we listen to the presentations of the speakers, I think they said a lot on how to enhance it. But for me, there is three areas.

As a researcher, the importance of research is that when you participate and say, this mining site is good or this mining site is bad, without any data, without any picture, without any documents or scientific study or analysis, the best response you can get is: “Noted, we'll look into that”. They won't go back for sure.

But if you have pictures, if you have a study that is really thought through, scientifically prepared, there's a bigger chance of further engagement on how to address certain issues or how to implement certain programs and projects.

Mr. Rivera continued by highlighting the second area for enhancing effective public participation, which is capacity building.

He shared one of his favorite anecdotes from around 10 to 13 years ago, predating the mentioned programs. He recounts a time when individuals demanded transparency and accountability from the government, urging them to publish documents on their website.

The government responded, as you can see in Dr. Magno's presentation, there's a lot of green, meaning through the years, the important things was published, specifically budget documents.

Now, when it was published, there are people who are still not satisfied, they are not happy, and they were asked, why are you not glad? You have the documents already. Their answer is, "we cannot understand".

“So without capacity building, even if we give them a lot of documents, they will not be able to use it in a strategic or effective way.”

Even me, I have a background in accounting and budgeting, but the first time I saw a budget document that was so thick, I couldn't understand. So without capacity building, even if we give them a lot of documents, they will not be able to use it in a strategic or effective way. That's why I said earlier, how to use these studies, these documents, effectively?

Mr. Rivera reiterated the importance of capacity building, agreeing with Asec Toledo's earlier point on its significance. On his personal note, he added that manuals, and infographics created by various sectors would help communities understand data better.

Lastly, he then mentioned the partnership approach and shared approaches on how to engage.

We at RESPOND, we focus on this, we utilize this very effectively. There are many approaches on how to be engaged, but we believe that a partnership like this, like PH-OGP, PH-EITI, our MOU signing, so at the end of the day, of course, we have differences, we have issues that have not been solved, there are issues that have been solved, but as we said, 10 years have passed, then we have 10 years more, so there are new issues that need to be addressed, there are lingering issues that still need to be given attention to.

Mr. Rivera closed his presentation by reflecting on an interaction from the previous day's session, where an attendee expressed concern about an issue.

He emphasized that the shared concern is not directed at individuals but at the issue itself. He believes that everyone present is united in their commitment to addressing the challenges faced by communities. He expressed optimism about the potential for more venues like this and strengthening existing partnerships to effectively tackle issues within the mining sector over time.

I forgot the name, but I remember it very clearly, she was talking to Sir Gilbert, but I don't think he was shaking with anger at Sir Gilbert, but rather to the issue, and all of us, I think we are on the same page, we are shivering at the issue, right? We are not mad at people, at our government partners, at our industry partners, at our CSO partners, but on the issue, and that's a good thing. Because we know the issue and we know the impact on the community. And I think if we have more like this venue, if we strengthen the partnerships that we have already, slowly but surely, we can effectively address those issues on the mining sector.

Thank you, and again, thank you for inviting us here.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 3: Sustainable Development in Extractives
Gender and Sustainability in the Extractives

“We believe that women bring forth to the table a different perspective and different views that definitely will contribute to responsible mining.”

Atty. Joan D. Addaci-Cattiling
President
OceanaGold Philippines, Inc.

Atty. Addaci-Cattiling started with a greeting to PH-EITI and a brief reaction to the preceding discussions.

Happy Anniversary 10th Anniversary, PH-EITI!

What came to mind listening a while ago was “Malayo na, malayo pa.” Narinig ko ang voice ng mga CSOs, “Pagod na kami.” Pagod din kami sa industry pero hindi tayo pwede mapagod. For our communities and our stakeholders, we move forward. And PH-EITI gives us this platform, this forum, to come together and discuss matters.

Atty. Addaci-Cattiling started her presentation by showing the mine and ecosystem of OceanaGold Philippines’ Didipio Mine, which includes the communities, the mountains, and all the facilities. She then briefly introduced OceanaGold Philippines and its parent company, OceanaGold Corporation.

As you know, the Didipio gold and copper mine is being operated by OceanaGold Philippines. We are a subsidiary of OceanaGold Corporation, [a] Canadian-registered company listed at the Toronto Stock Exchange and with operations in New Zealand, the United States, and the Philippines, as well as rehabilitation in New Zealand.

Women in Mining

Atty. Addaci-Cattiling began her discussion of gender in extractives, specifically women in mining. She noted that a previous presenter touched on the topic in an earlier discussion by mentioning the 2021 data, which is that 14% of the workforce in mining is composed of women. Her data showed that it was around 12% in 2020. There was an improvement of about 2%, but mining still continues to be male-dominated. She noted the following.

We believe that women bring forth to the table a different perspective and different views that definitely will contribute to responsible mining. We probably heard stories that women were not allowed to go underground, but that was before. Now, the story is that we want women truck drivers [and] truck operators because they keep the tracks smelling good and [less damaged]. The story is different now.

Women Participation in the Industry

Atty. Adacci-Cattiling was happy to note that DENR Secretary Yulo-Loyzaga recognized the need to ensure women's meaningful representation in the mining industry, especially at all levels of decision-making.

The OceanaGold Way

Atty. Adacci-Cattiling shared the Didipio Mine's fair employment policy.

We have, in place, a fair employment policy. We believe that to be able to responsibly mine gold for a better future aligned with our company values, we [must] respect diversity in all forms. We are committed to diversity, inclusion, non-discrimination, and fair employment. And we believe that women in mining is part of that diversity, which gives our organization strength. With different backgrounds, diversity helps us create new ideas and find better ways of doing things.

Didipio Mine Workforce

Atty. Adacci-Cattiling then presented their workforce data as of October 31, 2023.

- Total OGPI Workforce: 835
- 23% of OGPI are women

Historically, we have been able to maintain 20% [women in the workforce]. Caveat: When we add, though, our security contractors, that's when the numbers get a little bit different; it gets less. But at least, for our OceanaGold workforce, we are able to maintain 20% plus women.

- Women comprise 53.3% of the management team

She then showed pictures of the women employed in the Didipio Mine, including Engr. Fedlyn Boquiren, their Superintendent for Water Management.

[Engr. Boquiren] is one of [the management team]. [She] makes sure that we don't get our underwater mine flooded and that all of our miners and all of our equipment underground are safe. They monitor water levels. She's one of our examples of women, not just in offices but are actually on the ground.

Atty. Adacci-Cattiling also emphasized the need to work with male colleagues.

Men are not the enemy, of course. We have to be able to complement each other and bring out the strengths to get the task done, not based on gender.

Speak Up Policy

Atty. Adacci-Cattiling presented the Didipio Mine's "Speak Up Policy" to empower women employees.

We have a very strong speak-up policy in this regard. We were able to make sure that all of our employees, including women, have access to 365 days, 24 hours a day for any complaints or any concerns not only on health and safety but [also on] women-related issues. I'm happy to say

that it's working. We actually get complaints, whether it be a comment by a colleague that makes someone uncomfortable or an actuation of a colleague that makes someone feel [unsafe]. We're very happy because this means that the mechanism is working.

Raniag Minera

Atty. Adacci-Cattiling noted that because there is strength in numbers, female employees of the Didipio Mine organized themselves and established “Raniag Minera” to allow women to help other women in their team.

Raniag in Ilokano means to shine brightly. With women coming together from different levels in the organization (rank and file, supervisory, whether in leadership roles or from the contractors' level), we come together and share learnings and concerns and learn from each other. That's why the tagline of our group is actually, “We mine, we shine,” and we're focused on programs [that] not only [empower] each other but also make sure that we do something for women in our communities.

“At the end of the day, there is the recognition that there should be more increased meaningful participation of women in the extractives. The bottom line is that there are things that are happening, there are things that are improving. But definitely, there can still be more that can be done in this front.”

Empowering women in communities

Atty. Adacci Cattiling then shared some of the Didipio Mine's activities toward empowering women in their communities.

- Encouraging women to get into stem courses through scholarships
It's 43% if we compare men and women in our scholarship programs pursuing STEM. It's a bit behind. We're going for 50:50, but 40%, I think [is] a good start.
- Alayan Abot-Palad Association in Capisaan, Kasibu, Nueva Vizcaya
They are an IP group of Tuwali and Ayangan who are promoting the art of traditional weaving as a sustainable livelihood opportunity. I think beyond the products that they produce is their contribution to the preservation of tradition, culture, and indigenous knowledge.
- Kasibu Coffee Growers Association, Inc. in Kasibu, Nueva Vizcaya
This was led by Manang Juliet, a single mother PWD who was able to see the benefit and potential of the coffee industry in the community of Kasibu. The association is now able to provide export-quality coffee products.

Atty. Adacci Cattiling ended her presentation with the following realization.

At the end of the day, there is the recognition that there should be more increased meaningful participation of women in the extractives... The bottom line is that there are things that are happening, there are things that are improving. But definitely, there can still be more that can be done in this front.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 3: Sustainable Development in Extractives

Environmental, Social and Governance (ESG) Initiatives

“That’s the reason why we have a 93% sustainable engagement score. We capture employee sentiment using ESG initiatives and craft our ESG narratives [with] the employees themselves [getting] interviewed. They are all part of this [ESG] journey.”

John Philip Orbeta

Chief Administrative Officer & Chief Risk Officer
AC Energy Corporation

Mr. Orbeta thanked PH-EITI for inviting AC Energy Corporation (ACEN), calling it a privilege to participate in the National Conference. He acknowledged that ACEN is not part of extractives as it deals with renewables, getting energy from the sun and the wind. He then outlined his presentation.

We’ll talk a little bit about [ACEN and renewables] and a little bit more about our ESG journey. As mentioned, I’m chief admin, and that includes being the chief HR officer, as well as risk. So I thought, as part of ESG, I wanted to talk about the importance of building an organization, a culture, that will actually embrace ESG. It is not just a matter of reporting, which a lot of people think ESG is about reporting [only].

ACEN is the renewable energy platform of the Ayala Group

Mr. Orbeta introduces ACEN as an Ayala company. It is one of the four pillars, or core businesses, of the Ayala Group, which includes the Bank of the Philippine Islands (BPI) Globe and Ayala Land. ACEN is the baby in the group, considering that it was founded and established only in 2011.

We’re only 12 years old as a corporate entity, but we’re already a member of the core pillar of the group of companies.

He then introduced some of Ayala Group’s other businesses. First are their emerging businesses, which include AC Health and AC Logistics, and then their portfolio investments, including Manila Water, iPeople, AC Infrastructure, AC Ventures, and AC Industrial.

Building the platform, from zero to 1,000 MW

Mr. Orbeta shared the first chapter of ACEN’s history from 2011 to 2015, in which ACEN’s platform mainly was in thermal or coal.

[In] the first five years, we started out as a portfolio investor. What that means is that we looked at partners and started investing in energy facilities. You will notice [that] a lot of it was on thermal, diesel plants. [In] 2011 and 2012, we had 78 megawatts (MW) of attributable capacity, but largely through diesel plants.

In 2013 and 2014, we increased that [by buying] a coal plant. We went from 78 MW to 717 [MW]. And then, by the end of 2015, we had about 976 [MW] or almost 1 gigawatt (GW) of attributable

capacity. But mostly, again, in thermal or coal. Diesel and coal [were] really our platform. We still had about 73 [MW] in renewables [from] a small wind farm in Ilocos.

Transforming to be Asia Pacific's leading renewables platform

Mr. Orbeta then shared the second chapter of ACEN's history, in which their platform mix dramatically changed. In 2016, ACEN began divesting its thermal assets while scaling up in renewables.

We now have facilities in Vietnam, Indonesia [and] Australia. We started to acquire other renewable platforms, specifically in Australia. As you can see, our mix goes from 2016 [at around 5%]. If you look at it all the way to the right, we are almost [at] 98% renewable. Not only that, if you remember the previous slide in 2015, we went from 1 GW [to] almost 5 GW, so five times the attributable capacity that we've built in just five years from 2016 to 2020. The more important thing about this is that we're now almost entirely renewable.

2030 Outlook

Mr. Orbeta presented ACEN's 2030 goal: to reach 20 GW of renewables capacity by 2030. He claimed they are being more ambitious as they have already hit their 2025 goal of 5 GW two years ahead of schedule.

From 5 GW to 20 GW, that's a 4X increase from where we are today to our goal in 2030. So, we will actually be the fastest-growing renewable energy platform not just in the Philippines but also in Southeast Asia. It's a very bold [and] aggressive ambition, but I think that's the strength now of our values. We call [our values] "ABCD." We Aspire, we set very ambitious goals. We Believe, we believe [that] we can do it. We Collaborate, and we work together. And D, [we] Deliver, we make sure that we execute. And we have had a very strong track record of actually meeting our ambitions. We [launched] our 2030 vision last August, we rallied the whole company, and we are making that commitment.

ACEN Sustainability Roadmap

Mr. Orbeta began his discussion of what he viewed as the heart of what he was asked to talk about, ACEN's ESG initiatives. He first recapped what he has already discussed previously, their focus on building affordable and reliable power in the Philippines in the first chapter of ACEN's history, with 90% of their platform consisting of fossil fuels. He then discussed ACEN's pivot to renewables during the second chapter of ACEN's history, which started in 2016. Mr. Orbeta further expounded on the rationale of ACEN's sustainability roadmap, citing the energy transition.

With a stronger demand for sustainable investments, we found out that many companies were willing to invest and partner with us because of our commitment to renewables. That was number one. Number two, we found that many banks [and] insurance companies did not want to invest in companies that were going to build more coal or thermal plants. So what we're calling the energy transition was starting to happen as early as 2016/2017. That is what made us transform into becoming a fully renewable company in 2019.

Mr. Orbeta then talked about some highlights in terms of ACEN's implementation framework and some of its flagship programs in their different plants.

2019 milestones

- Raised around \$1.8 billion of green bonds, i.e., capital that has been raised in the capital markets that are exclusively used for green or renewable energy (2019 – 2022), which, according to Mr. Orbeta, is attractively priced and gives a lower cost of financing;
- Launched ACEN's environmental and safety policy, with a commitment to Zero Coal by 2030;
- Had the goal of 5 GW renewables capacity by 2025;
- Biodiversity conservation in about 626 hectares;
- Circularity approach in their Alaminos Solar plant in Alaminos, Laguna, where all materials are recycled, reinvested, and reused;
- Planted about 216,000 trees.

2020 milestones

- One of the first companies to make a bold aspiration as an energy company to be Net Zero by 2050, an important message to the communities and stakeholders that ACEN was serious in their commitment to become fully renewable;
- Created an ESG committee, chaired by Mr. Orbeta, and a sustainability committee;
- Created the Health, Safety, Security and Environmental Policy under Mr. Orbeta's Risk Management Group;
- Aligned with the Task Force for Climate-related Financial Disclosure (TCFD) by using their framework;
- Biodiversity conservation went from 626 hectares to 1,000 hectares;
- Introduced circularity approach across all projects;
- Planted about 540,000 trees.

2022 milestones

- Pioneered the energy transition mechanism;
- First company in the world to commit to shutting down its coal plant, the South Luzon Thermal Energy Corporation (SLTEC), located in Batangas and established in 2015, 25 years ahead of its useful life;

We actually went through the market through an energy transition mechanism (ETM) to shut that down by 2040, 25 years ahead of schedule. By doing so, we will avoid almost more than 50 million tons of carbon emissions. And that is where we were able to get good financing. That's why it's called energy transition mechanism, to actually make that transition and make that commitment to shut down the plant [and] convert it to cleaner technology.

- Created ACEN's Net Zero by 2050 Road Map;
- Launched ACEN 2030;
- 98% renewable share;
- Biodiversity conservation doubled to 2,000 hectares;
- Agrivoltaics in ACEN solar sites;
- Planted 730,000 trees, with a goal of hitting a million trees by next year.

Mr. Orbeta expounded on ACEN's commitment to Net Zero GHG emissions by 2050.

Basically, we will have zero greenhouse gas emissions by 2050 or earlier. That's a commitment that we've already made and announced. The team milestones for that is the transition by 2025 to be 100% renewable. And, like I mentioned earlier, we already completed the first market-based energy transition for our 246 MW coal plant by 2040.

Measuring ESG

Mr. Orbeta shared some of ACEN's ESG highlights based on the metrics they use for reporting to the board.

- Around 4,500 GWh of attributable output from renewable sources;
- Around 3 million MT of carbon emissions avoided;

Environment

- Completion of the first market-based Energy Transition Mechanism (ETM) in the world;
- Completion of the Net Zero Roadmap that outlines near-term scope 1, 2, and 3 GHG emissions reduction targets aligned with climate science 1.5°C pathway;
- Around 2,100 hectares of nature habitat areas protected and around 731,000 trees planted;

Social

- 731 employees with a 93% annual engagement score and a 95% top talent retention rate;
- Clost to 40% women in the ACEN workforce;
- Almost 20,000 jobs created in the community and about 123 million community investment;

Governance

- In November 2021, ACEN established a board-level Sustainability Committee and an executive-level ESG Committee. An executive-level Risk, Health and Safety Committee provides oversight of operational safety and sustainability risks;
- About 39% women in leadership positions.

Mr. Orbeta then presented the framework ACEN uses to monitor ESG factors.

Environmental Factors Carbon/Greenhouse Gas Emissions

- Ecosystem Change
- Fossil Fuel Dependence
- Climate Change
- Water Issues (Use, Access, Impact on Local Supply)
- Clean Tech
- Toxic Chemical Usage
- Renewable Energy

Social Factors

- Diversity
- Consumer Protection
- Fair Trade
- Supply Chain Due Diligence
- Human Rights
- Health Care
- Working Conditions (Living Wage, Harassment, Physical Rates)
- Child Labor

Governance Factors

- Transparency
- Cyber and Data Security
- Executive Compensation
- Shareholder Rights
- Board Accountability and Makeup
- Director Independence
- Accounting Practices and Policies
- Voting Practices

He also listed some rating agencies that grade ACEN in terms of sustainability as a public company. Mr. Orbeta shared that whether ACEN wants it or not, these agencies will score ACEN. So, it would be better to look at how ACEN scores so they know how to improve. He cited ACEN's improvement in MSCI's scoring from a baseline BB score to a current BBB score.

As I said, we were surely caught by surprise about two to three years ago when all of a sudden, we got a letter [that] said you had been scored, and this is your rating. So we had to now understand what those ratings were, and that's why we have the framework that I showed you earlier. We look at climate ambitions and our progress, and we track and report this. So we have a sustainability report that we do, and we actually make the submissions.

Mr. Orbeta then shared some of the different frameworks for reporting that ACEN uses for disclosures, which include TCFD, Sustainable Accounting Standards Board (SASB), Global Reporting Initiative (GRI), Integrated Reporting (IR), Sustainable Development Goals (SDG), and FTSE4Good.

ESG Initiatives of Human Resources (HR)

Mr. Orbeta talked about how ACEN ESG initiatives are embedded in all their HR programs, from talent acquisition to talent retention and development.

As a group, we review and align our policies [to our] values and priorities. We implement programs in the workplace to raise awareness. That's the reason why we have a 93% sustainable engagement score. We capture employee sentiment using ESG initiatives and craft

our ESG narratives [with] the employees themselves [getting] interviewed. They are all part of this [ESG] journey.

He then presented ACEN's holistic and inclusive learning and development framework.

- Education or formal learning (30%)
- Exposure or learning from others (20%)
- Experience or learning on-the-job (50%)

All of this is part of making sure that everybody gets to know what it is we're trying to do. And [for] each employee, we have some development plan, [with a] part of their career discussions [involving] where they want to go as a next step in their careers. [We also have] targeted programs that's really aligned with specific individual development goals.

"It's important for the artifact. Sabihin niyo corny or whatever, but iba 'yung magsusulat ka, ilalagay mo pangalan mo, at ididikit mo sa puno na ito ang commitment mo from an ESG standpoint."

Mr. Orbeto then showed a picture of one of ACEN's commitment trees installed in most facilities. Employees can make a commitment visible with the commitment trees by writing their pledges and sticking them to the tree.

It's important for the artifact. Sabihin niyo corny or whatever, but iba 'yung magsusulat ka, ilalagay mo pangalan mo, at ididikit mo sa puno na ito ang commitment mo from an ESG standpoint.

He ended his discussion by showing ACEN's video presentation for their ACEN 2030.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 3: Sustainable Development in Extractives
Best Practice in Sustainable Mineral Development

“Pwede pala! As we have always insisted, there are responsible and irresponsible mining operations. It is the government’s task to help responsible mining operations and to crack down hard on the irresponsible ones.”

Jose Bayani Baylon

Chief Sustainability & Chief Risk Officer
Nickel Asia Corporation

Before starting with his presentation, Mr. Baylon shared some personal experiences with ACEN and Ayala, such as being the executive assistant for Enrique Zobel for 15 years and that his family in Alaminos, Laguna, has had dealings with ACEN.

ACEN is also special to me because you were the guys who brought up my relatives’ coconut farms in Alaminos, Laguna... Now I think you’ll be the biggest taxpayers in our town. Thank you.

His presentation began with a picture that he claimed showed perhaps one of the cleanest rivers in the country, located in Puerto Princesa. He joked that swimming in the river would result in death, not by pollution, but by crocodiles.

Rio Tuba Nickel

Mr. Baylon introduced the Rio Tuba Nickel Mining Project (RTN), the main subject of his talk. He talked about the founding of Rio Tuba and the importance of community building.

So it takes about three hours on [a] beautiful road from Puerto Princesa to Rio Tuba. But when they first discovered this, you needed two days. Thus, it was important that a community be built in Rio Tuba, which had more mosquitoes than people, in order to attract UP mining engineering graduates to move from Manila to Puerto Princesa.

He presented RTN’s expenditures and payments in 2022. His slide presentation also claimed that RTN is consistently one of the largest taxpayers in Palawan.

I’d like you to look at what we spent in royalties to indigenous peoples in Palawan. That’s 67 million pesos in one year, something they won’t find even if they dig. And we are proud of that number. It’s a number which has been dwindling over the years because Rio Tuba is coming close to its end life, but it is a number which has transformed the community, as you will see in the next slide.

He then showed pictures of the Bataraza Town Proper in the past, comparing them to photos of the Bataraza Town Proper now, together with their RTN Hospital, Leonides S. Virata Memorial School, and the LSVMS iMac Laboratory.

This is the community I said we built in order to fool people [into moving] to Bataraza from Manila. You had to not only build the whole housing for them, but you had to bring their wives. When you bring their wives, you need to bring their kids. And therefore, you had to have a school, you had to have a playground, you had to have a community center, and voila, you have a townsite. Today, Bataraza is the richest LGU in all of MIMAROPA, with the exception of Puerto Princesa... When I first visited Rio Tuba in 2012, I was shocked to find a computer lab with 50 iMac computers. Because in UP IS, we never even had one. In fact, today, there are two computer labs because, in the beginning, high school and grade school students would fight over 50 computers. So we decided to build a second one just for high school alone.

Pwede pala!

Mr. Baylon also showed pictures of Former DENR Secretary Gina Lopez visiting the RTN Mine Site in 2016. According to him, what happened during this visit was what he called the greatest proof that Rio Tuba is a good example that responsible mining exists.

In 2016, the Former Secretary of Environment, Gina Lopez, was convinced by her good friend Gerry Brimo, with whom she had a run-in a few years back, to visit Rio Tuba. And she famously said, "Pwede pala!" As we have always insisted, there are responsible and irresponsible mining operations. It is the government's task to help responsible mining operations and to crack down hard on the irresponsible ones. And we are very grateful that she came. In fact, she planted a tree, and the tree remains a memorial to her visit.

Track record of excellence

Mr. Baylon listed all the awards RTN has received over the years as proof of their achievements.

- First ASEAN Mineral Awards (2017)
- Presidential Mineral Industry Environment Award (2002, 2003, 2015, 2018 & 2020)
- Platinum Achievement Award (1999, 2000, 2001, 2010, 2016)
- Titanium Achievement Award (1998 & 2009)
- Surface Mining Category – Best Safety Inspector Mr. Jeffrey Pizarro (2014)
- Surface Mining Category – Platinum Achievement Award (2014)
- Quarry Category – Platinum Achievement Award (2013)
- Best in First Aid Competition (2019)
- 3rd Runner Up, Best Mining Forest Program (2019)
- PMIEA Selection Committee (SC) Platinum Achievement Award, Surface Mining Operation Category (2022)
- PMIEA SC, Titanium Achievement Award, Quarry Operation Category

We are proud of the fact that the winner of the first ever ASEAN Mineral Award was a Filipino company. We were the best mining company in all of Southeast Asia, and I think that is a testament not only to Nickel Asia and Rio Tuba, but also to the DENR and MGB for how they've been able to monitor what we've been doing over the years. And also testament to what we have been doing over the years are the major awards we've been receiving.

He also talked about Nickel Asia's launching of its sustainability ESG journey at the height of the pandemic in 2020, led by Mr. Baylon himself, submitting themselves to a rating by Sustainalytics.

Our initial rating was [a] severe risk, with a grade of 40. I cautioned the management team that when we submit ourselves to a rating by Sustainalytics, it's going to be very bad because it's like the first executive check-up we will ever undergo. What is important is [that] we will know what is wrong and what we have to do. As a result, in the last two years, we have been able to lower that rating from 40 to 33.7, putting us at the lower end of high risk and on the border of moderate risk, where the best mining companies in the world are.

“The journey, especially for a mining company, to a sustainable ESG future is not easy. And we have offered ourselves as the guinea pigs to the industry... and it is part of our commitment to an organization like EITI to be as transparent about the journey as possible.”

Mr. Baylon also shared some of Nickel Asia's ESG policies and programs, which include a board-level anti-bribery policy, a diversity program, and a risk management team.

I'm also proud of the fact that we're the first company [that] has formally approved a board-level anti-bribery policy, which was scoffed at by many colleagues. We also have a diversity program. In fact, the very first female large-scale mining manager was the manager of Rio Tuba. Her name was Cynthia E. Rosero. She's now a senior vice president of the company. We have also appointed a risk management team.

Mr. Baylon ended his presentation by reiterating what Former DENR Secretary Lopez had said: “Pwede pala!” He pointed out that a mining company's journey toward a sustainable future may be challenging. Still, Nickel Asia has already offered itself as the guinea pig to the industry.

The journey, especially for a mining company, to a sustainable ESG future is not easy. And we have offered ourselves as the guinea pigs to the industry. We are finding what is to be done, we're finding that there are many low-hanging fruits, but there are many tough things to do to achieve it. But as part of the journey to 2050, it's a commitment by our president, Dennis Zamora, backed up by the board, and it is part of our commitment to an organization like EITI to be as transparent about the journey as possible.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 3: Sustainable Development in Extractives

Reaction to Transparency Talks 3: Sustainable Development in Extractives

“There are already clear initiatives already set... but we need to upscale and replicate them to levels that result in very inclusive national economic growth in an environment that continues to support desirable human flourishing.”

Enrique L. Tolentino, Jr., PhD

Professor

College of Forestry and Natural Resources

University of the Philippines – Los Baños

Dr. Tolentino could not attend the conference in person due to an illness. As such, he provided a video reaction to PH-EITI.

Dr. Tolentino started with a greeting to all the participants, speakers, and the rest of the extractive industry stakeholders in attendance, expressing his sincerest regrets that he could not deliver his reaction in person. He also congratulated PH-EITI on its 10th year anniversary and the speakers for the 3rd session of the Transparency Talks for their excellent presentations.

Allow me to congratulate PH-EITI in its 10 years of vibrant existence, with its national and global thrust in enhancing the governance across the Philippine extractive industry sector. Secondly, allow me to congratulate the three distinguished speakers in this transparency talks 3 for [their] very excellent presentations on sustainability in extractives.

He then provided a brief overview and some commentaries on the three presentations. Dr. Tolentino then deduced that the UP Los Baños – College of Forestry was asked to react to this specific set of presentations due to the college’s close association with the three presentations, citing his previous visits to OceanaGold and Rio Tuba as part of his work in the MICC review and the college’s forest restoration work with ACEN.

Dr. Tolentino then shared that his reaction will constitute him emphasizing what was presented in terms of sustainability development in three realms: (1) sustainability development in forest and landscape restoration, a primary concern of his college and university; (2) sustainability development in promoting economic development balanced with conservation goals; and (3) sustainability development in mitigating and adapting to climate change.

Ecosystem Restoration and Degradation

Dr. Tolentino described how ecosystem restoration is achieved in the spectrum of where restoration managers would try to reduce societal impacts. The result would be an improvement of ecosystem management through repairing the ecosystem functions by initiating native species recovery. Subsequently, this process should initiate the recovery of the ecosystem until native ecosystems are fully recovered and set in place.

This simply sums up how all the restoration efforts could be done from the disturbance that may result from the extractive industry operations. Therefore, this is what we want to achieve so that we can eventually have sustainable development.

He then showed the spectrum of degradation from various agents. Dr. Tolentino noted that most of the degradation is caused by the extractive industry. As such, it is expected that we can associate the most intense and expensive restoration approaches in areas affected by mining.

This slide is not just to blame the industry but to properly put into perspective the enormous responsibility expected of the industry, particularly in achieving sustainable development.

Dr. Tolentino pointed out that the discourse on restoration and sustainable development stems from the contentious debates surrounding the detrimental impacts of extractive industries, which resonate both domestically and globally. He emphasized that sustainable economic advancement is intrinsically linked to preserving a thriving environment. Dr. Tolentino underscored the importance of balancing economic goals and environmental priorities, necessitating constructive negotiations among stakeholders. He highlighted PH-EITI as a valuable platform for generating information and fostering transparency in the extractive industries that can help facilitate meaningful dialogue among stakeholders.

Forest and landscape restoration is founded on the principle of balancing the achievement of both economic targets vis-a-vis environmental objectives. The balance is achieved through delicate negotiations among concerned stakeholders, and EITI presents itself perfectly as an excellent platform where the continued generation of information and transparency is achieved through its regular reporting and publications of relevant economic and environmental data and information about the extractive industry.

6 Principles of Forest and Land Restoration

Dr. Tolentino discussed six out of thirty-six guiding principles of forest and land restoration that were, in some ways, reflected in the three presentations of Transparency Talks 3. He believes that, when adequately incorporated into the extractive industries, these principles will help achieve sustainable development.

- P1: Focus on landscapes
- P2: Engage stakeholders and support participatory governance
- P3: Restore multiple functions for multiple benefits
- P4: Maintain and enhance natural forest ecosystem within landscapes
- P5: Tailor to the local context using a variety of approaches
- P6: Manage adaptively for long-term resilience

Dr. Tolentino emphasized the need for P6, especially with climate change wreaking havoc on lives and properties. He noted the importance of the extractive industries in the shift to renewable energy and its restoration of mined-out sites.

The extractive industries are a major source of a variety of raw materials to support the shift to renewable energy. ACEN has presented its initiative in renewable energy... Rio Tuba Mining and OceanaGold are likewise producers of important minerals to support the

components of the industries in the renewable energy supply value chain, as well as the many other extractive industry players in this gathering.

Dr. Tolentino concluded by urging the replication and expansion of the commendable initiatives already undertaken by numerous extractive companies, which will contribute to sustainable national economic growth.

There are already clear initiatives set in place among them, which many of our extractive industry players have initiated and have made in their respective places or sites. But we need to upscale and replicate them to levels that result in very clear inclusive national economic growth in an environment that continues to support desirable human flourishing.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 3: Sustainable Development in Extractives
Panel Discussion and Open Forum

Moderator:

Ladylyn L. Mangada

Professor

University of the Philippines – Tacloban

Professor Mangada began the session by noting that they could only accommodate two questions from the floor due to time constraints.

The first question came from Elizabeth Ibañez, the DRR-CCA officer of Bayay Sibuyanon, Incorporated. She addressed her question to Mr. Baylon of Nickel Asia Corporation. Ms. Ibañez's question was about what actions Rio Tuba can take to ensure that the members of the affected local community, especially the Indigenous Peoples (IPs), can benefit from all the programs the company offers. She noted that at least one of the IPs in the local area has claimed not to know and even has no access to the IP royalties paid for and the development programs provided for by Rio Tuba.

***Ms. Ibañez:** Good afternoon, I'm Elizabeth Ibañez from Bayay Sibuyanon incorporated. Im the DRR-CCA officer. I would just like to address my questions or query or information to Sir Baylon from Rio Tuba.*

Last 2018, [I] and some other women leaders from different parts of Asia were lucky to visit Rio Tuba. I happen to interview some members of the [local] community. [According to an IP member], they don't even know that they are receiving royalties from your company... According to the locals, very few members of the community have a chance to occupy the housing projects [offered by Rio Tuba] because you are offering those to the workers of the company. According to them, it is known knowledge that most of the IPs here in our country don't have [the necessary documentation] to be employed in a company. My concern is, being [branded] as the most responsible mining company in the country, what can Rio Tuba do [for] the members of the community that have been displaced, who have been forced to transfer their farms to far areas because [of Rio Tuba occupying their original locations], [to benefit] from all the programs you are giving the community like schools. According to them, most of their children have not even had the chance to study there. That's all, thank you.

Mr. Baylon responded to Ms. Ibañez by confirming that the company has not reached 100% of the community. He also said that all funding the company provides to the community goes through the proper process, including the National Commission on Indigenous Peoples (NCIP) for the IPs. Mr. Baylon considered the possibility that the IP interviewed by Ms. Ibañez may not be part of any organization recognized by the NCIP. He added that no organization receives the funds unless certified by the NCIP.

***Mr. Baylon:** Thank you for the question. I'm sure that we have not been able to reach 100% of the people in the community. That's a given. Secondly, the funding, which is released by any responsible company on IPs, is funding [that goes] through the proper process, including the NCIP. Therefore, the organization to which the funding is given, the [IP Development Office] (IPDO), is the organization recognized by the NCIP. I am not aware of who you spoke to or if*

[he's] part of the official organization of the IPs in the community. It's possible that he is not, and that could explain why.

We do have housing in the community, but we have two types. One is in the town site, which is meant for the employees who were invited to work. But we also have a Gawad Kalinga project where we built 500 houses for the community. Now, it is important to realize that the IPs in Palawan are nomadic, unlike the IPs in Mindanao, for example. Therefore, many of them do not wish to accept a Gawad Kalinga house because it goes against [their] nomadic [system]. We also cannot offer a house for every IP in the community. It is also true that when you have a community like that, more people who are not part of the original population [come].

We also have an [Alternative Learning System] (ALS) school for IP communities. Now, I do not know if the person you spoke to has ever applied for it, but we have had over 1,000 graduates of the ALS for IPs. Again, it is possible that the person you spoke to is one of those who were not part of the people who have benefited because we can never benefit everybody. But again, none of the funds which were released, and EITI knows this, are released, not through official channels like the NCIP. No organization received funds unless properly certified by the NCIP.

Professor Mangada then asked if there were any attendees from the NCIP to help shed some light on the question raised by Ms. Ibañez. However, there were no NCIP representatives in the audience at that time. After this, Mr. Chito Trillañes, a PH-EITI MSG member, was given the chance to weigh in on the discussion. He expressed his concerns about the non-participation of NCIP in this discussion, emphasizing the need for PH-EITI to reach out to the NCIP to give justice to mining companies paying their royalties to the community.

Mr. Trillañes: *Yes, we are worried about the non-participation. The last time around, together with Sir Baylon, there was a presentation for the legal framework for the community resource development program of the NCIP. So we cannot track the progress of that presentation. I'm working in the CARAGA region, and that's really the dominant sentiment of the IPs, that the royalty payments are mostly allocated among the leaders. Those [that] do not have the opportunity to access these powers and resources are left behind. So it's really important that we reach out to the NCIP because we want to give justice to companies that are really paying their royalties to the community. So sana we can reach [them] because the bottomline is, once there are aggrieved parties, social unrest will prevail over the community and that will disrupt operations. And not only operations, but the whole peace and order situation of that community will be affected. Thank you po.*

In the interest of time, Professor Mangada ended the session for Transparency Talks 3: Sustainable Development in Extractives. She encouraged all participants to listen to the next session of transparency talks. On behalf of PH-EITI, she thanked the speakers and reactors for their contributions to the conference.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 4: Navigating the Legal and Regulatory Landscape of the Extractives
Environment Regulations Concerning Extractives

“I just want to take [note of] the importance of progressive rehabilitation. Rehabilitation should start from explorations before the final mine rehabilitation.”

Engr. Teoderico A. Sandoval

OIC-Assistant Director
Department of Environment and Natural Resources –
Mines and Geosciences Bureau

Engr. Sandoval started with a greeting to all participants and PH-EITI for its 10th Anniversary. He then presented the outline for his presentation:

- MGB mandate
- Environmental requirements
- Recent policy issuance
- Proposed policy amendments

MGB Mandate

The MGB is the primary government agency under the DENR responsible for conserving, managing, developing, and properly using countries’ mineral resources under the Republic Act 7942 or the Philippine Mining Act of 1995 and its revised implementing rules and regulations. Generally, the stages of mining operations start from exploration to development to product utilization and the final mine rehabilitation and decommissioning. Engr. Sandoval noted the importance of progressive rehabilitation before the final mine rehabilitation.

Environmental responsibilities

Engr. Sandoval discussed the environmental responsibilities for each stage in mining operations, which include exploration, development, production, and the final mine rehabilitation and decommissioning.

I just want to take [note of] the importance of progressive rehabilitation. Rehabilitation should start from explorations before the final mine rehabilitation.

- Exploration
 - Environmental Work Program (EWP)
 - 10% Exploration Expenditures
 - Rehabilitation of explored areas
 - Pollution control
 - Campsite rehabilitation
 - Drill site rehabilitation

- Safety and Health Program (SHP)
- Community Development Program (CDP)
- Development
 - Environmental Compliance Certificate (ECC)
 - Environmental Protection and Enhancement Program (EPEP)
 - Erosion Control
 - Tailing dam/pond construction (may be needed based on the nature of the deposit and the processing)
 - Storage of hazardous chemical management
 - Mine Rehabilitation Fund (MRF) & Monitoring Trust Fund (MTF)
 - Social Development and Management Program (SDMP)
 - SHP
- Production
 - EPEP
 - Tailings pond/dam management
 - Siltation ponds, particularly for nickel mines
 - Reforestation
 - Hazardous wastes management
 - Slope stabilization
 - SDMP
 - SHP
- Final mine rehabilitation & Decommissioning
 - Final Mine Rehabilitation and Decommissioning Plan (FMRDP)
 - Even at the beginning of the proposals, a projection of what the mine area will be after the mining operation should be presented by the contractor
 - Removal of infrastructures
 - Rehabilitation of all mine sites
 - Remediation/removal of all potential sources of contaminants
 - Maintenance of tailings dam
 - Final Mine Rehabilitation Development Fund (FMRDF)
 - SHP

He also emphasized the environmental requirements for mining operations.

- Certificate of Environmental Management and Community Relations Record (CEMCRR)
- Environmental Work Program for Exploration (EWP)
- Environmental Impact Assessment (EIA)
- Environmental Compliance Certificate (ECC)
- Environmental Protection and Enhancement Program (EPEP) and Annual EPEP
- Final Mine Rehabilitation and/or Decommissioning Plan (FRM/DP)

He then talked about the environmental guarantee fund mechanism required of mining companies, namely the Contingency Liability and Rehabilitation Fund (CLRF) administered by the CLRF committee. Under the CLRF are the following:

- Environmental Trust Fund (ETF), with no fixed amount but a minimum of PHP 50,000
- Mine Rehabilitation Fund (MRF), under are the following:

- Rehabilitation Cash Fund (RCF), which is 10% of the total amount needed to implement the EPEP or PHP 5 million, whichever is lower
- Monitoring Trust Fund (MTF), maintained at PHP 150,000 per quarter
- Mine Waste and Tailing Fees Reserve Fund (MWTRF), which is PHP 0.05MT of mine waste and PHP 0.10/MT of tailings
- Final Mine Rehabilitation and Decommissioning Fund (FMRDF)

Engr. Sandoval also presented updates on the financial commitments and expenditures for the environmental programs as of June 2023.

- EPEP Program Fund: commitment of PHP 386 billion with PHP71.6 billion utilized
- Final Mine Rehabilitation and Decommissioning Fund: commitment of PHP 6.5 billion

He also shared the Mining Forest Program Accomplishment of mining companies:

- 48.956 million seedlings planted
- 40,546 hectares area planted
- 44.089 million trees survived
- 89.89% survival rate

Policy Issuances

Engr. Sandoval then discussed the policy issuances concerning the extractive industries' environmental regulations.

1. Executive Order (EO) 130
 - Section 1. Lifting of the moratorium on mineral agreements under Section 4 of EO 79 (EO 79, s. 2012 still subsists; only Section 4 of EO 79 was amended)
 - Section 2. Formulation and strict implementation of Mine Safety and Environment Policies
2. Department Administrative Order (DAO) 2021-25. Implementing rules and regulations of the EO 130, amending Section 4 of EO 79, s. 2012
 - Grant of New Mineral Agreements (MA)
 - Rationalization of existing revenue-sharing schemes and mechanisms
 - Declaration of areas covered by MAs to mineral reservations
 - Mine Safety Environment and Social Development Policies
 - Engagement of Local Government Communities
3. DAO 2021-40. Lifting of the Ban on the Open Pit Method of Mining for Copper, Gold, Silver, and Complex Ore in the Country and Providing for Additional Enhanced Parameters and Criteria for Surface Mining Methods

The importance of [DAO 2021-40] is to establish an enhanced parameter and criteria for the type of surface mining method under the DMPF to address the environmental and safety issues of the surface mining method, particularly open-pit mining. Also, the mining operations will be able to avoid or at least mitigate the accelerations of acid rock drainage, reduce the use of freshwater resources, avoid or mitigate the disruptions of the water table, and reduce

the risk of perpetual maintenance or liability associated with the surface mining method to be used.

It's required [that] the proponent that has submitted and presented appropriate programs for surface and subsurface slope-stability monitoring of potential slope failures and should assure the mitigations of the effects thereof and the safety of their personnel, community, infrastructures, and equipment. And that the proponent has accumulated sufficient geological data to conduct proper and accurate assessment of local geology, rock mass characteristics, and hydrogeology, which are important in relation to groundwater sources, either from the surface hydrology or to the possible aquifer system in the area.

4. DAO 2022-04. Enhancing Biodiversity Conservation and Protection in Mining Operations
 - Identified Biodiversity Conservation Measures in Mining Operations (Exploration, Development, Utilization, and Mine Closure)
 - Establishment of Reference Ecosystem in the mining areas
 - Integration of Biodiversity Conservation in Social Development Management Program (SDMP)
 - Inclusion of the Biodiversity Management Bureau (BMB) and the Ecosystems Research and Development Bureau (ERDB) in relevant committees (CLRFSC, MRFC, and MMT)
 - Utilization of Biodiversity Assessment and Monitoring System in mined-out areas and environmental structures (TSF)


Pilipinas lang ang mayroon nito so far, [na] talagang nag-craft ng DAO in enhancing biodiversity conservations and protections in mining operations.

5. MGB Memorandum Order (MMO) No. 2022-006. Clarificatory Guidelines on the Grounds for Revision of the Environmental Protection and Enhancement Program (EPEP) and Final Mine Rehabilitation and/or Decommissioning Plan (FMR/DP)

A revised EPEP and the FMR/DP shall be required for the application of contract permit area, such as consolidating two or more mining contract permits, appending mining applications that are ready for development utilization, and appending additional areas covered either by an exploration permit or another contract under exploration period. Second is [for] the renewed contract permits with ongoing operation and or exploration activities. And third is [for] the amendment of the issued ECC, due to any major modification to the project description as provided under the DAO 2003-30.

6. MGB Memorandum requiring Contractors/Permit Holders to adopt Drip Irrigation Technology and Sediment Influx Study in the AEPEP

“We will help them achieve sustainable growth [through] the development of an effective environmental management system, similar to the large scale. And, of course, institutionalizing an EMS or environmental management system shall ensure adherence of local mining operations to internationally acceptable standards.”



Engr. Sandoval presented the accomplishment as of June 2023 on DAO No. 2018-19 (Guidelines for Additional Measures for Operating Surface Metallic Mines). Specifically, for their policy on the temporary rehabilitation program, only one regional office was shown to be non-compliant.

He also discussed the proposed DAO 2018-19 amendment, which required the non-metallic contractors to undergo ISO certification.

We will help them achieve sustainable growth [through] the development of an effective environmental management system, similar to the large scale. And, of course, institutionalizing an EMS or environmental management system shall ensure adherence of local mining operations to internationally acceptable standards.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 4: Navigating the Legal and Regulatory Landscape of the Extractives
Proposed Mining Fiscal Regime

“We have the greatest mineral potential, but in terms of policy perception, that will determine if investors will actually invest in the Philippines, we have one of the lowest.”

Karlo Fermin S. Adriano, PhD
OIC-Undersecretary
Department of Finance

OIC USec. Adriano provided an update on House Bill (HB) 8937, which has already passed the lower house. As such, the discussion for the mining fiscal regime is now in the Senate.

Mining industry potential

OIC USec. Adriano presented an overview of the mining industry, focusing on the Philippines' abundant mineral resources and high mineral potential. He emphasized that despite having 9 out of 30 million hectares of the country being identified as having high mineral potential, only 779,000 hectares, or 2.6%, are covered by mining tenements as of June 2023.

And yet, kahit 2.6 percent lang siya, we're the number one exporter of nickel in the world. And we will become one of the largest producers of copper by 2026 with the opening of Tampakan, with an additional 400,000 metric tons of copper produced annually for around 17 years. I just want to point out one study by the Australian government, if I'm not mistaken, that [says] our mineral potential is around 1 trillion dollars.

OIC USec. Adriano also explained the rationale for reforming the Philippine mining fiscal regime, citing the Fraser Institute mineral potential index and the policy perception index scores of the Philippines.

Out of all those countries there, we have the highest [mineral potential index] score, even higher than Indonesia. But if you take a look at the policy perception index score, we have the lowest. We have the greatest mineral potential, but in terms of policy perception, that will determine if investors will actually invest in the Philippines, we have one of the lowest. So, the current policies do not encourage investment in the sector.

He then presented the Mines and Geosciences Bureau's projections for the expected economic contribution of the mining industry.

By 2023 or 2024, we will have additional government revenue of around 100 billion in terms of investment, almost 500 or 400 billion. Basically, it's just saying we have a lot of potential, and the mining sector can be a major driver of our economic growth. And the president actually agrees [with] that idea.

Challenges for the Mining Fiscal Regime

OIC USec. Adriano discussed the main challenges surrounding the mining fiscal regime, which include the fact that the discussion of a new mining fiscal regime has been ongoing since 2012, the complex tax system due to several mining fiscal regimes, and the relatively high government take on mining compared to the Philippines' peers.

So nag-start 'yung EO 79 noong 2012 pa. Why is that a problem? Because mining investment was put on hold. They will not invest until there is certainty [on] what will be the new mining fiscal regime. Unfortunately, for the past few years, the government's proposal in terms of the mining fiscal regime, 'yung government take is very high, meaning the taxes are very high. Second issue is that there are several mining fiscal regimes, resulting in a complex tax system. I will demonstrate later what I mean by that. And third, the average effective tax rate (AETR), we sometimes call it the government take or the tax burden, on mining is relatively high compared to our peers.

Basically, ang isang goal ng EO [79, series of 2012] is to review the current mining taxation. The assumption during that time is that the mining sector is not being taxed enough. That's why ang proposal noon ng government, typically mattas ang mining tax proposals.

Why is that an issue? If you're familiar with economics, we have what we call the Laffer curve, wherein your tax revenue is equal to the number of taxpayers times the tax rate. If the taxes are too high, then your tax base will be too low, and therefore, your revenue will also be low. If your taxes are too low, pero mataas pa rin ang tax base mo, still relatively low revenue. So you want to be in that middle, not too high tax, not too low tax, so that your government revenue will be maximized.

He then presented the current Philippine mining fiscal regimes, which include Mineral Production Sharing Agreement (MPSA), MPSA in Ancestral Domain, MPSA in Ancestral Domain and in Mineral Reservation, Financial and Technical Assistance Agreement (FTAA) in Ancestral Domain, and FTAA in Ancestral Domain with cost recovery (with accelerated depreciation). He emphasized that the Philippines has a 50% additional government share, noting that the country's FTAA regime is unique.

OIC USec. Adriano presented the DOF's computations of the AETR of the Philippines' mining fiscal regimes, showing that it is higher than the country's peers.

Before I came in, the original proposal of the DOF was the 60% additional government share. Currently, it's 50% additional government share. At the minimum, the government take to mining revenues is 50%. [The original 60% DOF proposal], siya 'yung highest tax burden, followed by our current regimes. Lower 'yung Australia, Chile, and Indonesia. Ang relatively competitive sa atin is 'yung MPSA in AD, or MPSA.

He then noted that, consequently, the number of operating MPSAs (295) and FTAAAs (6) are few as of 31 August 2023.

Cross-country comparison of mining fiscal regimes

OIC USec. Adriano showed a cross-country comparison of mining fiscal regimes, noting that the Philippines' current regime is heavily geared towards taxation based on gross revenue, not income.

Furthermore, there is no component to capture windfall profits. In contrast, taxes of other countries are skewed towards profitability.

Proposals on mining fiscal regime

OIC USec. Adriano listed the key reforms of the proposed Mining Fiscal Regime Bill.

- Simplification of the mining fiscal regime (From five to two)
- Imposition of a royalty tax outside mineral reservation to address the constitutional issue
- Introduction of a windfall profit tax mechanism to ensure government’s fair share when mineral prices are high
- Provision on thin-capitalization, ring-fencing, transparency, and accountability

He then summarized the differences between the current regime and the different proposals.

	Current regime	HB 8937	DOF revised
Number of fiscal regimes	5	2	2
Royalty MR	5%	4%	5%
Royalty outside MR	0%	1-5% (margin-based)	1.5-5% (margin-based)
Windfall profit tax	0%	1-10%	1.5-10%
Thin capitalization, transfer pricing, ring-fencing, and transparency	Without	With	With

OIC USec. Adriano also pointed out that the DOF proposal simplifies the current proposal under HB 8937 by adopting fewer tiers and rates for easier compliance and administration and lesser incentives for aggressive accounting.

“The DOF proposed compromise regime will generate higher additional mining revenues, particularly compared to the House bill version. And we estimated that incremental revenues for the first year are around 6.6 billion pesos.”

He ended by showing the estimated revenue impact of both the current proposal under HB 8937 and the DOF revised proposal, emphasizing that the DOF proposed compromise regime will generate higher additional mining revenues.

The DOF proposed compromise regime will generate higher additional mining revenues, particularly compared to the House bill version. And we estimated that incremental revenues for the first year are around 6.6 billion pesos. [The] assumption here is that there are [no] new mining investments. So definitely, incremental revenues will increase if investors will see that there is a new mining fiscal regime, a stable one, and a relatively not so high tax burden.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 4: Navigating the Legal and Regulatory Landscape of the Extractives
Updates on the Implementation of Energy Efficiency and Conservation Act

“The EEC Act establishes policies for efficient energy utilization, increased use of energy efficiency and renewable energy technologies, and defines responsibilities for government agencies and private entities.”

Patrick T. Aquino
Director
Department of Energy

Dir. Aquino was unable to attend the national conference in person. Instead, he sent a video for his presentation on the updates on the implementation of the Energy Efficiency and Conservation (EEC) Act for 2023.

The Energy Efficiency and Conservation (EEC) Act

Dir. Aquino first provided a background on the EEC Act or Republic Act (RA) No. 11285, which institutionalized energy consumption improvements and provided incentives for energy efficiency projects to make it a national practice in the Philippines.

The EEC Act establishes policies for efficient energy utilization, increased use of energy efficiency and renewable energy technologies, and defines responsibilities for government agencies and private entities.

As of October 2023, the DOE has issued a total of 51 policies in support of the EEC Act. Dir. Aquino listed a few of these policies.

- Minimum Energy Performance for products
- Philippine Energy Labeling Program
- Government Energy Management Program
- Designated Establishments
- Certification and Registration of Energy Service Companies
- Fiscal Incentives for endorsed EE projects
- Energy Efficiency Excellence Awards
- Certification of Energy Efficiency (EE) Practitioners
- Recognition of Training Institutions

Updates on the EEC Act and supporting policies

Dir. Aquino provided an overview and updates on select policies.

- Philippine Energy Labeling Program (PELP): complements MEPP by promoting a competitive market for energy-efficient products and encouraging consumers to choose energy-efficient technologies
 - 6,505 approved product registrations
 - 5,075 energy labels issued
- *Government Energy Management Program (GEMP): overseen by the Interagency Energy Efficiency and Conservation Committee (IAEEC); government-wide initiative aiming to reduce electricity and fuel consumption by 10% through efficiency measures and conservation practices, including both non-investment energy-saving actions and specific projects*
 - 8,840 government entities registered
 - Resulted in cumulative savings of 27,167 megawatt hours of electricity, 199,000 liters of diesel, and 180,959 liters of gasoline
 - Two RTIs officially recognized and certified by the DOE

Dir. Aquino provided information on the designated establishments (DEs) identified under the EEC Act.

The EEC Act focuses on energy-intensive sectors in the private sector, particularly commercial, industrial, and transport, identified as designated establishments or DEs [that] have obligations such as implementing energy management systems, promoting EEC programs, setting annual targets, recording energy consumption data, improving energy efficiency, submitting reports, undergoing energy audits, and employing energy practitioners.

He then reported on the savings of the DEs and the success of the DOE's DE Online Submission Portal.

- 465.783 gigawatt hours of energy savings, equivalent to PHP 6.755 billion or USD 120.51 million and 331.73 metric tons of CO2 equivalent;
- Reportorial obligations of DEs coursed through the DOE DE Online Submission Portal, which also serves as the energy management system for DEs to monitor energy performance and the DEs' implementation of energy management systems and policies in line with the EEC Act;
 - DEs reporting of disaggregated fuel consumption, enumerating all energy sources to ensure granularity of data;
 - As of September 2023, 4,808 DEs registered in the DE Portal (3,266 in commercial, 1,510 in industrial, 32 in transport).

Dir. Aquino discussed the revisions that will be made to the DE typology upon the issuance of new circulars.

- Other DEs: with an annual energy consumption of 50,000 kilowatt hours equivalent or less;
- Type 1 DEs: with an annual consumption of more than 50,000 to 500,000 kilowatt hours equivalent for the commercial and transport sectors, and more than 50,000 to 1 million kilowatt hours equivalent for the industrial sector;
- Type 2 DEs: with an annual energy consumption of more than 500,000 to 4 million kilowatt hours equivalent for the commercial and transport sectors, and more than 500,000 to 8 million kilowatt hours equivalent for the industrial sector;
- Type 3 DEs (new classification): with an annual energy consumption of more than 4 million kilowatt hours equivalent for the commercial and transport sectors, and more than 8 million kilowatt hours equivalent for the industrial sector.

Dir. Aquino also discussed the other changes that will be made following the change in DE typology.

- Revisions to the energy efficiency (EE) practitioner employed by DEs;
- New requirements in the submission of energy audit reports to DOE upon effectivity;
- Changes in energy efficient obligations depend on whether there is a change in DE typology;
- DOE to provide training regulations and certification guidelines for certification of EE practitioners
 - Presently, there are 753 registered EE practitioners, which include 401 certified energy managers, CEM, 158 certified energy conservation officers, CECOs, and 194 certified energy auditors, or CEAs.

Dir. Aquino talked about Energy Service Companies (ESCOs), which implement energy management systems and efficiency projects, reducing client energy demand.

As I speak, there are 51 registered and certified ESCOs in the Philippines. Based on the 2023 annual project accomplishment report submissions, an estimated project cost of USD 5.3 billion for completed projects was generated by ESCOs with 600,219,000 kilowatt hours of energy savings.

According to Dir. Aquino, the DOE collaborates with stakeholders to implement a national awareness and advocacy program for energy efficiency, conservation, and renewable energy technologies. Through initiatives like the “You Have the Power” campaign held across malls in the country.

“The EEC Act roadmap encompasses programs aimed at implementing the EEC Act and achieving energy security by reducing energy intensity in crucial economic sectors.”

Dir. Aquino also touched on the non-fiscal and fiscal incentives offered by the EEC Act, like the Energy Efficiency EEE Awards, income tax holidays, and duty-free importation.

The EEE Awards 2023 commenced with the official call for entries posted across DOE platforms. The EEE Awards Validation Committee then received 344 entries from the private sector and narrowed it down to the selection of 136 shortlisted entries.

The EEC Act also provides fiscal incentives, including income tax holidays and duty-free importation, to accelerate investments in EEC through simple, complex, new energy efficiency projects and expansion for existing ones. As of September 2023, there are five active applications seeking endorsements to the DOI, which consists of four new EE projects and one simple EE project.

Dir. Aquino also discussed the EEC Act roadmap, the National Energy Efficiency and Conservation Plan (NAECP), and Roadmap 2023-2050.

The EEC Act roadmap encompasses programs aimed at implementing the EEC Act and achieving energy security by reducing energy intensity in crucial economic sectors. Additionally, the department has published and adopted a comprehensive National Energy Efficiency and Conservation Plan, NAECP, and Roadmap 2023-2050 as outlined in DC-2023-05-0018.

Comprehensive Roadmap for the Electric Vehicle Industry (CREVI)

Dir. Aquino's video presentation ended with an update on the CREVI.

Taking stock of where we were pre-CREVI, our baseline indicates an increasing trend of EV registrations from 2010 to 2022. Data from the Land Transportation Office show that from 828 registered EVs, registered EVs reached 15,003 at the end of 2022. 89% of registered EVs are motorcycles and/or tricycles, 8% are sports utility vehicles and/or utility vehicles, and 2% are cars and or sedans.

From this starting point, CREVI's vision is to electrify a diverse range of vehicles and establish a domestic EV industry with strong export potential to build a sustainable future where new electric vehicles and the required infrastructure are locally produced with reduced environmental impact.

In terms of targets, two scenarios are mapped out: Business as usual (BAU) with 10% EV penetration and the clean energy scenario (CES) with 50% EV penetration.

In the BAU, short-term 2023-2028 targets 311,700 EVs and 7,300 EVCS. Medium-term 2029-2034 targets 580,600 EVs and 14,000 EVCS. Long-term 2035-2040 targets, 852,100 EVs and 20,400 EVCS.

The more aspirational and aggressive CES targets are short-term 2,454,200 EVs and 66,500 EVCS, medium-term 1,851,500 EVs and 41,800 EVCS, and long-term 2,001,600 EVs and 39,800 EVCS.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 4: Navigating the Legal and Regulatory Landscape of the Extractives
Transfer Pricing Issues in the Extractives

“The demands of globalization and the advent of digitalization have made the world a much smaller place and prompted both individuals and corporate enterprises to transact business outside their jurisdiction and address issues concerning international finance and taxation.”

Jethro M. Sabariaga
Assistant Commissioner
Large Taxpayers Service
Bureau of Internal Revenue

Asst. Comm. Sabariaga thanked the Department of Finance (DOF) for inviting the Bureau of Internal Revenue (BIR) to participate in the 2023 FORGE Philippines PH-EITI National Conference. He then noted that the topic he would be speaking on was timely, given the increasingly international character of major economic and business transactions and the need for the Philippines to be kept abreast of developments in international transactions.

Three or four decades ago, it was still possible for tax agencies to operate effectively on our knowledge and expertise with regard to the domestic economy. Today, however, the demands of globalization and the advent of digitalization have made the world a much smaller place and prompted both individuals and corporate enterprises to transact business outside their jurisdiction and address issues concerning international finance and taxation. This is the impetus behind the concept of transfer pricing, which is now one of the most widely discussed topics of interest in global finance and tax administration, given its impact on tax revenues and, ultimately, on economic development around the world.

Transfer pricing issues and concerns

Asst. Comm. Sabariaga discussed two transfer pricing features that are causing considerable concern for the BIR.

- It is usually resorted to by a company for higher profits in a jurisdiction with lower taxes;
- Often used as a means to reduce a company’s overall tax bill.

He then explained why transfer pricing issues concerning extractives are being closely examined. Given that multinational enterprises involved in the extractives use transfer pricing schemes to explore and obtain extractives from within the Philippines, it may be possible that the use of the Philippines’ natural resources may or may not ultimately benefit the Filipino people.

Multinational enterprises involved in the production of goods whose raw materials include extractives make use of transfer pricing schemes to explore and obtain extractives from within the Philippines, which are then processed and refined in their production facilities abroad and are sold to generate income that cannot and will not be taxed in the Philippines. This is, therefore,

a situation where the use of the Philippines' natural resources may or may not ultimately benefit the Filipino people. Yet, it cannot be denied that the corporate enterprises involved in the exploration and production of these extractives contribute to the economy by providing employment and paying a certain amount of tax. As such, the question before us is how to strike a happy balance through which we can still encourage the operations of MNEs that deal with extractives while simultaneously addressing the needs of our economy.

Asst. Comm. Sabariaga discussed four primary ways transfer pricing can negatively affect the Philippine Tax System.

- Inequality in the tax system as international tax pricing is predominantly available to multinational enterprises;
- Inefficiency in the tax system resulting in lower tax revenues for the original tax jurisdictions;
- A tax system vulnerable to transfer pricing schemes must absorb reputational costs as its credibility as an effective revenue-generating agency and implementer of the country's tax loss will be called into question;
- Issues of tax morality, where economic agents will ultimately be able to avoid paying their fair share of taxes and levies, which may not be illegal but can be seen as immoral.

Asst. Comm. Sabariaga emphasized the need to capacitate the Philippine government to address transfer pricing schemes effectively, especially given the goal of providing value-added services in the extractives industry.

As we progress in the extractives industry, to the ultimate goal of providing value-added services and moving just from extraction of resources, this transfer pricing scheme and the involvement of the Philippines in improving our adaptive capability, the skill set of our employees, and our accession into agreements and utilization of databases become very important.

Asst. Comm. Sabariaga presented the pressing issues concerning transfer pricing in extractables.

- Obtaining data on transactions that employed transfer pricing
 - The capacity of the Bureau to get information transfer pricing transactions regularly depends on the openness of MNEs to provide information and the efficiency of the exchange of information channels mandated under tax treaties.
- Sanctioning of taxpayers that violate transfer pricing guidelines and requirements
 - The tax system currently does not provide a mechanism to sanction taxpayers who violate the guidelines and requirements, resulting in lost revenues and an attitude of impunity that fuels more complex schemes.
- Addressing “ring-fencing” schemes
 - Income from properties where extractive exploration was carried out is reported. However, it is effectively diminished when offset by the expense involved when exploration activities are carried out in another area, reducing the company's taxable income.

Possible solutions to transfer pricing issues

Asst. Comm. Sabariaga presented two solutions being pursued by the DOF, the legislature, and the Bureau.

- House Bill 8937 will enable the Philippines to adopt tax policies that limit reliance on the arms-length principle and address the difficulty of finding comparable transactions. It was already approved on its third and final reading in Congress.
- Provision of further in-depth training for revenue officers on transfer pricing and related areas of concern. An embassy should be placed on auditing transactions using transfer pricing methods to enable our revenue officers to enforce the transfer pricing rules and guidelines the Philippines currently observes more effectively.

He also emphasized the need for a collaborative effort to address transfer pricing issues.

On the part of the Philippine Extractive Industries Transparency Initiative, the DOF, the Mines and Geosciences Bureau, and the country's local government units, such collaboration can be carried on through joint audits of companies that make use of transfer pricing schemes, inter-agency coordination in identifying transfer pricing schemes, and proactive efforts to narrow the information gap on transfer pricing, its related concepts, and its overall impact on taxation and the economy. Or it can be as simple as data governance and data sharing.

Our traditional idea of data sharing is through the request process, but when we're talking about the same government, data sharing should be seamless and automatic. There's no need for requests or discretion on whether the data will be given. And I think that's one of the initiatives that should be pursued by the EITI when we're talking about the extractives industry. The BIR is one with you in that pursuit.

Asst. Comm. Sabariaga also listed the three BIR issuances concerning transfer pricing.

- Revenue Regulations No. 2-2013
- Revenue Audit Memorandum Order No. 1-2019
- Revenue Regulations No. 34-2020

“Every state and every people are deserving of sustained economic progress, and the wealth of a state must benefit first and foremost its citizens.”

Asst. Comm. Sabariaga ended his presentation by reflecting on the words of former president Barack Obama.

Former President Obama aptly observed that trade has been a cornerstone of our growth and global development, but we will not be able to sustain this growth if it favors the few and not the many. His words are especially prescient given the dramatic changes in the global economic and financial landscape over the past decade. There is no question that transfer pricing is fast becoming one of the more complex yet far-reaching concepts of 21st-century business and finance. Like all instruments, however, it is important that every effort be made to ensure that its use does not unduly favor one particular group while at the same time being detrimental to another group.

Every state and every people are deserving of sustained economic progress, and the wealth of a state must benefit, first and foremost, its citizens.



FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

Transparency Talks 4: Navigating the Legal and Regulatory Landscape of the Extractives

Reaction to Transparency Talks 4: Navigating the Legal and Regulatory Landscape of the Extractives

“Being mindful of what is important, like a cleaner environment, protected biodiversity, sustainable development, stronger partnerships, means choosing among different paths for which we would probably need ways.”

Ma. Teresa S. Habitan

Chancellor II

Philippine Tax Academy (PTA)

Chancellor Habitan thanked Atty. Ron and recounted her experience working with the PH-EITI.

She noted that the title of the 4th Transparency Talks was particularly apt and that all stakeholders would need ways to navigate the legal and regulatory landscape of the extractives. Chancellor Habitan also pointed out how detailed government policies must be, not just on paper but also in practice, as without implementations, policies will be for naught.

Chancellor Habitan then proceeded to discuss how all government regulations develop from the mandates of the different agencies as a response.

It's these mandates [that] result in several reams of pages of IRR. And because they are a necessary response to the demands and needs of constituencies, of the citizens of the Republic of the Philippines, what the people need, and what are these needs.

She also noted that these needs and responses can be contradictory. As such, it is the government's task to find a balance.

The task of government has always been to find a balance, as Assistant Commissioner Jethro mentioned. Finding that optimum point where, for example, the need for higher revenues is met by responsible extraction of resources, but which also means that companies [that] invest [can] earn profits while also ensuring that the environment is protected as much as possible, and [that companies] are being good neighbors and members of mining communities.

Chancellor Habitan talked about the lengthy process of legislation. She took the Energy Efficiency and Conservation Act as an example, as it took almost 20 years to pass into law since the original energy conservation law lapsed in 1990. She hoped that the mining fiscal regime would not take that long.

We're now in our 10th year. We started the discussion on the mining fiscal regime in 2012. And aptly, USec. Karlo stated that we were concerned about revenues. And what we believed was that that mining fiscal regime would be passed immediately. Kaya doon naka-anchor 'yung EO79 and that requirement that we allow new mining investments only once we have a new mining fiscal regime.

And so here we are, ten years down the road. Two people who worked with me there have already retired from the government. And I'm hoping that the rest of the staff who are still working on that will still be there and will be in Malacañang when the new mining fiscal regime is signed into law.

Chancellor Habitan emphasized the importance of legislation for government policies, as it strengthens the framework and solidifies the pillars on which plans and programs are anchored. She cited the BIR's concern about transfer pricing.

I'm glad that BIR is concerned about transfer pricing issues in the extractive sector and is bringing to light that there are issues and that they have these issues of transfer pricing in their sight. But it will work even better, for example, if there's already a law that defines ring-fencing and what it is, what is included and what's not. In fact, what exactly is the concept of ring-fencing? So that everybody will be guided. And I'm glad, personally, that it's already part of the provision in the proposals of the DOF and also reflected in the House Bill, which passed the lower house.

Chancellor Habitan ended her reaction with a reminder that there are many paths to choose from to reach the goal of encouraging investments in the extractives sector while being mindful of what is important.

What everybody wants is to encourage investments in a sector that has the potential to unlock more resources for long-term economic growth. But how to get there? Being mindful of what is important, like a cleaner environment, protected biodiversity, sustainable development, stronger partnerships, means choosing among different paths for which we would probably need ways.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE
Transparency Talks 4: Navigating the Legal and Regulatory Landscape of the Extractives
Panel Discussion and Open Forum

Moderator:

Atty. Ronald Rex S. Recidoro

Executive Director

Chamber of Mines of the Philippines

After commending Chancellor Habitan for her reaction to the discussions, Atty. Recidoro opened the floor for the panel discussion and open forum of the 4th session of the transparency talks.

The first question came from Merwin Salazar from the Senate of the Philippines. He directed his questions to the OIC Undersecretary (USec.) Adriano of the Department of Finance (DOF). His first question was about the difference between taxing based on gross income and taxing based on profits. Given the DOF's strategy of simplifying the mining fiscal regime, He sought clarification on the rationale behind the tiered taxes for windfall profits.

Salazar: *Good afternoon. My name is Merwin Salazar from the Senate of the Philippines. My questions are clarificatory questions to the DOF.*

For the information of everyone, I'm for reforms in the mining fiscal regime. Now, the DOF is the primary agency for revenue collection. And you have shown in your presentation that some countries are taxing on gross and some are taxing on profits. Can you elucidate on the advantages and disadvantages of the two? I ask the question because I'd like the audience to understand the rationale of the policies that our government adopts.

The second question is, you mentioned that the strategy of the DOF is to simplify the tax mining regime. So why do you allow the persistence of the tiered tax rates in the imposition of tax on the windfall profits? Why not impose a single tax rate? What is the rationale for adopting the tiered taxes for windfall profits?

OIC USec. Adriano responded to the question by first clearly comparing the two different tax approaches. Then, he reasoned that the tiers for windfall profits are being proposed as a compromise.

OIC USec. Adriano: *Thank you for that question.*

Advantages of taxes based on gross revenue on the perspective of government. If it's based on gross revenue, it's a guaranteed revenue. Even if [the company is] losing money, or they're not making profits, the government will have something... What is the disadvantage? The disadvantage is on the part of the mining sector or on investments. Basically, based on gross revenue is not based on capacity to pay. So even if they're losing money, they would still need to pay taxes.

On the other hand, we have taxes based on income. Disadvantage niya on the part of the government, it's not 100% sure that we will have tax collection. Because if they're losing money, that means there's no or minimal tax collection. Positive for the private sector or the mining

companies, basically, it's based on capacity to pay. So if they're losing money, they will pay less or zero. But if their profits are high, then they will pay more.

Now, the trend right now is more on based on income. The tax will be based on the capacity to pay of the mining sector. Why is that? Because if you take a look at our mining fiscal regime, we have a lot of based on gross revenue. For one, we already have a 4% excise tax, and it's quite unique. Tayo lang ang meron atang excise tax on minerals. And then we have a 5% based on gross revenue again for mining operating inside mineral reservations. So that's 9% based on gross revenue. Then you have the 1% sa IPs, 2% local business tax, all on gross. But the trend, if you take a look sa kanina kong table, cross-country comparison, mostly they're going to the based on income or capacity to pay kasi they want investment to go to their country. So that's the difference between based on gross and based on income.

Now, why are we introducing tiers? I said we're simplifying, but we're introducing tiers, which makes it more complicated in a sense. For the windfall profit tax, from the term "windfall profit," basically you will pay more if your profits are higher. That's why we have tiers. If your profits are too high, you have to pay more. Now, for the royalty based on margin, I can understand that there can be some confusion. Why is it based on margin? Why is there tiers? The original proposal of the DOF is 3% actually based on gross revenue for mining operating outside mineral reservations. However, we have to compromise because the final decision will be with our legislators. [Their version] kasi, based on gross revenue, it starts at 1%. Kung' yung margin mo is 1%, you will be paying royalty. So when we computed the 3% based on gross revenue vs this margin-based royalty, it's almost the same incremental revenues. That's why um-okay na kami with margin-based revenue. Now, the upside of a margin-based revenue, since it's based on income, it will be based on the capacity to pay of the mining company. Downside of it is that, if they're not making any money, we won't be collecting anything. And based on our computation, fortunately for us, ang kanilang margin, average, is around 22-23%. So almost a guaranteed royalty siya.

Atty. Recidoro noted that Assistant Commissioner (Asst. Comm.) Sabariaga wanted to add to the discussion. Asst. Comm. Sabariaga believed that the principle behind the tiering is the principle of equitability. OIC Usec. Adriano added that based on our current mining fiscal regime, many of the taxes imposed are already based on gross revenue.

Asst. Comm. Sabariaga: I think the tiering is an offshoot of our income tax system. Because we are based on capacity to pay principle. So if your income tax is based on that principle and other offshoots of an income tax system, in this case, the royalty or the windfall profit tax, it would have to be tiered-based as well. Which means those with higher levels of windfall profit should be taxed more. That's a principle of equitability in taxation that is also enshrined in our constitution.

OIC USec. Adriano: I would like to add something. So why did we go with the based on margin? Because if we take a look at our current mining fiscal regime, we already have a lot of based on gross revenue [4% excise tax, 1% IP royalties, 2% local business tax], so that's a minimum of 7% based on gross revenue. If you take a look at the slide kanina, walang ganun kalaing based on gross revenue [in] other countries. So that's why we compromised to have a royalty, but based on margin. Given the current situation na malaki na naman ang based on gross revenue natin, minimum 7%.

Atty. Recidoro then called on Jimmy Momo from the Convergence of Initiatives for Environmental Justice (CIEJ). Mr. Momo addressed his question regarding the discussion about reducing water

use to Engr. Sandoval of the Department of Environment and Natural Resources – Mines and Geosciences Bureau (DENR-MGB) in his local language, Bisaya.

Mr. Momo: *Maayong hapon sa tanan. Bisaya lang sir. Ako si Jimmy Momo, gikan sa Mapulawan ng Tampakan, natapyas ng SMI (Ako si Jimmy Momo, mula sa Mapuwalan ng Tampakan, minimina ng SMI).*

Ang akong pangutana addressed sa first MGB (Ang aking tanong ay addressed sa MGB). Balikan na nato itong puntong reduce to use the freshwater (Balikan nating ang usapin ng reduce to use the freshwater). Nag-conduct ng public hearing ang SMI para sa ilang proposal na i-amend ang ordinance sa South Cotabato sa pag-ban sa open pit. May nagutana sila pilakalitro nga gamit na tubig sa isa kadlaw (Tinanong sila kung ilang litro ng tubig ang gamit sa isang araw). Ang ilang tubag ani (Kanilang tugon dito), 2,000 liters per second. I-multiply [natin] sa 60 seconds, 120,000 liters per one minute... multiply in 60 minutesm 7,200,000 liters per hour. I-multiply [natin] sa 24 hours, aabot siya sa 172,800,000 liters per day. Wa na nako na-multiply ang isang kabuwan (Hindi na ko makapag-multiply para sa isang buwan), hindi na ma-cover sa keypad ng cellphone ko.

So sa isa kaaraw, pilakalitro, 172,800,000, sa isang kabuwan, pilakalitro, sa isa ka tuig, pilakamilyon (so sa isang araw, ilang litro, 172,800,000, sa isang buwan, ilang litro, sa isang taon, bilyun-bilyon). Karon ang pangutana (Ngayon ang tanong), paano ma-reduce ang paggamit sa freshwater? Kanina, geengon (sinabi) ni Ma'am Bon Besmanos, ang South Cotabato [ay] rice granary or food basket ng Mindanao. Kung mahubsan tubig ang mga mag-uuma ng palay, nakulbaan ako, sir (Kung maubusan ng tubig ang mga magsasaka ng palay, kinakabahan ako, sir). Base ang mabilin namo, wa na food, basket nalang (Baka ang maiwan sa amin, wala ng food, basket nalang). So mula na ko pangutana, unsaon tani (so ang tanong ko uli, paano ito)? Muni kadado (ganon kalaki) ang number of liters na ginagamit nila sa freshwater, paano ma-reduce ang paggamit nila ng freshwater?

Atty. Recidoro established with Engr. Sandoval if they understood the question, confirming if their understanding was correct. Engr. Sandoval responded that they need to look at the details of this particular case. Mr. Momo confirmed that their data was based on Sagittarius Mines Incorporated's (SMI) Environmental Impact Statement (EIS). Engr. Sandoval reiterated the need to look at the data as he cannot answer without looking at the company's EIS, as well as their Environmental Impact Assessment (EIA), which is handled by the DENR-Environmental Management Bureau (DENR-EMB).

Engr. Sandoval: *We have to look sa data, sa EIS. Even dun sa EIA. Ano po 'yan, sa Environmental Management Bureau (EMB). So hindi ko po masasagot 'yung detail on that. Bale, iikot land naman ang tubig. But again, we have to look on that.*

The third inquiry came from Emma Hotchkiss from the Baywatch Foundation. Her inquiry was directed to Engr. Sandoval, as well. She sought clarification on EO 130.

Ms. Hotchkiss: *Ako naman si Emma "makulit" na naman. This is directed to MGB, Engr. Sandoval.*

Ang tanong ko lang is sa EO 130. Sabi mo may amendment sa grant of new mineral agreements. Hindi namin mabasa, kaya paki-explain. At tsaka engagement of local government communities, paki-explain.

Engr. Sandoval passed Ms. Hotchkiss's query to his colleague, Engr. Marcial Mateo, the chief of MGB's Mine Safety, Environment and Social Development division, who would be better equipped to respond to Ms. Hotchkiss's query. But before answering her query, Engr. Mateo added to MGB's response to Mr. Momo's earlier question, citing a presentation by SMI he previously listened to.

Engr. Mateo: *Ma'am, okay lang po ba na bago ko sagutin ang tanong niyo, 'yung tanong ni [Sir Momo sa SMI], mag-add lang ako, Atty. Ron, if I may? Nasagot na ni Dir. Ted. Tama 'yung computation ni Sir, napakaraming tubig na magagamit, kung ilang billions or millions of liters. Pero sa mining po, nire-recycle natin ang [tubig]. Kapag talaga ganoong karami ang ginamit nating tubig, talagang mamamatay ang agriculture natin. Noon pong minsa, naka-attend ako ng presetaion ng SMI. Lahat ng community, 'yan ang reklamo, mauubusan silang tubig, mawawala agriculture, at marami diyang palay. So magtatayo sila ng dalawang parang water dam, water reservoir, para hindi namomroblema 'yung community doon sa paggamit ng tubig. 'Yun po ay base sa presentation ng SMI. I hope nakatulong ako kay Sir.*

'Yung question naman ni Ma'am, EO 130. Ang grant of mineral noon kasing panahon ni President Aquino, tapos naging panahon ni President Duterte, wala po tayong approval at processing ng MPSA. For the last 10 years, wala po tayong naaprubahan na bagong minahan. Noong panahon ni Duterte, noong malapit na siyang umalis, ni-lift na po niya 'yung moratorium. So pwede na tayo mag-approve at mag-process.

Nakalagay din po [sa EO 130] ang lifting ng open pit ban. Dati po, bawal ang open pit mining operation. Pero kung may nagtatanong, meron bang naapektuhan? So far, wala naman. Kasi po ang MGB, nagbibigay ng permit to mine [for] 25 years, renewable for another 25 years. Kung ikaw po ma'am, nag-oopen pit ka. Ngayon, sinabi na ban ang open pit, hindi ka titigil kasi naaprubahan ka na at baka kasuhan mo ang gobyerno. So 'yung mga bagong nag-aapply o bagong mag-rerenew, affected sila at 'di na sila pwede mag-open po.

'Yung ma'am sa local government, di ko siya masyado nakita. Pero sa tingin ko, 'yan 'yung more on share ng local government sa taxes ng mga minahan.

After the response from MGB, Ms. Hotchkiss asked some follow-up questions and provided pertinent information on the mining operations in question, which resulted in a series of back-and-forth exchanges between the MGB representatives and Ms. Hotchkiss.

Ms. Hotchkiss: *Ito ang understanding namin sa study naming. Nag-open ng green lanes. Ang isang [purpose] doon ay i-bypass na ang permits from the local governments. This happened already, sir. In Cantilan, CARAGA Region, our watershed is already full of new applications. Dahil sa one-stop shop [ng] MGB. Walang permits from the LGUs. At hindi lang [diyan], meron pa sa Carmen. Dagdag pa ata ng lima sa watershed ng community irrigation system. So walang permits, walang permiso, binigyan ng MGB ng exploration permit application. 'Yun ang gusto naming ipa-clear. Bakit may green lanes? That's against the Philippine Mining Act.*

Engr. Sandoval: *Hindi po ako masyado familiar sa green lanes. But ang sure po ay mayroon tayong local government code. So meron kinakailangan na area status clearance from LGU at iba't ibang agency. So hindi po pwede na mawala 'yung dahil nasa batas 'yon. So nagtataka ako dun sa sinasabi ninyo na ba-bypass ang local government. Actually, hindi po pwede mangyari 'yon unless may clearance.*

Ms. Hotchkiss: Sir, can you check? Sabi mo hindi mangyayari. Bakit nandoon sa MGB Region 13, sa tenement maps, nandun lahat ng sinasabi ko. We can access that on the internet right now. We just need an explanation, why is an EO from a president violating the Philippine Mining Act.

Engr. Mateo: Sabi nga doon sa stages ng mining, meron tayong exploration, development, production at rehabilitation. Ang exploration, simpleng paghahanap palang siya. 'Yung sinasabi niyo sa region, application. 'Yan ay initial evaluation ng region. Not necessarily na nasa region na siya, may application siya ng exploration, magkakaroon siya ng exploration permit. Pupunta pa po 'yan sa MGB. Halimbawa ang area nila is 20,000. Pag Nakita doon na nasa loob ng reservation, critical area, biodiversity area o protected area, ie-exclude po 'yan. Maliwanag po 'yan sa RA 7942, sa EO 79, no to mining po 'yan.

Hotchkiss: Mayroon nang exploration permit applications at 'yung previous exploration permit applications before the moratorium were approved. Without going through the local government. 'Yun ang ginagamit nila. So ito, sir, ang nangyayari sa amin, our experience. 'Pag nandiyan na 'yan, mahhirapan kami humabol. Wala kaming pera maghabol sa korte. May case kami sa korte, 11 years na. Ang new rules of whatever for sa environmental laws is one year lang. Kaya tinatanong naming ngayon. Mahihirapan kami maghabol. Once nandiyan na, wala na kaming recourse.

Engr. Sandoval: Siguro po, i-coordinate natin sa Region 13 ang mga detalye kasi kung sinasabi niyo na na-approve na. Kung it is just an application, 'yun po sinasabi natin, marami pa siyang dadaanan na mga status area clearance. So ang sabi niyo, approved na siya. So even I, nag-wowonder ako kung bakit.

Mayroon kasing mga cases, for example, kailan dineclare 'yung critical water shed? 'Yun po ang matter of priorities. There are some cases kasi na, for example, nauna 'yung application, na-approve siya. Tsaka ngayon nag-declare ng, for example, critical watershed on that. So definitely, in the matter of priority, i-hohonor 'yung sa MPSA. Prior rights.

Ngayon, 'yun ang kailangan natin tignan dun sa sinasabi niyo na paano siya na-approve kung siya ay nasa loob ng [critical water shed].

Ms. Hotchkiss: Can I follow up on that promise, sir? Because last year, last PH-EITI meeting at Manila Hotel, I already asked one of your MGB people for that. And he won't give me his number so I can follow up. Until now, wala kaming follow up. Kasi, in the watershed area, there are two existing mineral agreements. The contract ended in July 2019. Unbeknownst to us, they already applied for extension two years before. We only knew about the approval a year after. And this is in the watershed. The contract ended already. They don't have prior rights already so they cannot extend it.

Engr. Sandoval: Sige po, ang aking suggestion, bigay niyo sa amin 'yung detal so that we can coordinate with the region concerned.

Ms. Hotchkiss: Who am I going to give? Shall I tell you what the mining company is and who owns it? Ok, the mining company is owned by the Marcventures Mining Holdings, which is owned by the Speaker of the House, Romualdez.

Engr. Sandoval: *Bigay niyo nalang po sa amin ‘yung details kung ito ay exploration or an application. San pong location niya?*

Ms. Hotchkiss: *It’s dalawang MPSA, sir. Cantilan, Surigao del Sur. The other MPSA was, for 11 years, they were in exploration. The law says, you can only have exploration for 9 years, 3 years exploration times 3. But why was it extended for a fourth when the contract already ended. And now, we find out that they are renewing their MPSA. They’re applying for renewal right now. And their exploration was already approved.*

Engr. Sandoval: *Application palang naman po for exploration, ano? Sabi ko po kasi, may process ‘yun. Kasi kung nag-aapply sila for renewal, of course-*

Ms. Hotchkiss: *We just found out because they asked the PAMB [Protected Area Management Board] for approval. Because our province partisan politics approved their extension.*

Engr. Sandoval: *Sige po, i-va-validate nalang po natin uli sa region kung ano ang naka-*

Ms. Hotchkiss: *Ok, ipaabot mo sa region. Can you suggest to us, as a citizen, what can we do to ask the MGB to task? What can we do? We don’t have money to sue the MGB for approving it. And to sue our provincial government for approving it.*

Engr. Sandoval: *Sige po, i-clarify natin sa regional office. Kasi we need the documents, we need all the information. Mahirap po kasi ‘yung we don’t have the [information]. It is always the legal document na kinakaingangan po natin. Laging ito ang ating mga pinagbabasehan.*

Ms. Hotchkiss: *So can I ask for your number and I give you my number and my details?*

Engr. Sandoval: *Yeah. Actually, you can email it to central@mgb.gov.ph, [this goes for] everyone.*

Ms. Hotchkiss: *No, sir. There’s gonna be red tape forever and ever.*

Engr. Sandoval: *Hindi po, ma’am. According to civil service, even an email [will do]. Ito pong binibigay ko sa inyong email, sa office ng office of the director. Once we receive it, we will act on it. central@mgb.gov.ph for everyone po. Any complaint, ganoon po ‘yun, sa process po.*

Before going to the next question, Atty. Recidoro suggested that the PH-EITI take down the details of the allegations from Ms. Hotchkiss. Ms. Welma Palen, a representative of BIFO from Barangay Imelda, Tubajon, Dinagat Islands, also directed her query to Engr. Sandoval of the MGB. She also made allegations of lapses in the provision of mining permits by the MGB, citing the lack of public consultation. This allegation also led to a back-and-forth exchange between Ms. Palen and Engr. Sandoval, with Mr. Chito Trillañes weighing in on the discussion as well.

Ms. Palen: *Maayong hapon. I’m Welma Palen, eco advocate. I am a representative of BIFO from Barangay Imelda, municipality of Tubajon, province of Dinagat Islands.*

Ang sa akin lang po, to MGB po, bakit po nabibigyan ng permit ang mining to operate nang wala naman public consultation. ‘Yun po ang nangyayari sa amin.

Engr. Sandoval: *Actually, ngayon lang po ako nakarinig ng ganyan. Ayon sa batas, dapat po, sa sinasabi nating area status clearance, kasama po iyang public consultation. 'Di ko po malaman ngayon paano. Kaya muli, kailangan po malaman natin ang detalye. Kasi kailangan po natin makita 'yon for the documents.*

Ms. Palen: *'Yung sinasabi niyo pong documents, bulto-bulto na po 'yung documents naming sa MGB 13. Pero wala pong sagot and the mining is still in operation. And speaking of biodiversity, paano po naming mape-preserve 'yung flora at fauna kung kalbo na 'yung bundok naming. Tapos wala na, 'yung dagat naming, kulay kape na po.*

Engr. Sandoval: *Sinasabi ko nga po, siguro po bigay niyo sa amin 'yung detalye. Just send us an email on that. 'Yung location, 'yung complaint ninyo, and we will act on it.*

Ms. Palen: *Ang hiling lang po namin, kami po 'yung mga pulubi. Pulubi po 'yung probinsya namin, pero kami po ang pinakamayaman sa mineral ore. Ang hiling lang po namin, kayo po na nakaupo sa taas, subukan niyo po kayang bumaba para malaman niyo at makikita kung ano ang kalagayan ng mga mining community, 'Yun lang po, salamat.*

Mr. Trillañes: *Magandang hapon po. Siguro is 'yung on policy, ano. The one mentioned by Ma'am Hotchkiss is a protected area, that is under Presidential Proclamation no. 1747. That was a proclamation issued some time in 2009. So the mining operation Marcventures [Mining Development Corporation] started. The MPSA was issued sometime in 1993. Supposedly, it will expire in 2018, that's 25 years. There were extensions, and the issue was whether or not an extension can be made after the exploration when the area is already considered a protected area. Those are issues that has to be taken into consideration by the DENR-MGB.*

Aside from that, there is another MPSA [for] Brightgreen Resources Corporation, owned by Marc Holdings. Still, the MPSA was issued sometime in 1993, and supposedly, in July 2015 has to expire. But based on records, they were allowed to do some extensions of their exploration permit applications. And after the lapse of how many years, they were given another extension. The same, they are requesting for renewal of the MPSA because the original MPSA had expired.

The two, MMDC and BRC. Now, the basic question here, whether or not that area that has been proclaimed already, under Presidential Proclamation 1747, can entertain renewal of MPSAs still that have expired. So 'yun ang mga tanong na dapat tutukan din ng PH-EITI and the DENR-MGB.

'Yung tanong on, they are asking for the PAMB to recommend for the approval of the renewal. There is already an acceptance that that area is a protected area because they are asking for the endorsement of the Protected Area Management Board (PAMB). So these are policies that has to be reconciled by the government. That's why the people are really questioning, what is now the stand of the government. In so far as the protected areas that are applied with mining.

Now, the other issue with the one-stop shop and the issuance of area status clearances. That is true. Even the PASO [Protected Area Superintendent's Office] of the protected area that is situated in Cantilan, Carrascal and Madrid, is not a member of the one-stop shop. There was a time that I called Dir. Herades and RED [Regional Executive Director] Tamayo that we will have to join in the online deliberation of the area status clearance because we believe that we were not given the chance. The one-stop shop and the simplification of procedures in the issuance of permits supposedly should not compromise the participation of civil society or stakeholders on

the application. That's why there was one application that was denied, because we timely objected. And it was manifested by the PASO, "why is it that I am not a member of the one-stop shop."

So these things have to be clarified. The question of Ma'am Emma was my question when I started joining the Philippine EITI. And until now, that is still a question today. So, with our decade of experience here, existence, we hope that there must be a decision or a resolution to this. To put an end to this question that is really affecting the community.

Can you imagine, there was already a water rights issued to the national irrigation system. We have about two billion irrigation system that is relying on that water and forest reserves. That's why that water and forest reserves is really important for the whole Carcanmadcarlan area. And you are talking about how many thousands of farmers that are affected by this. So the DENR has to look into this seriously. Salamat po.

Engr. Sandoval: Thank you very much po doon sa question. Definitely, nakita natin na this has to be at the level of the DENR itself. Of course, MGB is just focused with respect to the mining and minerals. With respect to PAMB and other bureaus, nasa under ng DENR. But again, pagdating po doon sa sinasabi natin na, for example, this area is na-declare na protected area or water shed, and policy doon is once na nag-expire ang, for example, MPSA, it cannot be renewed. Because reservation na siya, protected area na siya, dineclare na. 'Yun ang general policy na dapat sinusunod with respect on that. Now, kung exploration lang, iba 'yung exploration. This is just a start. Ang purpose ng exploration is to look, king may mineral ba o wala. So just to get the record, for example. Kaya even ang government, for example, during that time, they can do the exploration. Just to know na mayroon bang potential tayo na, in the future, mineral dito sa area na ito. That doesn't mean na when the company conducted an exploration ay magiging minahan na kaagad siya. That is one of the purpose of exploration.

Atty. Recidoro told the audience they still had time for one last question. Jeffrey Carin from the Father Saturnino Urious University addressed his question to OIC USec. Adriano, first asking about the contribution of extractive companies to GDP, then following this up with a question about the reason behind CARAGA's high poverty incidence despite being what he believes to be the mining capital of the Philippines.

Mr. Carin: I am Jeffrey Carin from the FSU Foundation, Butuan City, CARAGA Region. This question is addressed to Dr. Adriano. I would like to ask, or the CSO would like to ask, how much the extractive companies contribute to the GDP.

OIC USec. Adriano: It's less than one percent, right? Currently.

Mr. Carin: Currently, it's 0.8% or 0.7%. So you made mention that the economic driver for the economy of the Philippines is inviting more mining companies, right? Then we believe that CARAGA region is the mining capital in the Philippines. We have the record from NEDA that out of 5.9% in 2022, that's [how much] CARAGA economy increased, out of that 100%, only 4% [was from] industry. But it does not specify as to which industries. So more or less, maliit pa rin. And yet, as mentioned a while ago by Ma'am Bon, how come the CARAGA Region still has the second to the highest poverty incidence in the Philippines, next to BARRM, which is 33.2%. I would like to ask, which do you think is the gap or loopholes or drawbacks or it could be, is there contribution to the economy of CARAGA region? Or is there a correlational study between impact of mining to the poverty incidence? Do you have a study?

OIC USec. Adriano: Number one, when we said that we want the mining industry or the mining sector to become a major driver of growth, we're not just talking about the upstream. It's not just the extraction. We want to develop the whole value chain. Because currently, right now, we're exporting raw ores. And therefore, for instance, I think we're exporting around \$1 billion of nickel right now, mostly raw. But we estimated that if we actually do some value addition to it, it can be multiplied by around 15 - 20 times in terms of value. So from \$1 billion, it can become around \$15 billion to \$20 billion. So that's basically the direction. It's not just the upstream, it's not just extraction, it's the whole value chain. Basically from the upstream, midstream to downstream. We want to do value addition here. That's why we have several technical assistance in terms of feasibility study, what is the comparative advantage of the Philippines in terms of value addition of our minerals? Because take note, nickel and copper are both considered as critical minerals, and they are very important to our energy transition to clean energy. So, it's the future. Those minerals are the future. And we want to do value addition to those minerals so that in terms of economic benefits, it can be greater than what we have right now.

Now, in terms of poverty incidence, I just cannot remember the exact study, but there were some evidences before wherein they look at, I'm not sure if it's regional, I think it's more on the province level or lower than the province level, in terms of poverty incidence. Wherein they saw that typically a mining sector will operate in an area wherein poverty incidence is very high. Kasi they will operate in a far-flung area. They will not operate where the population density is very high. Why? Because kapag marami nang tao dun, it will be very hard to get permits. Marami sila masyadong maaapektuhan. So technically, from the very beginning, mining will operate in far-flung areas, wherein there will be less people, and where poverty incidence will be relatively high. Now there is a study that showed that, after a mining industry comes in, yung poverty incidence actually improved. Why? Because for the mining company to operate, they will need to build certain infrastructure. And they need people to work there as well. And therefore, there will be local economic activity.

Now, I'm not sure but in terms of your statistics right now, I believe you're taking a look at the poverty incidence of the whole CARAGA region. I think the gross value added of mining there is around 20%, relatively high, but still there's another 80% of other sectors in that region. So we have to take a look at the granular data, yung mas mababang level, not just the regional level. So maybe we can talk about that and see ano yung mga loopholes, etc.

[As for your other question], our mining industry's share to gross value added is very small, less than one percent. Ever since ata, ang highest is around 1 point something percent. So relatively small. And in terms of revenue, share of it to total revenue is relatively small. Now why is that a problem? In terms of revenue kasi, we're not collecting from the small-scale mining. And there is a study conducted, wherein 60-70% of our gold are actually coming from the small-scale. Kaya mababa talaga ang revenue natin. Pero nasasama actually ang small-scale production to the gross value added. So 'yun ang isa pang problema in terms of revenue share and the gross value added share. So again, I also mentioned, kaya siya mababa ngayon, 'yung gross value added share, kasi we're exporting it raw. It's not the way to do it. We need to do some value addition here so that we can benefit from the mining sector.

Mr. Carin: So more or less, that is more a projection and assumption. But in the actual ground, like in CARAGA region, the mining operations already operate like more than a decade. Then how come we're still the 2nd highest poverty incidence, poorest in the country. Is it related to

tax? Ibig sabihin, kung tax ba, like' yung national office nila nasa Makati, Taguig, or nasa Pasig? Kaya 'yung tax nila hindi binabayad sa region or sa municipality?

OIC USec. Adriano: Let me clarify that. Large-scale mining pay national taxes. Tama? That means lahat ng binabayad nila, income tax, excise tax, royalty, pupunta sa national government. Ang share ng LGUs is through the IRA or the wealth taxes. 'Yun ang share nila.. That's how it works. So if you're a large-scale mining company, they also pay itong mga business tax. fees of the local government, real property tax, etc. But most of their taxes are paid to the national government. And the share of the local government will be coming from the IRA or from the wealth taxes. 'Yung wealth taxes, basically, ito yung share nila from the extraction. I think ang part nito is yung royalties. What else? Excise tax. So 'yun ang share ng LGUs.

Now, again, in terms of poverty incidence, maybe we need to look at lower level of data. Maybe you're saying it's the whole region. Baka we need to look at where specifically, kung ano mang province man 'yun or lower level na data, kung saan sila nag-oooperate, and then let's take a look at the poverty incidence of that area through time. Kasi as I mentioned, the share of the mining sector to the gross value added of CARAGA is around 20%. There's another 80% of other sectors. So you cannot just blame the mining sector kaya hindi sila nagdevelop. There's another 80% aspect. So we have to take a look on areas specifically wherein talagang majority doon is the mining industry. We can work together in that and take a look at the time series of the poverty incidence of the province or, if possible, not sure kung anong pwedeng mas mababa sa province, municipal, kung merong available data ang PSA.

Engr. Sandoval: Kanina pinakita yung presentation sa Rio Tuba. Nakita natin na mismong mga community, ang tawag kasi namin dun sa policy is 'yung host and neighboring community, so definitely sila 'yung uunlad. Kaya sinasabi ni Sir, 'yung granular tignan nating mabuti. Malaki ang problema kapag siya ay nasa host and neighboring community, at ang mga tao doon ay hindi sila nagkaroon ng improve of life. Baka ang sinasabi niyo, malayo doon eh. Hindi sila part talaga, baka regional-wise 'yung sinasabi. Ang minahan kasi, kapag magtatayo palang sila doon, 'yung road network and then pagdating doon sa sinasabi nating social and development program, actually ang ang community ang kinakausap ng mining company. Ang government, nagbabantay lang sila. And of course, within host and neighboring community ang sinasabi po natin. Kasi 'yun ang nasa policy eh. Kaya ngayon, tinitignan natin if pwedeng i-enlarge yon. But definitely, for the time being, 'yung recipient talaga niya ay sa host and neighboring communities. And of course, nariyan din naman ang LGU kasi kasama sila sa discussion on that. Kaya maganda yung point na baka kaya nga regional ang tinitignan. Yun po dapat ang tignan nang mabuti.

Atty. Recidoro was about to bring the session to a close due to time constraints. He let the audience know that participants can still approach and talk with the resource persons offline. However, several members of the CSO constituency requested that their questions and concerns be heard online. As such, Atty. Ron allowed three more participants to voice their questions and concerns.

Ms. Hotchkiss: Gusto ko marining ng mga tao. Sa area naming, hindi tinitignan nila ang mga livelihood ng mga tao doon. Nawawalan na sila ng livelihood because of the lack of water. We are an agriculture and fishing [community]. Yun lang ang income namin. So 'pag wala nang tubig, anong magagawa? Ang poverty magra-rise. Magkano lang ang SDMP ninyo? Magkano lang ang royalty? Tapos ang mga royalty napupunta sa mga datu lang, wala sa constituencies nila. 'Yun ang imbestigahan ninyo sir.

OIC USec. Adriano: Yes, that's why we have this EITI. Transparency and accountability is such that we know that the mining companies are paying the right taxes, and how are the taxes being used. 'Yun ang pinakaimportante. That's why we have EITI. And then, we're not against responsible mining. 'Yun ang dapat natin tignan. That should be our model, responsible mining.

Ms. Hotchkiss: Sir, I think responsible mining is an oxymoron.

OIC USec. Adriano: Ok.

Mr. Molino: Mayron 'yung tinatawag na value chain earlier, ako si Ben. May sinabing value chain. The value chain actually starts with contract and licensing, tapos production, tapos revenue collection, revenue allocation, social and economic development support. 'Yun ang buo. The participation of people is only on the production. Kasi, ang nangyayari ngayon, sa buong production participation niya, employed lang siya. So he's the one mining his own mineral. Kasi sila ang nagtatrabaho doon eh. Inutusan sila para mabayaran. Pero that is not the point. Ang nirerequest namin, which is the last one, is the civic space and civic participation. Papano yun? Sana sa lahat ng parte ng value chain, nandoon yung CSO. Sa contract and licensing, dapat meron kaming representation. Sa production, meron din kaming representation. Doon sa collection, tsaka revenue, check, nandoonn din kami, sa allocation, nandoon din kami, sa socio-economic support, nandoon din kami sa decision making. Hindi yung nandun lang kami sa production, siyempre iha-hire niyo kami, magbabayad lang kayo ng salaries namin, okay na. Wala kami doon sa apat na steps. I therefore request, DENR, to reconsider a consultation that talks about civic participation and civic space na lalapit talaga kami doon sa discussions about extractive industries. Maraming salamat po, 'yon lang po ang gusto namin.

Atty. Recidoro: Sige, we will allow Bon to have the last word, and then we will have to end this program.

Ms. Besmanos: Sir, thank you po. I take ko lang po itong opportunity for the MGB and also kay Sir [Adriano]. Na-approve na sa lower house yung mining fiscal regime. Tapos [ide-deliberate] sa senate. Bantay Kita ay, hindi po kami masaya sa mining fiscal regime. Kasi ang alam natin tataas ang demand for critical minerals pero binababa natin ang ating royalty tax. Tapos ang justification natin ay magkakaroon ng royalty ang ating mga nasa labas ng mineral reservations. Pero most of our nickel mines are inside the mineral reservations. And 'yung nasa labas, magbabayad sila ng tax if and only if ok ang profit nila. Ang problema natin doon sa kasalukuyan panahon, mayroon po ba tayong improvement, in terms of monitoring, yung government monitoring ng production, ng kung magkano rin yung makukuha nila. Sakto po ba ang mga production na sinusubmit? Kasi 'yung mga tao po ang makikita nalang ay 'yung mga bumababang mga dump truck. Sakto po ba yung declaration, pano po natin masisiguro na sakto po 'yung deklarasyon? Hindi na po kailangan sagutin ito USec. Wala na pong time. Sasabihin ko lang po na 'yun po ang worry ng CSO.

Pangalawa po, 'yung sa MGB, ang palagi po sinasabi Sir, kaya maraming reklamo, ang sinasabi po ng MGB sa amin, "Ma'am kulang po kasi kami ng tao". Sir, kung kulang po tayo ng tao, huwag po muna tayo magpamina. Hindi po tayo handa. Kaya po maraming reklamo, ngayon dinala po namin sila rito, kasi hindi po napapakinggan ng MGB 13. palaging sinasabing walang tao. Ipahinto na po muna natin ang pagmimina kung hindi po tayo handa. Kasi naningil tayo ng mga taxes, pero walang maayos na serbisyong naibibigay. And it is unfair also for the mining companies. Kasi they pay taxes and everything. Pero yung serbisyo, meron ba? Kasi sir, kung maayos ang monitoring ng environment, ng EMB, ng MGB, wala pong mga uma na hindi na

matatamnan. Kaya po sir, hindi na kami masaya kasi tuloy tuloy ang mina. 119 new mining companies in the next four years. Saan pa po papunta ang ating mga farmers and fisherfolks. At ang mga may-ari po ng mga minahan ay ating mga politiko. Small-scale or large-scale. Diba po? San pa po kami pupunta? Ngayon po sir, kung hindi natin ma-improve yan, baka po mag-isip-isip po tayo, bakit natin bibilisan ang mina? Kung tataas ang demand for critical minerals? Hindi naman po siguro mapapanis ang ating mga minerals kung hindi natin ipamina? At ayusin muna natin ang sarili nating sistema? Ayun lang po, maraming salamat.

OIC USec. Adriano: *Can I just comment? I agree with you. Actually all our taxes are based on the valuation. So it's very important that we have the correct valuation of our minerals. So that's why we are not just working on the fiscal regime. We're actually working with different partners to correct our valuation.*

Number 2, embedded in the provision of the bill is 'yung asset reports will also be sent to the BIR, automatic. Para una palang machecheck na ng BIR kung ano 'yung mga transaction, tama ba yung pricing. Nandoon 'yung mga transfer pricing issues as well. But definitely, kahit tama 'yung mga nasa records, kung mali naman 'yung valuation from the very beginning, it's a very big issue. That's why we're working with different partners to capacitate and to improve the valuation of our minerals.

FORGE PHILIPPINES 2023: THE PH-EITI NATIONAL CONFERENCE

November 30, 2023 (Thursday) | Seda Manila Bay Parañaque

Closing Remarks

“I believe that it is not only the PH-EITI we are celebrating but every single one of us who has dedicated our life’s work to this struggle.”

Karlo Fermin S. Adriano, PhD

OIC-Undersecretary

Department of Finance

This year holds particular significance for the Philippine Extractive Industries Transparency Initiative or PH-EITI, as it proudly celebrates a decade of unwavering commitment to transparency, accountability, and public participation in the country's extractive sector. But before we draw the curtains down on this year's Extractives Transparency Week, I believe that it is not only the PH-EITI we are celebrating but every single one of us who has dedicated our life's work to this struggle. Let me take this opportunity to commend everyone who made this anniversary celebration far from just being a mere commemoration.

Looking back on the time we spent together during this transformative event, the wealth of knowledge, insights, and collaborative efforts has been a testament to our unshakeable resolve to aligning with global standards, championing civic safe spaces, and catalyzing tangible changes within the country's extractive governance landscape.


The discussions during the Constituencies Meeting have been nothing short of illuminating, touching upon the crucial elements that define the future of extractive governance. We've explored the state of our civic space, the trajectory towards sustainable energy, subnationalizing extractive industry governance, social development through SDMPs, transparency via beneficial ownership, and the nuanced world of small-scale mining.

The constituency-specific breakout sessions also served as a canvas to further weave our rather diverse experiences together and allowed us to contribute meaningfully to the crafting of recommendations for the implementation of the EITI standards, underscoring our commitment to openness across the entire value chain of the extractive industries.

Today, I believe we have covered an even broader spectrum. The series of transparency talks brought the mining discourse to an even greater height. It felt like the three days could not contain your zeal and passion for bringing to light pressing issues in the industry.

“Let us strive more to make our engagement go beyond symbolic gestures until it becomes a tangible demonstration of our commitment... to be ultimately felt by those who are most vulnerable and affected.”

Lastly, picture this: having a seat at the table is one thing, but to actually have a plate, partake in a palatable meal, and have in your hands the means to, is another. Having a voice is something, but being heard is another. Materializing change is the goal. Let us strive more to make our engagement



go beyond symbolic gestures until it becomes a tangible demonstration of our commitment to combat corruption, uphold good governance, and ensure equitable resource distribution following EITI standards - to be ultimately felt by those who are most vulnerable and affected.

Here's to a future of responsible and transparent extractive governance in the Philippines. Thank you for your dedication to fostering transparency and accountability in the extractive sector. Let us continue shaping a responsible and sustainable future for the Philippines' extractive industries.

Sampung taon na tayo mga kasama, sana hanggang sa ikasampung ulit pa!