

1 **PH-EITI 23rd MSG MEETING**
2 **9:00 AM - 1:00 PM | May 7, 2015**
3 **Visayas Room, Department of Finance,**
4 **Roxas Blvd., Manila**

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6
7 **Attendees:**

8		
9	Asst. Sec. Ma. Teresa S. Habitan	Department of Finance (DOF)
10	Elsa P. Agustin	DOF
11	Charmaine Bagacay	DOF
12	Benjamine Mortos	Department of Energy (DOE)
13	Dan Emmanuel M. Montealegre	DOE
14	Engr. Romualdo Aguilos	Mines and Geosciences Bureau—Department of Environment and Natural Resources (MGB-DENR)
15		
16	Dir. Anna Liza F. Bonagua	Department of the Interior and Local Government (DILG)
17	Michael Joseph Juan	Union of Local Government Authorities (ULAP)
18	Asst. Comm. Nestor Valeroso	Bureau of Internal Revenue (BIR)
19	Sarah Mopia	BIR
20	Dr. CieloMagno	Bantay Kita
21	Ronald Allan A. Barnacha	Philippine Rural Reconstruction Movement (PRRM)/ North Luzon
22		
23	Dr. Merian C. Mani	Romblon Ecumenical Forum Against Mining (REFAM)/ Romblon State University
24		
25	Roldan R. Gonzales	GITIB, Inc.
26	Starjoan Villanueva	Alternate Forum for Research in Mindanao, (AFRIM) Inc.
27	Chadwick Llanos	Cebu Alliance for Safe and Sustainable Development (CASSE)
28		
29	Gerard Brimo	Nickel Asia Corporation/ Chamber of Mines of the Philippines (COMP)
30		
31	Ronald S. Recidoro	Chamber of Mines of the Philippines (COMP)
32	Francisco J. Aranes Jr.	Cambayas Mining Corp.
33	Bing Pingul	Shell Philippines Exploration BV (SPEX)
34	Atty. Gay Alessandra V. Ordenes	Secretariat
35	Sharon Feliza Ann Macagba	Secretariat
36	Abigail D. Ocate	Secretariat
37	Liezel Empio	Secretariat
38	Mary Ann Rodolfo	Secretariat
39	Joy Saquing	Secretariat
40	Christine Marie Mendoza	Secretariat

1 Ryan Dael Secretariat
2 John Martin Arreola Secretariat

3
4 RESOURCE PERSON:
5

6 Juvy Danofrata Department of Finance
7 Atty. Sarah Sison Presidential Communications and Strategic Planning Office
8 Danny P. Berches Mines and Geosciences Bureau—Department of
9 Environment and Natural Resources (MGB-DENR)
10 Glaiza T. Baliwag MGB-DENR
11 Erlinda Arcellana Board of Investments

12
13
14

15 **1. Call to Order**

16

17 1.1. The Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (MSG)
18 meeting was called to order at 9:00 AM.

19

20 1.2. A Civil Society Organization (CSO) representative requested to add in the agenda the schedule of
21 briefing of senators and congressmen as well as the outreach activities and presentation of PH-EITI report.

22

23 1.3. The Secretariat stated that these matters will be discussed towards the end of meeting under other
24 matters.

25

26 The proposed agenda was approved by the body.

27

28 **2. Minutes of the 22nd MSG Meeting**

29

30 2.1. With regard to the suggestion of the Bureau of Internal Revenue (BIR) to reword item 3.10 of the 21st
31 MSG meeting minutes, it was shared that BIR provided wordings to the Secretariat. However, the Secretariat
32 noted that the suggested wording is an elaboration of the process for applying tax incentives which was not
33 really discussed during the said meeting.

34

35 2.2. The Secretariat suggested that instead of amending the previous meeting minutes, application for
36 incentives will be included in the minutes of today's meeting since BIR will give a presentation regarding
37 this.

38

39 The minutes of the meeting was approved.

40

41

42

1 **3. Matters arising from previous MSG meetings**

2
3 3.1. *Establishment and management of a revenue-linked database:* According to the Secretariat, this is a
4 part of the project that the PH-EITI is doing with the Open Data Philippines. However, it was mentioned that
5 this will be fully implemented as soon as the funding from the USAID is approved.

6
7 The Secretariat shared that the PH-EITI's proposal submitted to USAID has been pending for several months
8 already.

9
10 3.2 *Offer of Timor Leste to conduct training for the PH-EITI MSG on the Petroleum Fund Process:* It was
11 mentioned that this item is for further discussion. Also, the Secretariat requested to defer this activity due
12 to a number of upcoming activities that will be implemented in the next two months.

13
14 3.3. *Rapu-rapu Minerals, Inc./Rapu-rapu Processing, Inc. (RRMI/RRPI) status:* The bod was informed that the
15 Secretariat again sent an invitation to RRMI/RRPI but no response has been received yet.

16
17 The Secretariat noted that the Mines and Geosciences Bureau (MGB) will instead give a presentation on the
18 status of mine rehabilitation of RRMI/RRPI. A CSO Representative asked MGB to provide the MSG with a
19 copy of the Final Mine Rehabilitation and/or Decommissioning Plans (FMR/DP) of RRMI/RRPI and TVI
20 Resources Development Philippines, Inc. (TVIRDPI).

21
22 3.4. *Copies of BIR and MGB reports to the Department of Budget and Management (DBM) regarding their*
23 *collections per Local Government Unit (LGU) and per company to be made available to PH-EITI to be part of*
24 *the next report:* The Secretariat noted that this item is for implementation when the IA is already on board.

25
26 A CSO representative requested to include in the discussion how BIR and MGB distribute the share among
27 LGUs especially to different barangays.

28
29 3.5. *Template revision:* The Secretariat noted that this will be implemented by the IA.

30
31 3.6. *Addressing legal barriers to EITI implementation:* A representative from the Presidential
32 Communications Development and Strategic Planning Office (PCDSPO) will be presenting the FOI Bill.

33
34 3.7. *Data on gold production and revenue:* The Secretariat shared that BSP already submitted the data on
35 gold production and revenues.

36
37 3.8. *Presentation of PH-EITI Report Findings to the Mining Industry and Coordinating Council (MICC):* The
38 Secretariat informed the body that this has been done and the suggested memorandum requiring all
39 agencies to participate and make all documents readily available to PH-EITI has already been signed by
40 Secretary Cesar Purisima and Secretary Ramon Paje.

41

1 3.9. *PH-EITI Secretariat's institutionalization*: The Secretariat reported that discussions with the DOF
2 regarding this matter is still ongoing. The target is to officially include the PH-EITI Secretariat in the DOF
3 plantilla and submit the proposal to the Civil Service Commission (CSC) and DBM during the term of
4 Secretary Cesar Purisima.

5
6 3.10. *Draft of EITI Bill*: A Technical Working Group (TWG) has been created to draft the Bill. It was shared
7 that the TWG already met and discussed some of the provisions of the EITI Bill.

8
9 3.11. A representative of the Chamber of Mines of the Philippines (COMP) informed the body that a one-day
10 consultation with the industry representatives was held in April 2015. The representative shared that the
11 revisions on the BIR waiver and the proposed EITI bill were discussed during the industry consultation.

12
13 3.12. According to the COMP representative, the consensus of the participants was to defer the discussion
14 on the EITI bill since the industry representatives want to maintain the voluntary nature of EITI to distinguish
15 those who are willing to voluntarily join the initiative from those who have not. It was explained that the
16 voluntary nature of reporting will be removed by making EITI participation mandatory.

17
18 3.13. The same representative expressed that the industry is very committed but they are concerned that
19 congressmen who are not really familiar with mining and transparency could add provisions that would be
20 too onerous for the industry.

21
22 3.14. A CSO representative explained that there is a need to legislate to be able to address some constraints
23 in terms of logistical implementation of EITI. It was noted that without legislation, the Secretariat should
24 explore the options available in terms of ensuring that EITI implementation would continue even without
25 funding from donors.

26
27 In addition, it was pointed out that participation of CSO representatives is also an issue. According to the
28 same representative, CSO participation is currently being funded by donors but, eventually government
29 would need to fund the whole EITI implementation. In this case, there would be problems since there are
30 rules with regard to use of government funds for CSO participation.

31
32 3.15. According to the Secretariat, the PH-EITI is actually being funded by the government under the current
33 setup. If there will be no legislation, the Secretariat mentioned that EITI funding can still be part of the DOF
34 budget.

35
36 3.16. The Chair stressed the need to intensify information dissemination, education and communication
37 among government agencies and the Congress on what EITI is. The challenge in the funding of CSO
38 participation was also recognized by the Chair. In addition, the Chair encouraged the industry
39 representatives to increase their effort in making more companies voluntarily participate in the EITI.

1 3.17. A CSO representative asked if the industry representatives would permit to include EITI legislation as
2 part of the Open Government Partnership (OGP) agenda and for the CSO to continuously discuss EITI
3 institutionalization.

4
5 The same representative suggested that the approach is to determine possibilities on how to address the
6 logistical concerns and at the same time make a parallel effort to still discuss EITI legislation.

7
8 3.11. *Uploading of MGB documents.* The Secretariat reported that most of the MGB documents have been
9 made available and are for scanning already, except for SDMP and SDMP monitoring reports that are being
10 secured from the MGB Regional Offices.

11
12 A representative of the CSOs requested MGB to submit all quarterly Multi-partite Monitoring Team (MMT)
13 Reports.

14
15 The MGB representative reported that the Memorandum for all MGB Regional Offices concerned has been
16 prepared, requiring them to submit to MGB Central Office all SMDP monitoring reports for 2013 and 2014.

17
18 3.12. *Guidance on the selection process for MSG members:* The Secretariat shared that only the CSOs have
19 submitted their guidance on the selection process. The submissions from the government and industry
20 sectors are still pending.

21
22 A CSO representative pointed out the importance of deciding how to distribute the 5 slots of the industry
23 sector in the MSG. It was mentioned that in the current setup, COMP has three (3) representatives, non-
24 COMP has one (1) and oil and gas sector also has one (1) representative.

25
26 The Secretariat responded that this decision should come from the Industry representatives. They should
27 report the entire selection process including considerations for the numbers.

28
29 The CSO representative clarified that what should be discussed is the total number or composition of the
30 MSG. According to the same representative, if the MSG is going to expand the scope of the EITI report, the
31 MSG would need to decide on a formula with regard to the number of MSG members. It was noted for
32 example, that the coal sector is not represented in the MSG.

33
34 The Secretariat pointed out that the number of MSG representatives per sector is specified in Executive
35 Order 147. The EO states that there are 5 seats for CSOs and 5 seats for the industry.

36
37 3.13. *Scoping study on small scale mining:* The Secretariat recalled that the MSG previously decided that a
38 study should be commissioned to evaluate the status of data on small scale mining as well as its current
39 context, and make this a part of the contextual information of the next report.

40
41 It was mentioned that there were also previous discussions to include non-metallic mining as part of the
42 contextual information. The body was informed that the Secretariat and the consultants have started

1 discussing the Terms of Reference (TOR) for this study. The target date for the consultants to be onboard is
2 June 2015.

3
4 3.14. *EITI participation as a precondition for permits*: The Secretariat presented all permits being secured by
5 mining companies from MGB, National Commission on Indigenous Peoples (NCIP), Environmental
6 Management Bureau (EMB), LGUs, etc.

7
8 According to the Secretariat, if the MSG wants to pursue with making EITI participation a precondition for
9 the issuance of permits, then it would be easier for the DENR to require this since most of the permits are
10 based in the IRR and not Republic Act No. 7942. DENR would just need to amend the IRR.

11
12 3.15 The body was informed that MGB has recently released an administrative order, requiring large scale
13 mining companies to have ISO certification as a prerequisite for the issuance of Ore Transfer Permit (OTP). It
14 was then stated that maybe DENR can have a similar approach for EITI participation.

15
16 However, an industry representative expressed that this can be legally challenged and this is tantamount to
17 legislation.

18
19 3.16. Another representative of the industry suggested that the best approach to increase the participation
20 of mining companies in EITI is to incentivize participating companies through the following: 1) giving of
21 Presidential Award [i.e. Presidential Mineral Industry Environmental Award]; and 2) reducing the number of
22 permits that mining companies need to secure.

23
24 A CSO representative suggested to incentivize participating companies by exempting them from certain
25 permits that they annually secure.

26
27 The Chair requested the COMP representative to present details of the proposal for providing incentives for
28 EITI participating companies.

29
30 3.17. *NCIP information*: The body was informed that the NCIP is requesting the Secretariat to secure copies
31 of signed MOAs from the companies.

32
33 A CSO representative suggested that NCIP be asked to submit a formal letter regarding their request for
34 documentation purposes.

35
36 3.18. *Proposed amendment to the Local Government Code (LGC)*: The Secretariat reported that Director
37 Anna Liza Bonagua of the DILG suggested that the proposed amendments be studied thoroughly with the
38 DOF, especially provisions on the sharing of the principal offices and the host LGUs.

39
40 It was mentioned that a Technical Working Group (TWG) has been created for this but this matter is still
41 pending.

1 The Chair reminded the body that for all TWGs created, timelines should be presented on when the reports
2 should be made available.

3
4 A CSO representative suggested to include ULAP in the TWG that will discuss the proposed amendments to
5 the LGC.

6
7 3.19. *List of MMTs and PMRBs*: It was reported that the MGB provided the said lists to the Secretariat on
8 May 6, 2015.

9
10 3.20. *Non-metallic mining*: The Secretariat mentioned that as discussed earlier, scoping study on non-
11 metallic mining be conducted together with the scoping study on small-scale mining.

12
13 3.21. *MGB regional directors should be convened*: It was recalled that there was a suggestion that MGB
14 regional directors be convened. The suggestion is to include EITI as part of the agenda of the Expanded Staff
15 Meeting of MGB where the regional directors are attending. This is being coordinated with MGB.

16
17 3.22. *MSG presentations*: According to the Secretariat, there was a suggestion that all the presentations
18 given during MSG Meetings be included in the contextual information of the 2nd report.

19

20 **4. Presentation on Procedures for Approval of Incentives**

21
22 4.1. Ms. Erlinda F. Arcellana, Director of Incentives Administration Service of the Board of Investments (BOI)
23 presented the Procedures for the Approval of Incentives (the presentation material is attached as Annex A).

24
25 4.2. The Chair and a CSO representative raised a question on BOI's definition of "application" and
26 "applicant".

27
28 The BOI representative explained that all documents relative to application of incentives are under the
29 confidentiality provision of the Omnibus Investments Act.

30
31 4.3. BOI was requested to provide reports on the monitoring of benefits for providing incentives including
32 the performance of companies. A CSO representative noted that these documents are not part of the
33 application since these were produced as an outcome of granting incentives.

34
35 The BOI representative insisted that these data are under the confidentiality provision.

36
37 4.4. In response, the Chair pointed out that once the application is approved, the applicant becomes a
38 beneficiary, thus, data generated after the application should no longer remain confidential.

39
40 4.5. In order to assess the impact of incentives on the four indicators presented by BOI, the BOI
41 representative was asked to submit all existing reports regarding incentives to companies on a
42 disaggregated level.

1 4.6. The BOI representative stated that they can provide the documents that they submitted to Senate and
2 Congress. However, it was mentioned that the data cannot be disaggregated per company.

3
4 BOI was requested to give a position paper/formal legal statement detailing the reasons why they cannot
5 give disaggregated per company data on incentives and benefits that mining companies provide.

6
7 4.7. The BOI representative stated that the grant of income tax holiday has to undergo audit of BIR.
8 Therefore, the final decision for income tax holidays is with the BIR. The same representative then pointed
9 out that any information/data pertaining to income tax holiday should be requested from the BIR.

10
11 4.8. With regard to the coordination between BOI and BIR, a CSO representative clarified whether BIR is
12 exempted to the confidentiality provision on incentives since BOI is sharing disaggregated cost-benefit
13 analysis with BIR.

14
15 4.9. The BOI representative stated that the incentives department of BOI is not in charge of the cost-benefit
16 analysis.

17
18 4.10. An industry representative inquired whether it is possible for BOI to provide the MSG with a copy of
19 annual monitoring reports regarding benefits that were provided by mining companies in exchange of the
20 incentives.

21
22 4.11. The BOI representative still insisted that these reports are part of confidential provision.

23
24 4.12. The Chair reiterated the request for BOI to submit a legal opinion explaining their interpretation of the
25 confidentiality provision and identifying what specific activities, procedures and reports are covered under
26 the confidentiality provision.

27 28 **5. Presentation on the Process Flow for Income Tax Holiday Availment**

29
30 5.1. Ms. Sarah Mopia, Chief of the Excise Large Taxpayers Audit Division of BIR presented the Process Flow
31 for Income Tax Holiday Availment (presentation material is attached as Annex B).

32
33 5.2. The BIR representative was asked to clarify the procedures in availing income tax holiday. According to
34 the BIR representative, if a company is planning to avail income tax incentive, the company has to first
35 secure a Certificate of Entitlement (COE) from BOI before filing an ITR with the BIR.

36
37 5.3. It was noted that the applicant has to be BOI registered in order to apply for COE. The COE would certify
38 that the entity has good standing and is entitled to avail income tax incentive.

39
40 5.4. The BIR representative explained that before BIR entered to a MOA with BOI, the registered entity files
41 the income tax return (ITR) without the COE. However, a very high revenue leakage reported since figures of
42 BOI and BIR were different. BIR then pointed out that the reason for this might be because companies who

1 were not entitled to income tax holiday, were still filing ITR with exemption. The BIR then entered into MOA
2 with BOI and a required attachment to the ITR is the COE.

3
4 5.5. After the entity files ITR with BIR, the ITR goes back to BOI to validate whether the exempt portions of
5 incomes are really valid. Since BIR can act independently, after issuing MOA and conducting examination,
6 the findings (usually the discrepancy comes from the revenues generated from a registered activity) forms
7 part of BIR assessment.

8
9 5.6. It was mentioned that BIR gives initial assessment of the company including the taxable income of the
10 registered activity because there is no proof yet of from BOI endorsing income tax holiday application. The
11 BIR initially issues a preliminary or final assessment notice.

12
13 5.7. The BOI and BIR representatives were asked to provide the body with an overview on how much income
14 tax holiday or other benefits are being provided.

15
16 5.8. It was stressed that the final computation of the income tax holiday is with the BIR while BOI decides
17 whether the applicant is entitled or not.

18
19 5.9. An MSG representative raised a question on what particular government document will match the tax
20 incentives reported by company.

21
22 5.10. According to the BIR representative, the ITR that they receive from the companies is also submitted by
23 the company to the BOI. It was mentioned that BOI will come up with the amount applied by the company;
24 this is the same with BIR also. The said amount will depend on the evaluations of BIR and BOI.

25
26 5.11. The same representative noted that the final figure of tax computation is with the BIR.

27
28 5.12. It was mentioned that the taxpayer has to file with BOI within 30 days after filing with BIR. The Chair
29 then inquired how long BOI reviews the claim for income tax holiday.

30
31 5.13. The BIR representative responded that there is no prescribed period by which BOI has to review.

32 33 **6. Presentation on the Tax Incentive Management and Transparency Act (TIMTA)**

34
35 6.1. Ms. Juvy Danofrata of the DOF presented the salient points of the TIMTA (the presentation material is
36 attached is as Annex C)

37
38 6.2. Ms. Danofrata explained that TIMTA is aligned with the thrust of the government to be more
39 transparent to do its due diligence. Through TIMTA, transparency will be institutionalized in terms of
40 reporting tax incentives granted.

41

1 6.3. It was mentioned that TIMTA will strengthen the capacity of those granting the incentives to be more
2 accountable and judicious in giving the incentives.

3
4 6.4. In addition, TIMTA can be a source of better information for analysis towards a more efficient system.
5 The resource person mentioned that TIMTA will rationalize the fiscal incentives system in the country.

6
7 6.5. According to Ms. Danofrata, both the Senate and the House of Representatives are committed to pass
8 the TIMTA. However, current issues confronting the passage of TIMTA include lack of proper understanding
9 about tax expenditures, misunderstanding on the TIMTA objectives and resistance to change and
10 transformative actions.

11
12 6.6. A CSO representative proposed that the MSG formulate and issue a resolution supporting the passage
13 of TIMTA.

14
15 The body agreed.

16
17 6.7. The Chair mentioned that DOF should intensify the information, education and communication
18 campaign on TIMTA.

19 20 **7. Presentation on Freedom of Information (FOI) Bill**

21
22 7.1. Atty. Sarah Sison of the Presidential Communications Development and Strategic Planning Office
23 (PCDSPO) presented the salient points of the FOI Bill (the presentation material is attached as Annex D).

24
25 7.2. The Secretariat recalled that there were discussions from the previous MSG meetings regarding the
26 issuance of a formal resolution from the MSG supporting FOI Bill. It was mentioned that the MSG agreed to
27 defer the discussion.

28
29 7.3. It was mentioned that PCDSPO is currently asking the civil society to help push the passage of the FOI
30 Bill.

31
32 7.4. The body was informed that ULAP expressed their commitment to make a statement on this Bill;
33 however, PCDSPO is wary of asking for support since there are a number of questions that need to be
34 threshed out by the other government agencies.

35
36 7.5. The representative of PCDSPO noted that instead of asking for support from the government agencies,
37 what they want is for the government to adopt openness in terms of making their data and documents
38 accessible.

39
40 7.6. The Secretariat raised a concern on how the principle of special laws prevailing over general laws will be
41 construed. Regarding the confidentiality provision under the Tax Code, the Secretariat asked if the Tax Code
42 will be construed as a special law in this case and the FOI as the general law.

1 7.7. The PCDSPO representative mentioned that this concern has not been raised during Congress hearings.
2 According to the same representative, they will just put a general repeal in the FOI bill.
3

4 7.8. The same representative pointed out that government agencies, including BOI and BIR were invited in
5 all the hearings and they presented their position papers. It was mentioned that during those hearings, BOI
6 and BIR did not express reservations regarding the bill.
7

8 It was reiterated that PCDSPO is encouraging government agencies to be vigilant during hearings since it is
9 better to deliberate during the hearing than going to the Supreme Court after the bill has been passed.
10

11 7.9. The PCDSPO representative mentioned that the FOI Bill is one of commitments under the Open
12 Government Partnership (OGP).
13

14 7.10. For the information of the body, it was mentioned that the President has made a categorical
15 statement during the World Bank Forum in 2014 that the FOI Bill will be passed during his term.
16

17 7.11. An industry representative affirmed that FOI Bill is an instrument towards transparent government.
18 However, it was mentioned that PH-EITI should not be involved in FOI anymore since the data required for
19 EITI can already be acquired.
20

21 7.12. Regarding incentives data, the same representative noted that this is not a problem since there has
22 been no income tax holiday granted to the mining companies for the past two to three years. It was added
23 that currently, the incentives given are very minimal and not worth discussing.
24

25 7.13. According to the industry representative, the FOI can help PH-EITI but it is not strictly needed in order
26 for the MSG to do its work.
27

28 7.14. A CSO representative asked the Secretariat to share the challenges that they have encountered in
29 accessing data. The same representative pointed out that DOE has not yet provided the contract of Semirara
30 Mining Company.
31

32 7.15. According to the Secretariat, the Semirara contract is not with them yet, but all the other service
33 contracts from DOE are already available online.
34

35 7.16. The DOE representative responded that they need to secure the opinion of their legal department and
36 ask the consent of Semirara Mining Company before they can disclose the contract.
37

38 7.17. A CSO representative emphasized the need to support the passage of the FOI Bill. It was mentioned
39 that FOI is a deliverable of the government and the multi-stakeholder group under OGP.
40

1 7.18. The Chair and the CSO representative expressed that they agree with the point of the industry that PH-
2 EITI does not need FOI Bill to do the work. However, this bill can help other sectors to have access to
3 information.
4

5 **8. Presentation of the Final Mine Rehabilitation and/or Decommissioning Plan (FMRDP) of Rapu-rapu**
6 **Minerals, Inc./Rapu-rapu Processing, Inc. (RRMI/RRPI)**
7

8 8.1. Engr. Danny Berches of the Mine Safety, Environment and Social Development Division of MGB
9 presented the implementation of FMRDP of RRMI/RRPI (the presentation material is attached as Annex E).
10

11 8.2. A CSO representative clarified if implementation of an economic activity such livelihood program is one
12 of the criteria of MGB in evaluating FMRDP of companies. The same representative asked the MGB
13 representative to clarify the value added tax in the matrix presented.
14

15 8.3. With regard to value added tax, the MGB responded that figures in the presentation are data reported
16 by company to the MGB Regional Office. It was mentioned that economic activity is part of the rehabilitation
17 plan of the companies.
18

19 8.4. A CSO representative further asked why the company was allowed to operate before amending the
20 FMRDP.
21

22 8.5. The MGB representative explained that prior to the approval of the FMRDP, the proposed final land use
23 was reforested land. The company justified that this can also provide livelihood to the community and they
24 have the option to convert it to eco-tourism.
25

26 8.6. The CSO representative questioned how SDMP programs are aligned with economic activity being
27 proposed in the FMRDP. MGB responded that this is one of the FMRDP aspects currently being discussed
28 within MGB in the revision of FMRDP guidelines.
29

30 8.7. A CSO representative added that if the company has already allocated budget for the FMRDP prior to its
31 amendment, then the eventual FMRDP cost after its amendment will be changed.
32

33 8.8. According to the MGB representative, Secretary Ramon Paje recently has given instruction to all mining
34 companies to revise the proposed final land use indicated in their FMRDPs.
35

36 The CSO representative requested MGB to provide a copy of all the FMRDPs and amendments made,
37 including the revised FMRDP guidelines. MGB said that revision of FMRDP guidelines is still ongoing.
38

39 8.9. The CSO representative asked if the initial budget for the FMRDP cover the new proposal and where the
40 additional fund will come from.
41

1 8.10. The MGB responded that the initial approved FMRDP cost was PhP150 million. The final approved
2 FMRDP cost is PhP350 million, in which the additional cost has been shouldered by the company.

3
4 8.11. A CSO representative questioned if the company can still be fined if they do not comply with the
5 requirement for rehabilitation.

6
7 8.12. The MGB representative explained that based on Department Administrative Order No. 2010-21, the
8 company cannot leave and is still accountable unless the DENR issues Certificate of Relinquishment to the
9 company.

10
11 8.13. The company annually deposits in the Government depository bank the FMRDP budget as Trust Fund
12 based on the schedule of costs specified in the FMRDP, from the beginning until the full FMRDP fund
13 commitment has been deposited before the operation ends. In case the company leaves, the Government
14 takes over utilizing the FMRDP fund for rehabilitation.

15
16 8.14. In the case of the proposed golf course in RRMI/RRPI, the FMRDP will just prepare the area; another
17 contractor/investor might enter to develop and operate the golf course (the company will have the option
18 to partner with the contractor/investor). Since the company does not own the land, the land reverts back to
19 the LGU after the issuance of Certificate of Relinquishment.

20
21 The MGB representative added that there is a technical Committee composed of other government
22 agencies which was involved in the review and approval of the amended FMRDP.

23
24 8.15. A CSO representative asked if there is a mechanism to monitor the spending or existing reports since
25 the company can overspend or underspend SDMP. Since the accuracy of generated figures reported last
26 year were not validated, the MGB was requested to submit these reports to the MSG.

27
28 8.16. The timeline of rehabilitation and target were questioned. The MGB presented Gantt chart specifying
29 monitoring schedule. It was mentioned that the golf course is expected to be completed in five years;
30 monitoring is at least ten years. If there is balance in the FMRDP fund, this will be returned to the
31 Government, as mandated by law.

32 33 **9. Open Government Co-Created Plan**

34
35 9.1. The Secretariat informed the body that the Co-Created Plan is due for submission to the International
36 OGP by September 2015 and that the MSG needs to discuss their commitments for the next three years.

37
38 9.2. The draft co-created plan was presented by the Secretariat.

- 39
40
41
- *2015: Draft an EITI bill approved by MSG by 3rd quarter of 2015*
 - *2016: Support for the passage of a law for EITI institutionalization*

1 9.3. The Chair commented that drafting of the EITI bill may take a bit longer than the proposed date. The
2 Chair suggested moving it to 2017. The Chair asked for the specific activities that needs to be conducted to
3 get an EITI bill approved
4

5 9.4. The Chair remarked on two things that need to be addressed. First is the institutionalization of PH-EITI
6 and second is the institutionalization of the Secretariat as part of the DOF in order to make its operation
7 sustainable. According to the Chair, the latter is more critical one at the moment.
8

9 9.5. A PCDSPO representative asked to be clarified with the term “institutionalization”. The same
10 representative asked if a law or a Republic Act will be required. The PCDSPO representative suggested
11 pushing an issuance of Executive Order so that PH-EITI would not have to go through the Congress to create
12 the PH-EITI office.
13

14 9.6. The Secretariat clarified that PH-EITI has been created through Executive Order and that its primary
15 concern is the budget.
16

- 17 • *2015: Develop EITI portal/dashboard containing all extractive contracts and supporting documents*
- 18 • *2016: Creation of online reporting system by end of 2016*
- 19 • *2017: Implementation of online reporting for companies and national government agencies*

20

21 9.7. The Chair asked that the Secretariat outline the preconditions for online reporting of companies in order
22 to asses if this is doable.
23

24 9.8. The Secretariat explained that this is just a matter of creating a portal that companies can access and
25 use in encoding their data.
26

- 27 • *2015: Scoping study for small scale mining, non-metallic mining and forestry sector;*
- 28 • *Inclusion of 2 sites for SSM for 2nd report*
- 29 • *2016: Expand scope of EITI report to include pilot areas for small scale mining and non-metallic*
30 *mining*
- 31 • *2017: Expand scope of EITI report to include pilot areas for forestry*

32

33 9.9. The Chair mentioned that the MSG should first discuss whether or not to include forestry sector in the
34 scope of EITI.
35

36 9.10. The Secretariat mentioned that the inclusion of forestry was suggested by OGP and the concern of
37 MSG will be presented to OGP.
38

39 9.11. The Chair noted that forestry cannot be included since the country currently implements logging ban.
40

41 9.12. It was then suggested that the commitment regarding the inclusion of forestry sector be removed.

1 The body agreed.

2

- 3 • *2015: Two pilot sites doing subnational EITI implementation to be included in the 2nd EITI report*
- 4 • *2016: Two additional pilot sites for subnational implementation included in the 3rd report*
- 5 • *2017: Subnational EITI implementation in pilot sites for each region*

6

7 9.13. A CSO representative informed the body that Nueva Vizcaya has an ordinance on EITI while Cebu also
8 has a proposed ordinance.

9

10 9.14. According to the Secretariat, if the commitment on subnational implementation would be adopted for
11 2016 and 2017, then this should be part of the MSG's work already.

12

13 9.15. The Chair expressed that subnational implementation is a bit complicated. Since LGUs are
14 autonomous, the MSG cannot impose the standards to the LGUs. The MSG can encourage and support
15 subnational implementation but it cannot commit to have additional subnational implementation every
16 year.

17

18 9.16. The Secretariat reiterated that the commitment should be to encourage the subnational
19 implementation.

20

21 9.17. The Chair suggested to give positive reinforcement by giving publicity in the national papers.

22

23 9.18. An industry representative asked how the MSG can come up with a mechanism to establish the
24 relationship between national and subnational MSG.

25

26 9.19. The Chair explained that this would lead to a discussion on how the subnational MSG should use the
27 EITI Standard, which has to be a separate discussion in the MSG.

28

29 9.20. The Secretariat said that if the mechanism is applied to ensure that subnational EITI will comply with
30 the standards of national EITI, the assumption is that subnational EITI has to recognize national EITI as a
31 body having the power to impose standards over them.

32

33 9.20. A CSO representative stated that this can be based on mutual agreement: if the LGUs agreed to be part
34 of the report, they have to subject themselves to certain standards.

35

36 According to the same representative, it can be communicated to the LGUs that the national EITI is setting
37 basic principles that need to be adopted when producing EITI report, and that subnational EITI will be
38 assessed based on these principles.

39

40 9.21. An industry representative also suggested that there should be mechanism on how to correct
41 discrepancy. A CSO representative said that this should be included in the validation.

1 9.22. The Chair emphasized the need to ensure the terms of engagement; to look at the quality and how.
2 CSO Representative proposed to the Secretariat to formulate the terms of engagement.

3
4 9.23. The Secretariat pointed out that since PH-EITI already committed two subnational EITI sites for the
5 second report, this will still be part of the commitments for 2015. However, there will be no more
6 subnational EITI site commitment for 2016 and 2017.

- 7
- 8 • *2015: Disaggregated data from LGUs indicating payments on a per company basis*
- 9 • *2016: Digitized reporting of payments at the local level*
- 10 • *2017: Online reporting by LGUs*
- 11

12 9.24. A CSO representative requested MGB to submit to Secretariat the 2011 and 2012 disaggregated sales
13 data (volume/price) used to compute excise and royalties.

14 15 **10. Other Matters**

16
17 10.1 It was mentioned that an industry forum has been conducted. The COMP representative was asked to
18 share the discussion during the said forum.

19
20 10.2. According to the COMP representative, companies are more comfortable with the previous waiver
21 than the perpetual waiver. Companies expressed that they do not want the waiver to be perpetual since
22 they want to first see how the reports will be used by all stakeholders. It was mentioned that companies
23 would want to see two or three more EITI reports first and assess how the government and CSO will utilize
24 the reports.

25
26 The COMP representative stated that the companies are committed to execute the BIR waiver every year.

27
28 10.3. The Secretariat reminded the MSG members that the visit of Clare Short is scheduled on June 1 and 2,
29 2015. In addition, there will be a pre-validation workshop on June 3, 2015 which aims assess the readiness
30 of the MSG to undergo validation process.

31
32 10.4. The Secretariat also mentioned that there will be a Regional MSG Meeting on June 8-10 and an Open
33 Data Visualization Bootcamp on June 8-9, 2015.

- 34
- 35 • Update on the procurement of the Independent Administrator (IA)
- 36

37 10.5. The Secretariat reported that the IA has not been hired yet because of the delays in the procurement
38 process.

- 39
- 40 • Financial report from January to April 2015
- 41

1 10.6. The Secretariat shared that there are now two sources of funding: the government and MDTF.

2

3 It was noted that expenses for the first quarter of 2015 have been shouldered by the government.

4

5 **ADJOURNMENT**

6

7 There being no other matters to discuss, the meeting was adjourned at 1:05 PM.

BOI INCENTIVES

BY:

ERLINDA F. ARCELLANA

Director, Incentives Administration Service, BOI

ROLE OF THE BOI

THE BOARD OF INVESTMENTS IS MANDATED BY E.O. 226 OTHERWISE KNOWN AS THE OMNIBUS INVESTMENTS CODE OF 1987, AS AMENDED, TO PROMOTE INVESTMENTS IN THE COUNTRY THROUGH THE GRANT OF INCENTIVES IN ACCORDANCE WITH ART. 2(3) OF THE SAID CODE WHICH STATES:

The State shall extend to projects which will significantly contribute to the attainment of these objectives, fiscal incentives without which said projects may not be established in the locales, number and/or pace required for optimum national economic development. Fiscal incentive system shall be devised to compensate for market imperfections, to reward performance contributing to economic development, be cost-efficient and be simple to administer.

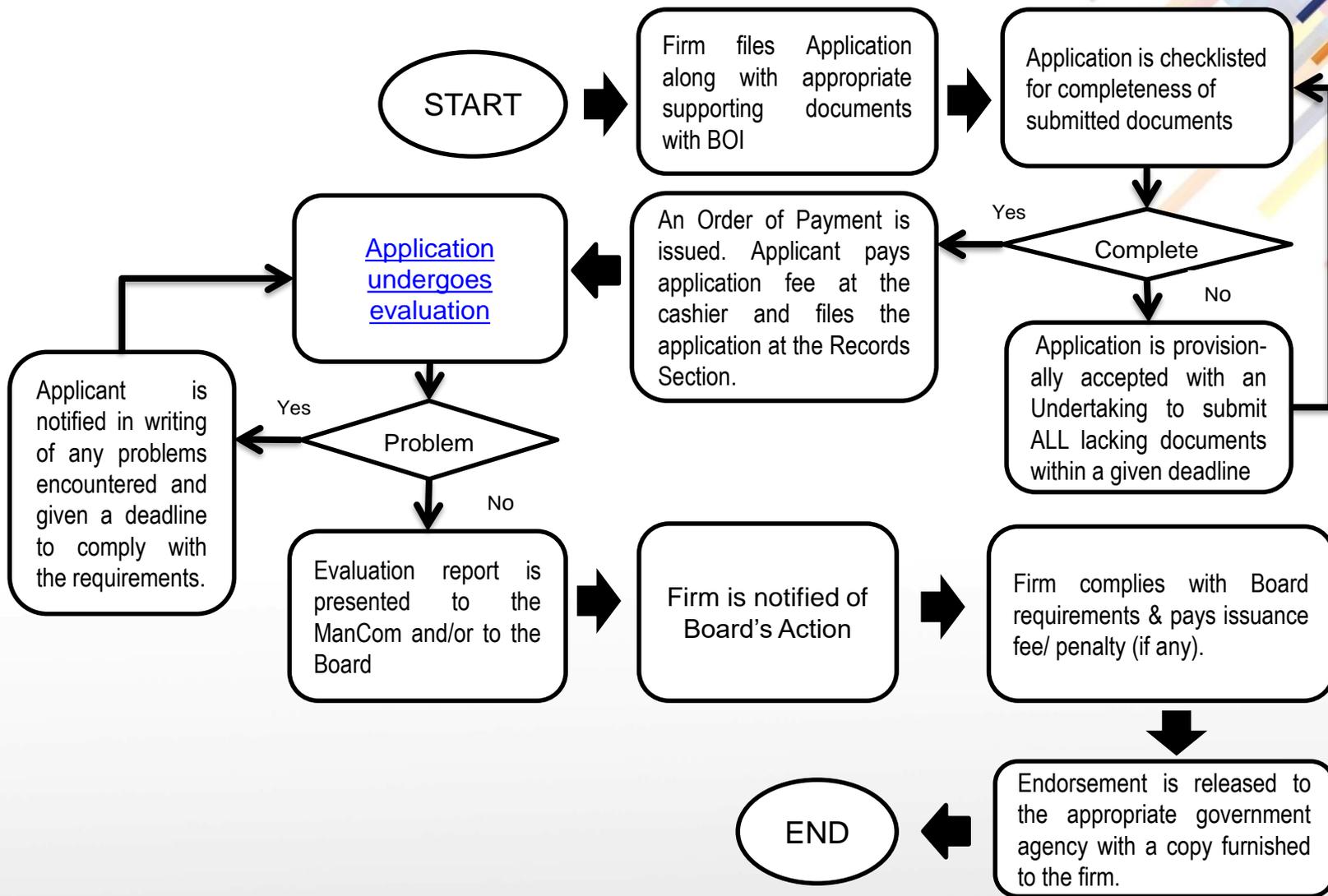
FURTHERMORE, PART II, RULE VI, SECTION 1 OF THE IMPLEMENTING RULES AND REGULATIONS OF E.O. 226 STATES:

Applications for Availment of Incentives – All applications for availment of incentives shall be filed with the Board.

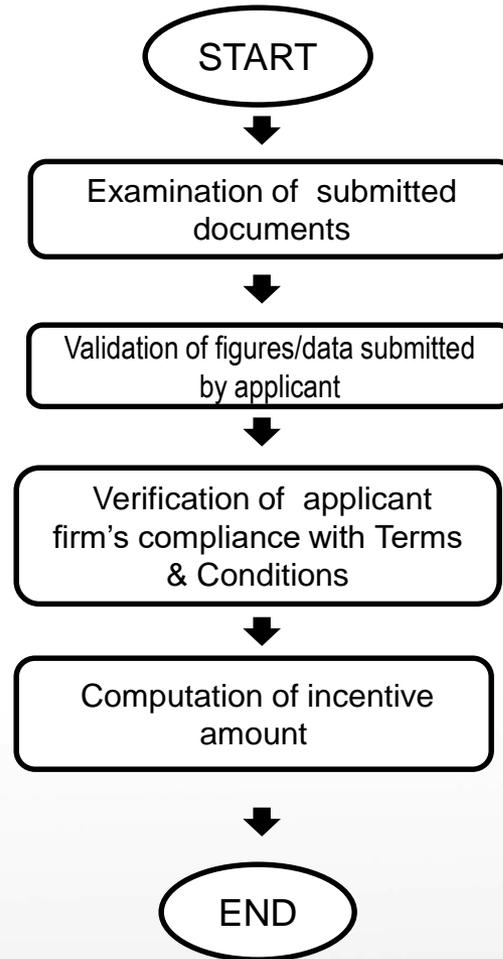
BOI INCENTIVES

1. Income Tax Holiday
2. Additional deduction for labor expense
3. Duty-free or duty-reduced importation of capital equipment
4. Unrestricted use of consigned equipment
5. Tax & duty-free importation of spare parts and supplies
6. Exemption from wharfage dues
7. Employment of foreign nationals
8. Zero-Rated Value Added Tax

INCOME TAX HOLIDAY PROCESS FLOW



EVALUATION PROCESS



NOTES ON INCOME TAX HOLIDAY

1. INCOME TAX HOLIDAY APPLICATIONS ARE FILED ON A PER PROJECT AND NOT PER FIRM BASIS.
2. THE SUPPORTING DOCUMENTS TO BE SUBMITTED VARY DEPENDING ON THE INDUSTRY/SECTOR OF THE APPLICANT.
3. A FIRM'S COMPLIANCE WITH THE TERMS AND CONDITIONS OF ITS REGISTRATION WITH THE BOI IS A PRIMARY REQUIREMENT FOR THE GRANT OF INCOME TAX HOLIDAY. NON-COMPLIANCE COULD MEAN PAYMENT OF PENALTIES OR FORFEITURE OF INCENTIVES.
4. THE BOI'S ASSESSMENT OF AN APPLICANT'S AMOUNT OF TAX EXEMPTION IS ONLY AN ESTIMATE. THE BUREAU OF INTERNAL REVENUE (BIR) HAS THE FINAL SAY ON THE ACTUAL AMOUNT OF TAX EXEMPTION A FIRM IS ENTITLED TO AS INDICATED IN OUR NOTIFICATION LETTER TO THE FIRM WHICH STATES:

However, please note that your ITH claim is subject to adjustment, if any, after the completion of the audit by the Bureau of Internal Revenue.

MONITORING OF BENEFITS

BOI-REGISTERED ENTERPRISES ARE REQUIRED TO SUBMIT ANNUAL REPORTS ON THE REGISTERED PROJECTS' OPERATIONS.

THE FOLLOWING INDICATORS ARE BEING MONITORED FOR EACH REGISTERED PROJECT:

- 1. AMOUNT OF CAPITAL/MONETARY INVESTMENTS MADE**
- 2. LABOR GENERATION**
- 3. FOREIGN EXCHANGE EARNINGS OF EXPORT ENTERPRISES**
- 4. NET VALUE ADDED OF OPERATIONS**

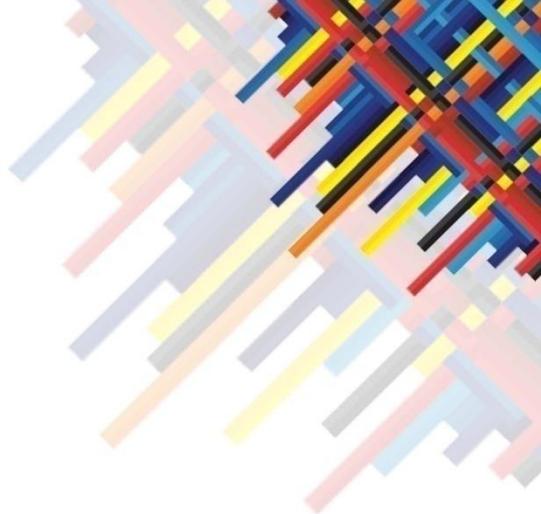
INCENTIVES DATA

ART. 81 OF E.O. 226 STATES THE FOLLOWING:

Article 81. *Confidentiality of Applications.* – All applications and their supporting documents filed under this Code shall be **confidential** and shall not be disclosed to any person, except with the consent of the applicant or on orders of a court of competent jurisdiction.

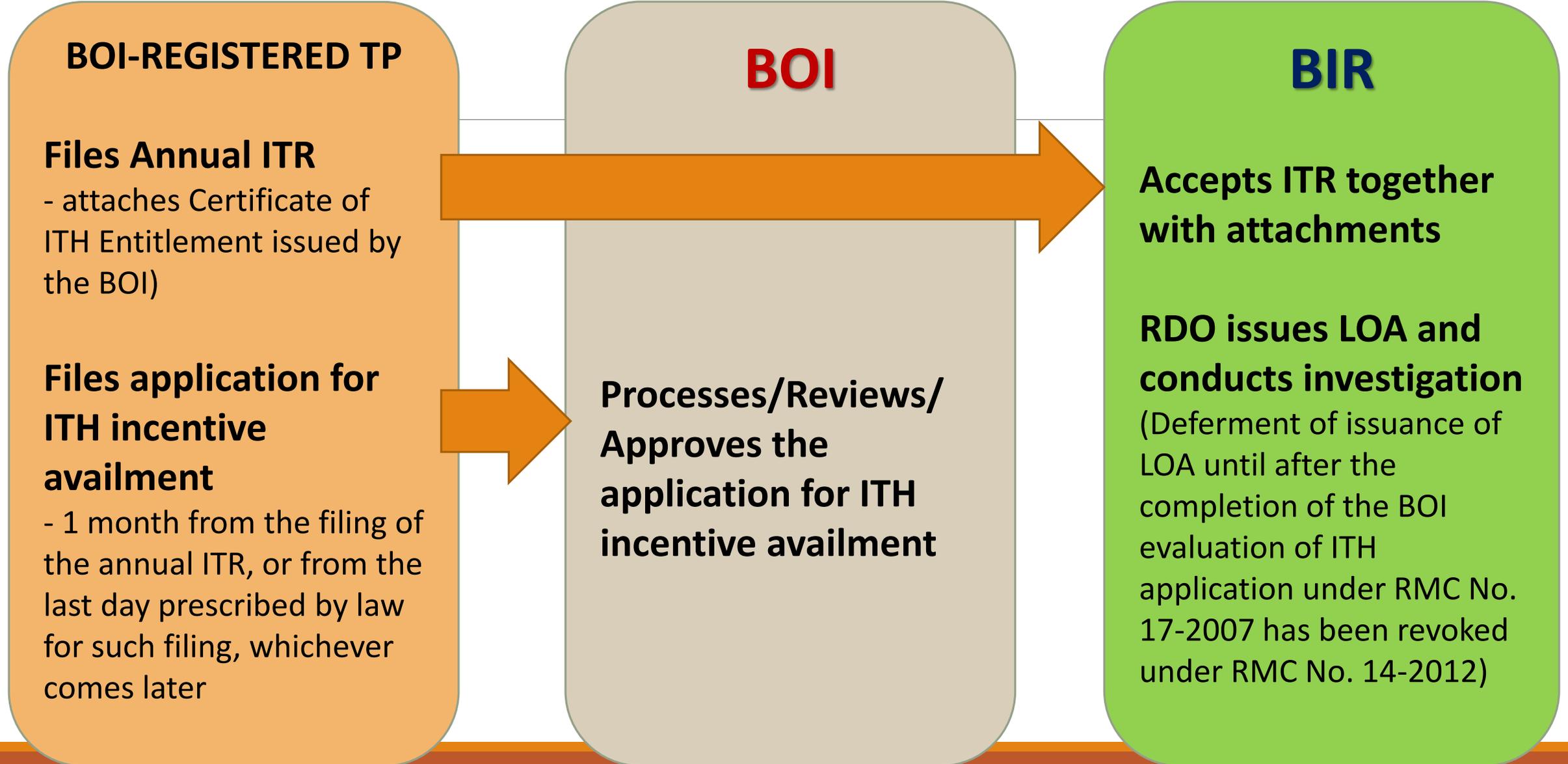
As such:

1. Incentives information pertaining to particular firms cannot be released to the public.
2. Only aggregate incentives by industry/sector can be provided.



THANK YOU!

PROCESS FLOW FOR ITH AVAILMENT



Republic of the Philippines
BOARD OF INVESTMENTS
Makati City

CERTIFICATE OF REGISTRATION

No. 2006-158

TO ALL WHOM IT MAY CONCERN:

[Redacted] has duly registered
New Project *[Redacted]* concentrate
in accordance with the provisions of the Investment and Business Investments Code of 1987
subject to the representation of the provisions of the rules and regulations
for registration of the Board of Investments set forth in its application
of the Board of Investments and the rules and regulations and conditions herein
prescribed.
[Redacted] Secretary of the Board of
Investments and the Chairman /
Vice-Chairman is hereunto affixed. Given at
Makati City, Philippines, this 13th day of
December, 2006

Attested:

[Signature]
ROBBY G. FONDEVILLA

Board Secretary
Board Res. No. 44-13 S' 2006

[Signature]
USEC. ELMER C. HERNANDEZ
Vice Chairman & Managing Head



CERTIFICATE OF ITH ENTITLEMENT
For Taxable Year 2011

To Whom It May Concern:

This is to certify that _____ is a bonafide BOI registered enterprise, which has the following registration with the BOI and is entitled to ITH incentive provided under Article 39(a) of Executive Order No. 226 as amended by R.A. 7918:

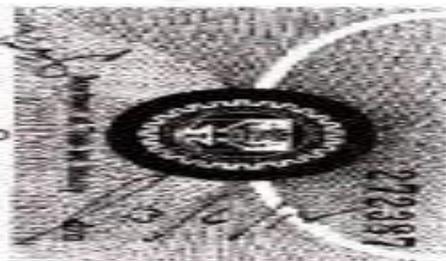
Registration No./Date	2006-158 / 13 December 2006
Tax Identification No. (TIN)	-
Law	E.O. 226
Type/Status	New Producer / Non-Pioneer
Registered Product	Copper Concentrate
Registered Capacity	15,204,000 DMT per year
Actual Start of Commercial Operation	July 2008
ITH Entitlement Period	01 November 2007 to 31 October 2011 [four (4) years] plus one (1) bonus year from 01 November 2011 to 31 October 2012

This certificate is issued pursuant to Paragraph II.1 of the MOA between BOI and BIR enhancing the tax enforcement and collection efforts towards an efficient tax incentive system. It shall be attached to the ITR where the ITH claim is reflected and can not be used for any other purpose.

This certificate is effective for one year from date of issue and subject to submission of 2010 and 2011 1st to 4th Quarter S1-3 report and proof of compliance with increase in paid-up capital stock to at least P3,118,821,000.00 to the Supervision and Monitoring Department prior to availment of ITH for taxable year 2011.

Issued this 5th day of March 2012 at Makati City.

LUCITA P. REYES
Executive Director
Industry Development Group

Copy furnished:
Bureau of Internal Revenue
BOI-Incentives Department

REPUBLIC OF THE PHILIPPINES)
CITY OF MAKATI) S.S.

SECRETARY'S CERTIFICATE

I, _____, of legal age, Filipino and with business address at _____ and say that:

I am the duly elected and incumbent Assistant Corporate Secretary of Carmen Copper Corporation (the "Corporation"), a corporation duly organized and existing under the laws of the Philippines with principal office and place of business at Quad Alpha Centrum, 125 Pioneer St., Mandaluyong City.

I hereby certify that at the meeting of the Board of Directors of the said Corporation held on 02 July 2009 at its principal office, the following resolutions were unanimously approved:

"RESOLVED, that Carmen Copper Corporation (CCC) be, as it hereby is, authorized to file with the Board of Investments (BOI) an application for the availment of its Income Tax Holiday incentive (the "Application")"

"RESOLVED, FURTHER, that any one of the following persons be, as they hereby are, authorized to sign, execute, and deliver on behalf of CCC any and all documents necessary for the filing and processing of the Application:"

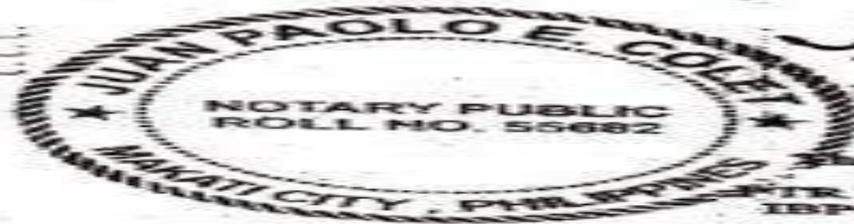
"RESOLVED, FINALLY, that CCC be, as it hereby is, permitted to authorize the BOI to verify and validate any certification that will be issued by CCC's depository banks in connection with and for the purpose of the Application."

IN WITNESS WHEREOF, I have hereunto set my hand this JUL 03 2009 at Makati City.


DELFIN P. ANGCAO
Assistant Corporate Secretary

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public for and in Makati City this JUL 03 2009, affiant who is personally known to me and whose identity I have confirmed through his Passport No. VV0738152, issued at Manila on July 11, 2007, bearing the affiant's photograph and signature, and who showed to me his Community Tax Certificate No. 27202819 issued at Makati City on January 29, 2009.

Doc. No. QC
Page No. 38
Book No. 1
Series of 2009.




JUAN PAOLO E. COLET
Appointment No. M-359
Notary Public - City of Makati
Until 31 December 2010
Castillo Laman Tan Pantaleon
& San Jose Law Firm
No Valero Tower, 122 Valero Street
Salcedo Village, Makati City
PTR No. 1566943; 01-05-09; Makati City
IBP No. 767140; 01-05-09; Makati City
Roll No. 55682

REPUBLIC OF THE PHILIPPINES
 BOARD OF INVESTMENTS
 INDUSTRY AND INVESTMENT BUILDING
 385 SEN. GIL J. PUYAT AVENUE

APPLICATION FOR INCOME TAX HOLIDAYS
 NEW/EXPANDING EXPORT PRODUCER
 UNDER ART. 39 (a) OF EXECUTIVE ORDER NO. 28
 TAXABLE YEAR

INCENTIVES DEPARTMENT

FOR OFFICIAL ACCEPTANCE

DATE : 5/14/2012
 TIME : 9:50 AM
 BY : [Signature]

I. INFORMATION ABOUT APPLICANT

Applicant :
 T. I. N. :
 Office Address :
 Telephone No. / FAX No. :
 Official Authorized Representative :
 Type of Registration : New
 Base Figure (if expansion) : N/A
 Status of Registration : Non-Pioneer
 Registered Activity : New Producer of Copper Concentrate
 Registration No. : 2006 - 158
 Date of Registered : December 13, 2006
 Ownership : 100% Filipino

II. PERFORMANCE DATA FOR THE TAXABLE YEAR

(1)*	Volume	Value
A. Total Sales / Eligible Sales	: <u>117,884.60 DMT</u>	<u>Php11,520,801,533</u>
B. Less: Base Figure	: <u>-</u>	<u>-</u>
C. Incremental Sales (A-B)	: <u>117,884.60 DMT</u>	<u>Php11,520,801,533</u>
D. Total Export Sales (Direct/Indirect/Constructive)	: <u>117,884.60 DMT</u>	<u>Php11,520,801,533</u>
E. Export Commitment - (117,884.60 DMT / 132,313.05 DMT):		<u>89.09%</u>
F. Eligibility Hurdle	: <u>Complied</u>	
D > E = 100%		

III. INCOME TAX EXEMPTION CLAIMED

1. For Whole Year (12 months Period) Availment	Volume	Value
A. Total Sales (whole taxable year)	<u>117,884.60 DMT</u>	<u>Php11,520,801,533</u>
B. Less: Base Figure, if any	<u>-</u>	<u>-</u>
C. Incremental Sales	<u>117,884.60 DMT</u>	<u>Php11,520,801,533</u>
D. Rate of Exemption		<u>100%</u>
E. Taxable Income from Registered Activity		<u>P 2,818,851,450</u>
F. Tax Due from Registered Activity (E x Tax rate)		<u>845,655,435</u>
G. Estimated Income Tax Holiday Incentive (F x D)		<u>845,655,435</u>

RECEIVED
 INCENTIVES DEPARTMENT
 MAY 14 2012
 9:50 AM
 [Signature]

2. For Less than a Year Availment

	Volume	Value
A. Sales (for the period still entitled to ITH)	_____	_____
B. Less: Base Figure	_____	_____
C. Incremental Sales (A-B)	_____	_____
D. Rate of Exemption (C/A X 100)	_____	_____
E. Taxable Income from registered activity	_____	_____
F. Tax Due from Registered Activity	_____	_____
G. Estimated Income Tax Holiday Incentive (F x D)	_____	_____

1/ New export producer will have no base figure and incremental sales

3/ Base figure pro-rated by number of days/months still entitled to ITH over 365 days/12 months

1/ Computation of Taxable Income from Reg. Activity

Net Income per AFS***	P 2,461,916,810
Add: Non-Deductible Expenses /Other Taxable Income	
Unrealized forex gain in 2010 realized in 2011	P 142,603,665
Unrealized MTM loss in 2011	P 208,420,940
Impairment Loss on PPE	P 93,818,377
Provision for pension cost	P 16,663,400
Nondeductible portion of interest expense	P 865,311
Estimated Loss on Unclaimable Input Vat	P 69,225,554
Surcharge/Interest/Compromise	P 183,989
Less: Non-Taxable income and Income Subjected to Final Tax	
Unrealized Forex Gain in 2011	P 5,836,936
Interest Income already subjected to final tax	P 2,295,842
Unrealized MTM loss in 2010 realized in 2011	P 135,836,125
Net Income per ITR	P 2,849,729,143
Less: Income from not related to Registered activity	P 30,877,693
Net Income from Registered Activity	P 2,818,851,450

*** If less than a year availment, net income for the period still entitled to ITH based on Audited Segregated Income Statement

IV. SUPPORTING DOCUMENTS

Pls secure checklist of ITH requirements from Incentive Department

Done in QUEZON CITY this MAY 14 2012 day of _____

Authorized Signatory

Printed Name : _____
Designation : _____

REPUBLIC OF THE PHILIPPINES)
QUEZON CITY) S.S.

SUBSCRIBED AND SWORN to before me this MAY 14 2012 in the

QUEZON CITY affiant exhibiting to me his/her Community Tax Certificate No. _____

Issued at _____ on _____

Tom J. Dulay Jr F

ATTY. TOMAS F. DULAY, JR.
NOTARY PUBLIC
Until December 31, 2014 / TIN #10-225-916
Iss. Roll No. 165800/03-13-1961
Roll No. 825297/CY2012-Q.C.
PTR No. 6091983701-03-12 Q.C.
MCLE EXEMPTED

Doc. No. _____
Page No. 161
Book No. 32
Series of 7
2012

PROCESS FLOW FOR ITH AVAILMENT

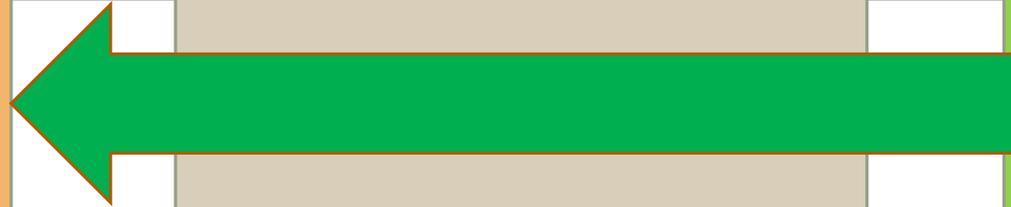
BOI-REGISTERED TP

Receives PAN /FAN and pays or protests the deficiency tax assessments

BOI

BIR

RDO issues deficiency income tax assessment arising from income not entitled to ITH incentive, as well as on income from registered activity, in the absence of BOI-approved application for ITH incentive availment. (thru PAN / FAN)



PROCESS FLOW FOR ITH AVAILMENT

BOI-REGISTERED TP

BOI

**Indorses the
approved ITH
incentive availment
to the BIR**
(Assessment Service (AS))

BIR

**The AS thru AITEID
conducts post-audit /
review of the dockets
endorsed by the BOI**

**The AS transmits the entire
docket to the RDO (where
the BOI taxpayer is
registered) for purposes of
evaluating its findings and
effecting the immediate
collection on the
differential income tax plus
increments accruing
thereon**

Application No. 2012-A0210
Date Filed May 14, 2012
TIN 233-903-100-000
Tel. No. 032-3252215 Fax No. 635-4495

25 September 2014

Attention:

Gentlemen:

We are pleased to inform you that the Board, in its meeting of September 16, 2014 approved your application for income tax holiday (ITH) incentive pursuant to Art. 39(a) of E.O. 226 otherwise known as the Omnibus Investments Code of the Philippines.

This covers your claim of income tax exemption in your 2011 Income Tax Return (ITR) for the normal income tax due as producer of copper concentrates which was registered with the Board on December 13, 2006 per C.R. No. 2006-158. However, please note that your ITH claim is subject to adjustment, if any, after the completion of the audit by the Bureau of Internal Revenue.

Please present the proof of payment of the issuance fee in the amount of P15,000.00 to the Incentives Service on or before October 25, 2014. Pursuant to Rule IX, Section 5 of E.O. 226, the Board may impose sanctions for failure to comply within the aforesaid date such as penalties, non-acceptance of your future ITH applications, and/or cancellation of your BOI-registration.

Thank you for your usual support and cooperation.

Very truly yours,

Erinda F. Arcellana
ERLINDA F. ARCELLANA
Director
Incentives Service

cc: Bureau of Internal Revenue

LRD
LRD

Taxable Year External Auditor Registration No. / Date Registered Activity Project Cost / Status ITH Period/Bonus Year Cost of Indigenous Materials Net Foreign Exchange Earnings Period Covered	CY New/Non-Pioneer 1 Nov 2007 to 31 Oct 2011 (four years) Nov 1, 2011 to Oct 31 2012 Nov 1, 2012 to Oct 31 2013	
	Amount	% to Total Revenue
Sales	11,520,801,533.00	100.00%
Cost of Sales	7,433,820,090.00	
Mining and milling costs	473,997,697.00	
Mine products taxes and royalties		
Total Cost of Sales	7,907,817,787.00	68.64%
Gross Profit	3,612,983,746.00	31.36% GPR
General & Administrative Expenses		
Personnel costs	325,107,762.00	2.82%
Taxes and licenses	74,341,417.00	0.65%
Depletion and depreciation	171,857,670.00	1.49%
Professional fees	38,123,052.00	0.33%
Insurance	33,365,871.00	0.29%
General consumption items	14,331,960.00	0.12%
Power and other utilities	32,578,515.00	0.28%
Entertainment, amusement, representation	21,610,627.00	0.19%
Repairs and maintenance	5,509,735.00	0.05%
Rentals	43,459,076.00	0.38%
Office supplies	5,425,993.00	0.05%
Provision for possible losses on input VAT	69,225,554.00	0.60%
Others	61,017,058.00	0.53%
Total Operating Expenses	695,954,290.00	7.78%
Other income/(charges)		
Realized mark-to-market gain(loss) on derivatives	428,206,916.00	3.72%
Foreign exchange gain (net)	17,696,560.00	0.15%
Interest income	2,295,842.00	0.02%
Unrealized mark-to-market gain(loss) on derivatives	(208,420,940.00)	-1.81%
Finance charges	(514,758,185.00)	-4.47%
Others - net (Long term Debt & other interest bearing liabilities)	19,867,161.00	0.17%
Total other income/charges (net)	(255,112,646.00)	-2.21%
Net income before tax	2,461,916,810.00	21.37% NPR

PROCESS FLOW FOR ITH AVAILMENT

BOI-REGISTERED TP

BOI

BIR

If no deficiency tax, the AS still transmits the docket to the RDO for full evaluation based on available records, and for consolidation of the docket with the on-going investigation.

PROCESS FLOW FOR ITH AVAILMENT

BOI-REGISTERED TP

BOI

BIR

RDO evaluates findings of AITEID vis-à-vis its own findings during actual investigation pursuant to the LOA.

RDO cancels the deficiency income tax assessment upon submission of the BOI-approved application for ITH incentive availment.

PROCESS FLOW FOR ITH AVAILMENT

BOI-REGISTERED TP

BOI

BIR

RDO furnishes the AS with a written report on the matter within thirty (30) days from receipt of the docket.



Tax Incentives Management and Transparency Act (TIMTA)

**23rd PH-EITI MSG meeting
7 May 2015**

Outline

- ❖ Brief background and Rationale of the proposed bill
- ❖ Features of TIMTA
- ❖ Legislative status and Issues concerning the proposed legislation



Background

- ❖ The TIMTA bill was conceptualized in relation with the proposed rationalization of the fiscal incentives system.
- ❖ Over the years, the Philippine government has passed laws that aim to stimulate investment and encourage the public to engage in socially beneficial activities by reducing tax burdens through the grant of tax exemptions, reduced tax rates, tax deductions, tax credits and other forms of preferential tax treatments.



- ❖ Tax incentives represent an alternative form of government assistance with motivations and fiscal implications similar to those of conventional government expenditures on entitlement programs, grants and subsidies. This kind of policy measures result in tax expenditures which are a common channel for financing government policies outside the budgetary framework.
- ❖ There is a serious lack of information on the bulk of tax incentives, which are those granted by various government agencies to private persons and enterprises under different laws.



-
- ❖ In 2013, the DOF prepared an FY 2011 Tax Expenditure report covering the major investment tax incentives granted (ITH, 5% GIE and import tax and duty incentive) categorized by granting entity (IPA) and by major economic sector.
 - ❖ Source of data is from the BIR (1702 ITRs filed thru the e-FPS) and BOC import documents.
 - ❖ It was submitted to the DBM and published in the 2015 BESF.

Rationale

- ❖ Transparency and Accountability
- ❖ Better information for analysis towards a more efficient system
- ❖ Alignment with international best practice
- ❖ Fiscal incentives rationalization

Features of the TIMTA bill

- ❖ Coverage: investment tax incentives
- ❖ Institutionalized process of filing for IPA-registered investors: e-filing system of the BIR
- ❖ Publication and monitoring of tax incentives: single database for the monitoring and analysis of tax incentives to be maintained by DOF; IPAs will submit to NEDA investment-related information (employment, investment cost, export earnings)
- ❖ Preparation of a cost-benefit analysis: NEDA
- ❖ Penalties for non-compliance in the e-filing and non-submission of reports

Legislative Status

❖ House of Representatives

- pending in the Committee on Ways and Means (under deliberation)

❖ Senate

- pending Second Reading (under period of interpellation)



Issues confronting the passage of TIMTA

- ❖ Lack of proper understanding about tax expenditures
- ❖ Misunderstanding on the objectives of the bill
- ❖ Resistance to change and transformative actions



Thank you!



FREEDOM OF INFORMATION

Presidential Communications
Development and Strategic Planning Office

Rm. 301 New Executive Bldg. J.P. Laurel Street, Malacañan Palace, Manila
Tel: (632)733-3605 / (632)736-0719 Fax No.(632)735-6167



PRESIDENTIAL COMMUNICATIONS
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THE ADMINISTRATION FOI BILL



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OBJECTIVES

- Result of Study Group formed by President to ensure full protection of Executive Privilege and reasonable exceptions for other branches of government.
- Institutionalize the culture of transparency in government beyond this administration.
- Establish categories of documents for routine publication, while providing workable mechanisms for the processing and deliberation on requests for information.



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SALIENT FEATURES



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1. Coverage

a) Mandatory Disclosure

- The list of information and records for mandatory disclosure was increased and made consistent with existing laws and regulations;
- Information required to be disclosed in the agency's official website include the SALNs of national officials, freedom of information manual, public interest documents such as procurement contracts, annual procurement plan, annual budget, etc.



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1. Coverage

b) Measures to Promote Openness in Governance

- Government agencies should publish, print and disseminate at no cost and in an accessible form, in conjunction with the Anti-Red Tape Act of 2007, through their website, timely, true, accurate, and updated key information.



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2. Exemptions

- a) Presidential Exceptions: Defense, National Security, and
- b) Diplomacy
- c) Heads of Office, Bureaucratic Exceptions
- d) Legislative Exception
- e) Privacy Exceptions
- f) Economic Exceptions
- g) Judicial Exceptions



Presidential Exceptions: Defense, National Security, and Diplomacy

- Information declared Secret according to the provisions of an Executive Order: *Section 7 (a)*
- Concerns **national security** or **internal and external defense** of the State and may damage the state if revealed; *Section 7 (a.1)*



Presidential Exceptions: Defense, National Security, and Diplomacy

- Concerns foreign affairs of the Philippines with one or more states and revelation shall weaken negotiating position or damage relations;
- *Section 7 (a.2)*



Presidential Exceptions: Deliberative Process Privilege

- The records of minutes and advice given and opinions expressed during decision-making or policy formulation as part of the Chief Executive's deliberative process. Once policy has been formulated and decisions made, minutes and research data may be made available for disclosure unless they were made in executive session. *Section 7 (b)*

- *As held in Neri vs. Senate Committee on Accountability of Public Officers and Investigations*



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Heads of Office Exceptions: Defense, Law Enforcement, Security of Agents and Methods

–Information requested pertains to internal and/or external defense, law enforcement, and border control, when the disclosure thereof would:

–*Section 7 (c)*



Heads of Office Exceptions: Defense, Law Enforcement, Security of Agents and Methods

–(i) unduly compromise or interfere with any legitimate military or law enforcement operation, or

–(ii) unduly compromise or interfere with the prevention, detection or suppression of criminal activity, the effective implementation of immigration controls and border security, or

• *Section 7 (c)*



Heads of Office Exceptions: Defense, Law Enforcement, Security of Agents and Methods

- (iii) deprive a person of a right to a fair trial or an impartial adjudication, or
- Section 7 (c)*



Heads of Office Exceptions: Defense, Law Enforcement, Security of Agents and Methods

–(iv) lead to the disclosure of the identity of a confidential source, including a government, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a law enforcement authority in the course of an investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, or

–*Section 7 (c)*



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Heads of Office Exceptions: Defense, Law Enforcement, Security of Agents and Methods

- (v) disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or



Heads of Office Exceptions: Defense, Law Enforcement, Security of Agents and Methods

(vi) endanger the life or physical safety of any individual.

– *Section 7 (c)*



Heads of Office, Bureaucratic Exceptions:

- The information requested consists of drafts of orders, resolutions, decisions, memoranda or audit reports by any executive, administrative, regulatory, constitutional, judicial or quasi-judicial body in the exercise of their regulatory, audit and adjudicatory function.
- Section 7 (d)*



Legislative Exception:

- The information requested is obtained by any committee of either House of Congress in executive session.

–*Section 7 (e)*



Privacy Exceptions

–The information requested pertains to the personal information of a natural person, whether from the public or private sector, and its disclosure would constitute an unwarranted invasion of his or her personal privacy....

–*Section 7 (f)*



Economic Exceptions

–Pertains to trade secrets and commercial or financial information obtained from a natural or juridical person other than the requesting party, whenever the revelation thereof would seriously prejudice the interests of such natural or juridical person in trade, industrial, financial or commercial competition. commercial competition.

–*Section 7 (g)*



Judicial Exception

- Information is classified as privileged communications in legal proceedings by law or by the Rules of Court
 - Section 6 (h)*
- Information requested is exempted by law or the Constitution.
 - Section 6 (i)*



Currencies, interest rates, securities, commodities or financial institutions

- Premature disclosure would likely lead to fraud, manipulation, other unlawful acts or schemes or likely frustrate the effective implementation of a proposed official action *Sec. 7 (j)*



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3. Culpabilities

a) Administrative Liability

- Administrative sanctions are to be imposed to public officers who would violate the provisions of the FOI law after an initial determination of malice;
- Acts enumerated in Section 12 shall be tantamount to gross neglect of duty and shall constitute grounds for administrative and disciplinary sanction against any public official or employee who willfully and knowingly commits said acts



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3. Culpabilities

b) For Abuse of Right

- Information that is already made available or is accessible from another agency is exempt from disclosure.
- Repeated similar requests from the same persons excuse the government agency from complying.



PRESIDENTIAL COMMUNICATIONS DEVELOPMENT AND STRATEGIC PLANNING OFFICE

4. Publication in the Official Gazette (www.gov.ph)

The screenshot shows the homepage of the Presidential Communications Development and Strategic Planning Office website. The browser address bar displays 'www.gov.ph'. The navigation menu includes 'GOVPH', 'About', 'Briefing Room', 'eServices', and 'Resources'. A search bar is labeled 'Search GOVPH'. A yellow banner features the APEC Philippines 2015 logo. A blue trending bar lists: '2015 holidays, K to 12, Draft Bangsamoro Basic Law, Changing registry documents, Customs destroys fake footwear, 1987 Constitution, Passport renewal.' The main content area is divided into three sections: 'FEATURED CONTENT' with a video thumbnail titled 'Projects approved by the NEDA board' and a link to a 'Statement: The Presidential Spokesperson on the January 2015 employment rate'; 'LATEST RELEASES' with links to 'Speech of President Aquino at the 29th anniversary of PSG' and 'Speech of President Aquino during the Malacañang Prayer Gathering'; and a 'More' button. At the bottom right, there is a 'TRANSPARENCY PAGE OF THE OFFICE OF THE PRESIDENT' logo.



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4. Publication in the Official Gazette (www.gov.ph)

Publication of the following in the online version of the Official Gazette, with the corresponding timestamps on the document, shall be considered as official publication:

- a) All important legislative acts and resolutions from Congress;
- b) All executive and administrative orders and proclamations;
- c) Decisions or abstracts of decisions of the Supreme Court and the Court of Appeals or other courts of similar rank, as they deem necessary;
- d) Documents that the President has authorized to be published.



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RECENT DEVELOPMENTS



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- When the proposed Substitute Bill was submitted to the House during the 15th Congress, Rep. Lorenzo Tañada III filed a consolidated bill incorporating the administration proposed Substitute Bill; in the Senate, Senator Gregorio Honasan II filed a bill also incorporating the administration proposal.
- On **September 4, 2013**, the Senate Committee on Public Information and Mass Media held a public hearing regarding FOI wherein Usec Manuel L. Quezon III presented a position paper on the FOI and submitted the Administration's version of this bill.



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- On **September 24, 2013**, Sen. Poe announced her sponsorship of Senate Bill 1733 “The People’s Freedom of Information Act of 2013”
- On **March 10, 2014**, the Senate passed the FOI bill on third and final reading with 22 affirmative votes, no abstention and no negative votes
- On **October 23, 2013**, Rep. Leni Robredo filed House Bill No. 3237: An act to strengthen the right of citizens to information held by the government, which adopts the Administration’s version of the FOI



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- On **November 26, 2013**, the of the House Committee of Public Information voted for a mid-February 2014 deadline for the TWG to come up with the consolidated FOI Bill. They likewise voted to make the consolidated FOI Bill from the previous congress as reference within which the new bill will be based.



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- Last year, the Public Information committee of the House of Representatives, headed by Rep. Jorge Almonte, conducted regular technical working group hearings to deliberate on the provisions. The Office of the President was represented by Undersecretary Manuel L. Quezon III
- On **November 24, 2014**, the House bill entitled “People’s Freedom of Information Act of 2014” was approved by the committee on Public Information



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- On **March 4, 2015**, the FOI Bill passed the Committee on Appropriations and will be awaiting plenary discussions



Thank you.

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Rm. 301 New Executive Bldg. J.P. Laurel Street, Malacañan Palace, Manila
Tel: (632)733-3605 / (632)736-0719 Fax No.(632)735-6167

Status of Final Mine Rehabilitation and Decommissioning of Rapu-rapu Polymetallic Project and Monitoring and Evaluation of Social Development and Management Program

ENGR. MARCIAL H. MATEO

Chief, Mine Rehabilitation Section

Mine Safety, Environment and Social Development Division

Mines and Geosciences Bureau

Department of Environment and Natural Resources

May 7, 2015

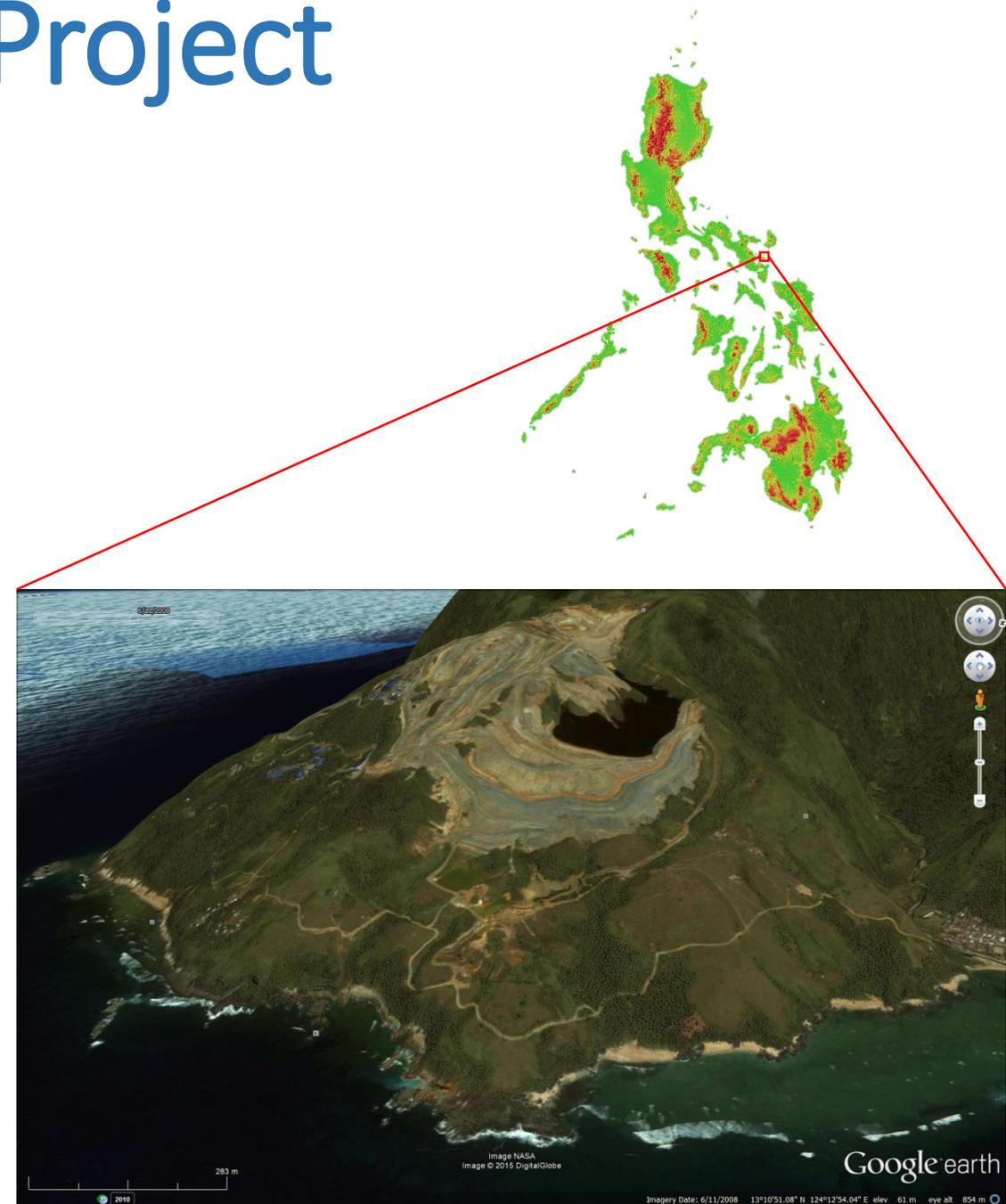


Status of Final Mine Rehabilitation and Decommissioning of Rapu-rapu Polymetallic Project



Rapu-rapu Polymetallic Project

- **Open pit mine in Rapu-rapu Island, Albay**
- **Copper and Zinc concentrates with Gold and Silver as by-products**
- **Operated by:**
 - 1. Rapu-rapu Minerals Incorporated (RRMI)**
 - 2. Rapu-rapu Processing Incorporated (RRPI)**



Rapu-rapu Polymetallic Project

- Mining and milling operations ceased in 2013
- Implementation of FMR/DP commenced in 2013
- FMR/DP Budget: PhP309,884,173.00



Rapu-rapu Polymetallic Project



Structures/Facilities	Area (ha)
Industrial Site	180
Open Pit	26
Tailings Storage Facility	24
Tailings Storage Embankment	26
Processing Plant	5
Road & Camp Facilities	20

Status of FMR/DP Implementation

Items	Approved FMR/DP Budget	Utilized FMR/DP Budget as of December 2014	Remaining FMR/DP Budget as of December 2014	Percent FMR/DP Budget Utilized	Percent Physical Accomplishment
Open Pit	55,403,807.00	10,975,922.35	44,427,972.82	20%	6.8%
Upper Tailings Storage Facility	6,189,210.00	2,798,180.00	3,391,380.00	45%	1.72%
Lower Tailings Storage Facility	63,387,340.00	4,243,948.80	64,143,054.85	6%	2.57%
Bioreactor	16,831,116.00	-	16,972,908.62	-	-
ROM Pad	26,367,300.00	8,972,680.70	6,481,695.00	58%	6%
Management Cost (G&A)	108,503,500.00	94,890,516.65	13,612,983.35	87%	-
Value Added Tax	33,201,900.00	8,366,631.31	24,835,268.69	25%	-
TOTAL	309,884,173.00	130,247,879.81	173,865,263.33	43%	17.09%

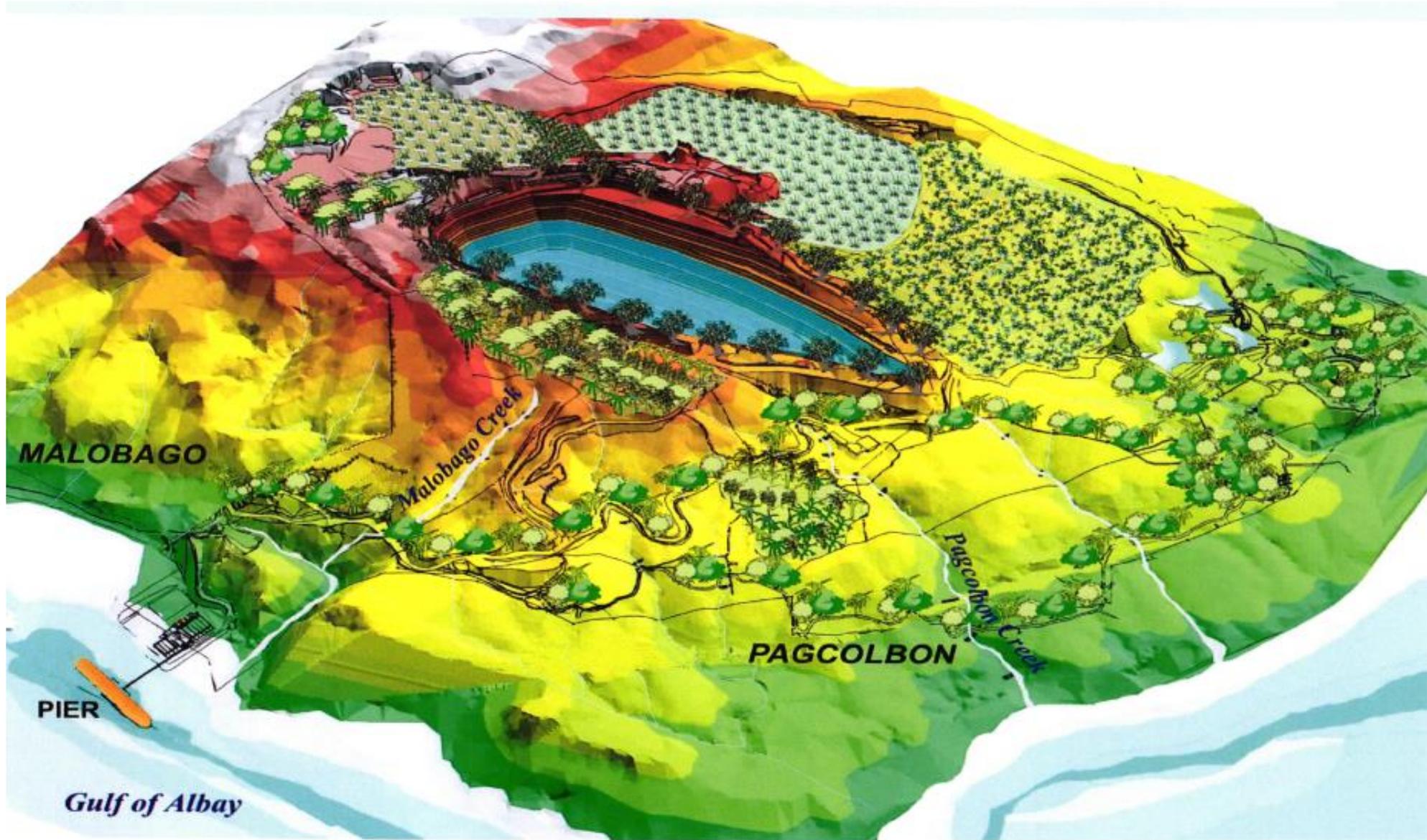
Rehabilitation & Monitoring Schedule

Item		1 st year	2 nd year	3~5 year
Open Pit	Slope stabilization	█		
	Neutralization		█	
	Drainage system		█	
	Vegetation		█	
UTSF	Cover	█		
	Drainage system		█	
	Vegetation		█	
LTSF	Surface & Slope reshaping		█	
	Cover		█	
	Drainage system		█	
	Vegetation		█	
Water treatment facility	Settling pond		█	
	Bioreactor		█	
	Wetland		█	
	Drainage system		█	
	Monitoring			█

Rapu-rapu Polymetallic Project



Rapu-rapu Polymetallic Project



Rapu-rapu Polymetallic Project



Rapu-rapu Polymetallic Project



Ongoing Activities

1. Open Pit

- Ripping and sidecasting at South Wall
- Bench Height : 10 m; Berm width : 3-5 m
- Slope Design: 55° at 190mRL to 180mRL



Ongoing Activities

1. Open Pit

- Initial planting through hydroseeding (*Centrosema* and *Calopogonium sp.*)



Ongoing Activities

1. Open Pit

- **Planting of Agoho (*Casuarina equisetifolia*), Citrus sp. and Guava (*Psidium guajava*)**



Ongoing Activities

1. Open Pit

- Adit plugging



Ongoing Activities

2. Upper Tailings Storage Facility

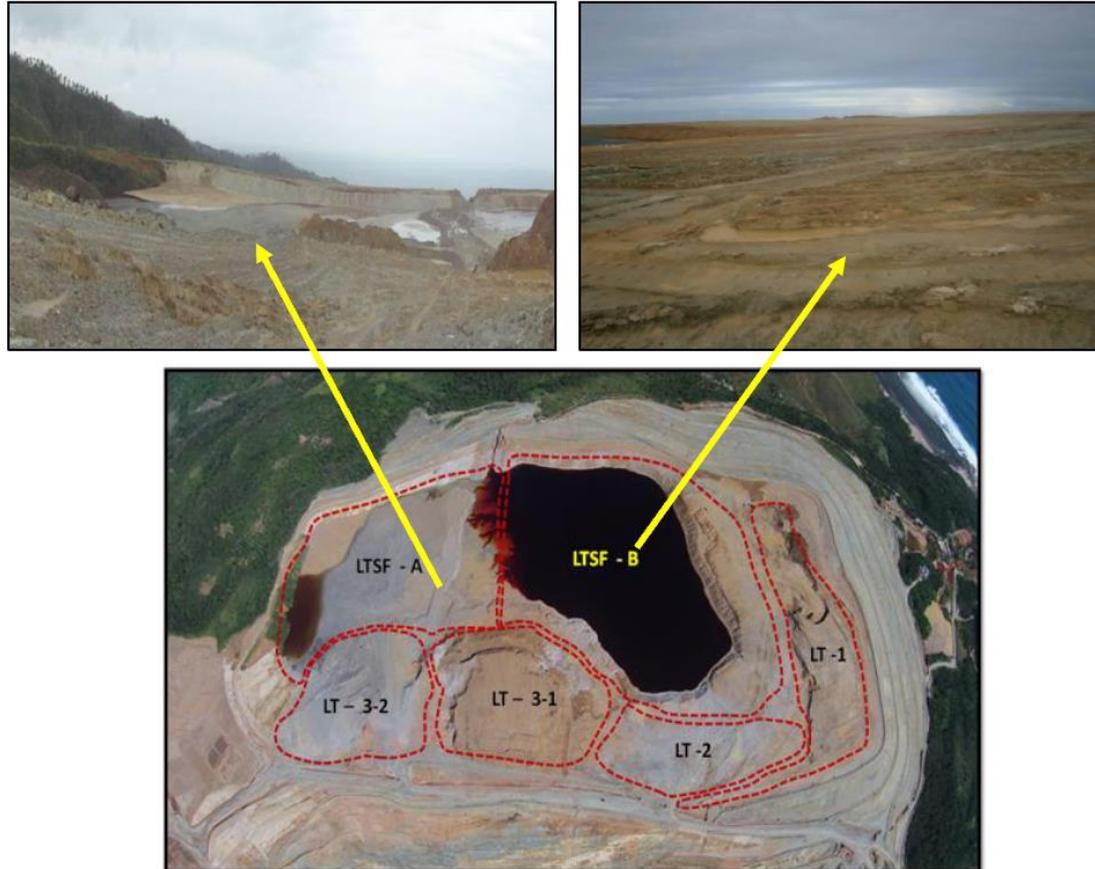
- Resloping and hydroseeding



Ongoing Activities

3. Lower Tailings Storage Facility

- Backfiling using materials from the stockpiles



Ongoing Activities

3. Lower Tailings Storage Facility

- Initial planting of Daloydoy and Wedelia sp.



Ongoing Activities

4. Run-of-mine (ROM) Pad and Decommissioning Works

- Hauling of soil to ROM Pad of about 88,213 m³
- Decommissioning of Base Metal Plant and Carbon-in-Leach Gold Plant Field Environmental and Mitigating Unit and Wharf Facilities



Monitoring and Evaluation of Social Development and Management Program



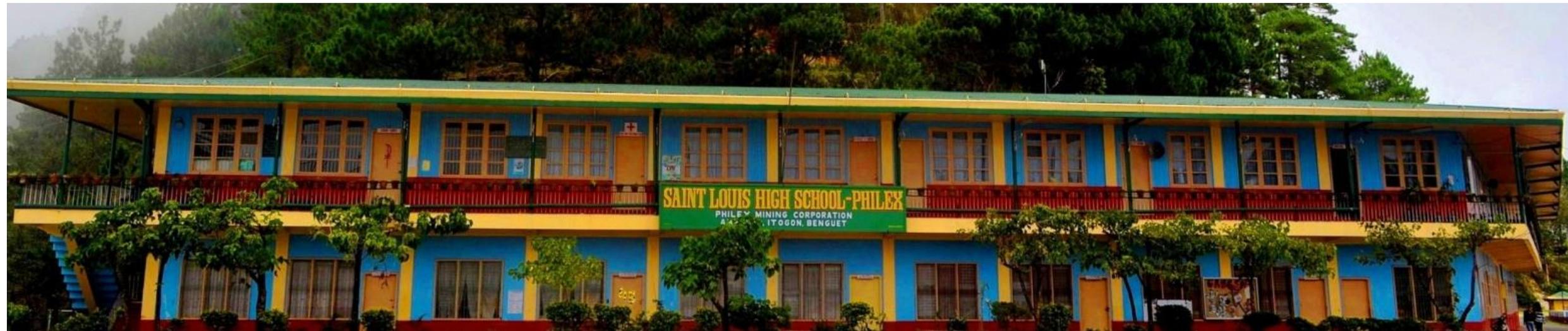
Social Development and Management Program

- comprehensive five-year plan of the Contractor/Permit Holder/Lessee authorized to conduct actual mining and/or milling operations towards the *sustained improvement in the living standards of the host and neighboring communities by creating 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 principle of people empowerment*



Social Development and Management Program

- Contractor/Permit Holder/Lessee shall allot annually a minimum of 1.50% of the operating costs necessary to implement:
 - 75% for SDMP
 - 15% for IEC
 - 10% for DMTG



Organization of Community Relations Office

- Shall be incorporated in the company's organizational structure that is primarily tasked to marshal the resources needed and serves as facilitator/coordinator for the successful implementation of the SDMP
- A Community Relations Officer (CRO) shall head the office and shall be reporting directly to the highest company on-site official
- A CRO must be a graduate of any social science course, or any person with experience and training on community development work and, preferably, with strong knowledge of the local culture



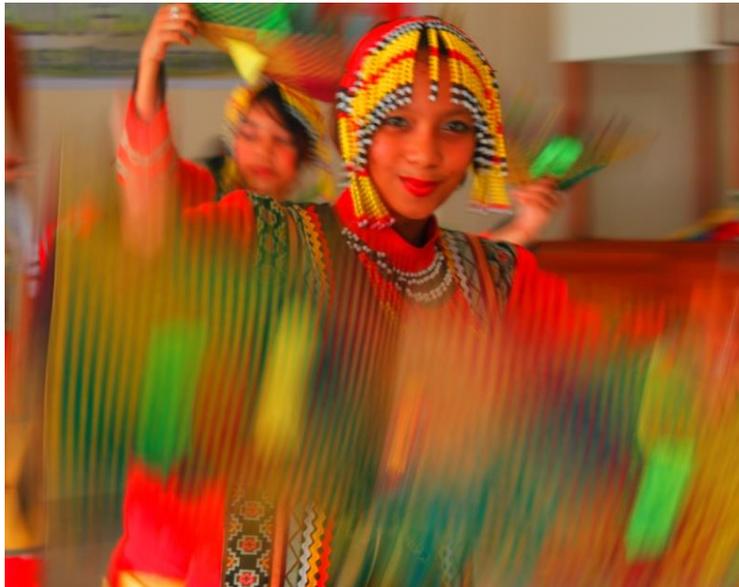
Monitoring and Auditing

- Monthly internal monitoring of the ASDMP shall be done jointly by the CRO and representatives of the host and neighboring communities to determine the level of implementation of the PPAs
- The CRO shall provide the RO with quarterly reports of accomplishments on the implementation of ASDMP. It shall likewise prepare and submit annual report to the RO, copy furnished the Bureau
- The RO shall conduct semi-annual monitoring of the implementation of ASDMP and submit monitoring reports to the Bureau as basis for periodic audits



Review and Evaluation

- The approved SDMP can be reviewed and/or revised during their period of coverage to account for the changes in the nature and cost of activities, provided that, prior to the end of the 5-Year term of the SDMP, they shall be subject to performance review by the Bureau to determine and measure the impact of the SDMP, the results of which shall serve as an integral guide in the preparation of the new [SDMP](#)



Penalties

- **If the Contractor/Permit Holder/Lessee found not implementing its approved SDMP or operating without SDMP shall, on the first offense, be liable to a fine not exceeding PhP 5,000.00**
- **Succeeding offense shall be sufficient ground to suspend its mining/milling operations in the mining areas, in addition to a fine not exceeding PhP 5,000.00**

Note:

1. *Approved SDMP shall be deemed revoked if the mining operation of the Contractor/Permit Holder/Lessee is suspended or stopped for a period of at least 2 consecutive years*
2. *Contractor/Permit Holder/Lessee with approved SDMP before the effectivity of DAO 2010-13 shall not be covered and shall be allowed to implement said SDMP until their expiration, provided that the renewed SDMP shall be subject to the provisions of DAO 2010-13*

Present Status of SDMP

- As of April 13, 2015, a total of 303 Five (5) - Year SDMPs have been approved/renewed since 2002 (PhP7,131,343,580.71)
- Total No. of Barangay Beneficiaries : 586 barangays



**MARAMING
SALAMAT !!!**