

1 **PH-EITI 25th MSG MEETING**
2 **9:00 AM- 12:00 PM | September 4, 2015**
3 **Visayas Room, Department of Finance,**
4 **Roxas Boulevard, Manila**

7 **Attendees:**

- | | | |
|----|---------------------------------------|---|
| 9 | Asst. Sec. Ma. Teresa S. Habitan | Department of Finance (DOF) |
| 10 | Elsa P. Agustin | DOF |
| 11 | Febe J. Lim | DOF |
| 12 | Dir. Rino Abad | Department of Energy (DOE) |
| 13 | Engr. Romualdo Aguilos | Mines and Geosciences Bureau—Department of
14 Environment and Natural Resources (MGB-DENR) |
| 15 | Norbert Peter Indaran | Union of Local Government Authorities (ULAP) |
| 16 | Ms. Sarah Mopia | Bureau of Internal Revenue (BIR) |
| 17 | Dr. CieloMagno | Bantay Kita |
| 18 | Ruth Guinto | BK |
| 19 | Prof. Jay Batongbacal | UP College of Law |
| 20 | Starjoan Villanueva | Alternate Forum for Research in Mindanao, (AFRIM) Inc. |
| 21 | Ronald Allan A. Barnacha | Philippine Rural Reconstruction Movement (PRRM)/
22 North Luzon |
| 23 | Prof. Maria Aurora Teresita W. Tabada | Visayas State University |
| 24 | Dr. Merian C. Mani | Romblon Ecumenical Forum Against Mining (REFAM)/
25 Romblon State University |
| 26 | Chadwick Llanos | Cebu Alliance for Safe and Sustainable Development
27 (CASSE) |
| 28 | Ronald S. Recidoro | Chamber of Mines of the Philippines (COMP) |
| 29 | Erwin Riñon | PAP/ Shell Philippines Exploration BV (SPEX) |
| 30 | Atty. Gay Alessandra V. Ordenes | Secretariat |
| 31 | Abigail D. Ocate | Secretariat |
| 32 | Liezel Empio | Secretariat |
| 33 | Mary Ann Rodolfo | Secretariat |
| 34 | Joy Saquing | Secretariat |
| 35 | Mary Grace Jurado | Secretariat |
| 36 | Ryan Dael | Secretariat |
| 37 | John Martin Arreola | Secretariat |
| 38 | Rhea Bagacay | Secretariat |

1 RESOURCE PERSONS:

2

3 Pocholo Domondon Isla Lipana & Co.

4 Corina Molina Isla Lipana & Co.

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7 AGENDA:

8 • Minutes of the 24th MSG meeting

9 • Matters arising from previous MSG meetings

10 • Validation process

11 • Outline of the second report

12 • Materiality threshold and material companies

13 • EITI's open data requirements and PH-EITI's open contract portal

14 • Proposed revisions on the BIR waiver

15 • Beneficial ownership reporting template

16 • Other matters

17

18

19 **1. Call to Order**

20

21 1.1. The Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (MSG)
22 meeting was called to order at 9:13 AM.

23

24 1.2. The proposed agenda was presented and subsequently approved by the body.

25

26 **2. Minutes of the 24th MSG meeting and special meeting**

27

28 2.1. The Chair noted that the minutes of the meeting was circulated to the Multi-Stakeholder Group
29 (MSG) and no comments were received by the Secretariat.

30

31 2.2. The body approved the minutes of the 24th MSG meeting.

32

33 **3. Matters Arising**

34

35 3.1. *Establishment and management of a revenue-linked database:* The Secretariat reported that the
36 Local Government Units (LGUs) will have an online EITI reporting by early 2016. It was shared that the
37 Bureau of Local Government Finance (BLGF) is already implementing a project wherein all EITI data
38 required from LGUs will be included in the Electronic Statement of Receipts and Expenditures (eSRE).

39

40 3.2. *Offer of Timor Leste to conduct training for the PH-EITI MSG on the Petroleum Fund Process:* The
41 Secretariat recalled that the MSG decided to defer the discussion of this item in future meetings.

1 3.3. *Copies of Bureau of Internal Revenue (BIR) and Mines and Geosciences (MGB) reports to the*
2 *Department of Budget and Management (DBM) regarding their collections per LGU and per company to*
3 *be made available to PH-EITI to be part of the next report:* The body was informed that the DBM agreed
4 to provide the certifications submitted by BIR and MGB for the next PH-EITI report.

5
6 3.4. *Freedom of Information (FOI) Bill and the Tax Incentive Management and Transparency Act (TIMTA):*
7 The Secretariat recalled that they circulated a resolution supporting the TIMTA bill, however, there is no
8 feedback yet from the MGS members. The next step is to finalize the MSG's resolution and forward it to
9 the Department of Finance (DOF).

10
11 3.5. *Secretariat's institutionalization:* It was shared that the DOF already sent a proposal to the DBM but
12 there has been no feedback yet.

13
14 On the other hand, the Secretariat reported that for 2016, a budget of PhP 17 million will be given to the
15 DOF for PH-EITI implementation.

16
17 3.6. *EITI Bill:* The Secretariat suggested that the MSG come up with a formal position regarding the bill
18 filed by Cong. Padilla, which contains provisions on the creation of PH-EITI. It was mentioned that
19 hearings regarding the bill are already on-going.

20
21 The Chair stated that this item will be discussed as part of the other matters in the agenda.

22
23 3.7. *Uploading of MGB documents:* According to the Secretariat, uploading of MGB documents will start
24 by September 2015. The target is for the said documents to be made available online in time for the
25 publication of the second EITI country report. However, it was noted that some monitoring reports,
26 specifically Multi-partite Monitoring Team (MMT) and Social Development and Management Program
27 (SDMP) reports, are still being requested from the regional offices of MGB.

28
29 3.8. *Guidelines on the selection process for MSG members:* The Secretariat shared that this matter is still
30 pending because only the Civil Society Organizations (CSOs) have submitted their guidelines for
31 selection.

32
33 3.9. *Board of Investments (BOI) and BIR incentives:* It was shared that a letter was sent to the BOI
34 requesting them to provide the MSG with an official legal opinion on their position regarding incentives
35 disclosure.

36
37 For the information of the body, the Secretariat mentioned that the BOI provided the information on
38 company incentives to the Ways and Means Committee.

39
40 3.10. *Proposed amendment to the Local Government Code (LGC):* According to the Secretariat, the
41 amendment of the LGC, specifically on the provision regarding the sharing between the principal office
42 and the LGU hosting the extractive operation, is one of the recommendations in the first PH-EITI report.

1 The Secretariat shared that they have been informed by the BLGF and Department of the Interior and
2 Local Government (DILG) that there is a pending bill in congress for the amendment of the LGC.

3
4 3.11. The BLGF advised the Secretariat to submit a position paper regarding this matter so that they can
5 take it up with the appropriate committee. In this regard, the Secretariat noted that the MSG has to
6 convene the Technical Working Group (TWG) that is in charge of the proposed amendments.

7
8 3.12 *Orientation of MGB Regional Directors about EITI*: The Secretariat shared that the meeting with all
9 MGB Regional Directors has not been scheduled yet.

10
11 According to the MGB representative, an expanded staff meeting is scheduled this October.

12
13 3.13 *Digitization of reporting at local level*: The Secretariat reiterated that an online EITI reporting for
14 LGUs will be implemented by the BLGF.

15
16 3.14 *Small-Scale Mining (SSM)*: The Secretariat recalled that there is a previous agreement for the
17 Independent Administrator (IA) to draft a template for SSM operators. However, the matter is still
18 pending because the expectation with regard to the SSM component of the EITI report needs to be
19 clarified first.

20
21 3.15. The Secretariat asked the body if the approach on the reconciliation of figures for large scale
22 metallic mining would be applied for the SSM operations in the two sites that the MSG previously
23 identified.

24
25 3.16. For the information of the body, the Secretariat mentioned that based on the discussion during the
26 roadshows, LGUs will not be able to provide any data on collections from SSM. The Secretariat explained
27 that reconciliation of data would not be possible because LGUs have stopped collecting payments from
28 SSM operators since the issuance of EO No. 79. It was explained that LGUs stopped collecting fees as
29 doing so may suggest or imply that they are allowing SSM operations in their area to continue.

30
31 3.17. According to the Secretariat, what can be provided in the contextual information of the next
32 report is a narrative of the current context of SSM in the country.

33
34 3.18. The Chair asked if data on payment collections from SSM operators prior to issuance of EO No. 79
35 can be used instead, and suggested to cite in the report that LGU collections stopped as an unintended
36 consequence of the issuance of EO No. 79.

37
38 3.19. The Chair suggested that all available data on payment collections form SSM operations as well as
39 production data be included in the report.

1 3.20. Aside from LGU data on SSM, one members of the MSG suggested including data from *Bangko*
2 *Sentral ng Pilipinas (BSP)* and information from an SSM association in Compostela Valley where the CSO
3 representatives of the MSG have worked.
4

5 3.21 *Presentation on shipment of gold ore:* It was recalled that during the last MSG meeting, there was a
6 suggestion to schedule a presentation on the shipment process of gold ore. However, due to the long
7 meeting agenda, the presentation was deferred to the next meeting.
8

9 3.22. *BIR waivers:* The body was informed that some oil and gas companies want to issue a consent
10 letter in lieu of the BIR waiver. According to the Secretariat, the suggested consent letter was sent to the
11 BIR for comments. It was noted that this item is part of the main agenda for today's meeting.
12

13 3.23. *Outline of EITI report:* The Secretariat mentioned that they circulated a proposed outline of the EITI
14 report, which will be also discussed as part of the main business.
15

16 3.24. *Semirara Mining Corporation:* The Secretariat shared that the letter to the Department of Energy
17 (DOE) requiring Semirara Mining Corporation to participate in the next EITI report has been drafted and
18 submitted to the Mining Industry Coordinating Council (MICC) for signature of the Chairpersons.
19

20 3.25. A representative of the DOF shared that an initial investigation of the concerns raised by Semirara
21 Mining Corporation has been done. The company is not participating in EITI because of the concern that
22 the incentives given to them by the government might be construed as a subsidy which may cause the
23 World Trade Organization (WTO) to impose countervailing measures.
24

25 3.26. The DOF representative mentioned that they also consulted the BOI with regard to this matter.
26 According to BOI, a copy of EO No. 226 including a letter of notification regarding the incentives system
27 of the Philippines were actually submitted to the WTO. It was indicated in the said letter that the
28 incentives are not subsidies. The DOF representative noted that the letter of notification was submitted
29 in 1996 but the WTO did not ask for more information since then.
30

31 3.27. The same representative also mentioned that other countries are also giving incentives on coal
32 companies, but these are not considered as subsidy as well.
33

34 3.28. The Secretariat suggested sending a formal response to the position of Semirara Mining
35 Corporation.
36

37 The Chair agreed.
38

39 3.29. *Validation process:* It was noted that the validation process of EITI International Board will be
40 discussed as part of the agenda of today's meeting.
41

1 3.30 *Status and utilization of Malampaya Fund*: The Secretariat recalled that there was a suggestion to
2 include the status of the Malampaya fund in the report, including how the fund is being utilized and
3 managed. However, the Secretariat shared that according to the resident auditor of DOE, they do not
4 have information with regard to the utilization of the fund.

5
6 3.31. The Secretariat stated that they will inquire if there is an audit being conducted by the Commission
7 on Audit (COA).

8
9 3.32. A DOE representative explained that the government share collected from all energy resources
10 becomes part of the Malampaya fund. According to the same representative, EOs were issued with
11 regard to the utilization of the fund and there are cases where the President directly approves
12 disbursements from this fund. The DOE representative mentioned that DBM has records on the
13 utilization of the Malampaya Fund.

14
15 3.33. The same representative pointed out that Malapaya Fund is not limited to collections from oil and
16 gas operations but it consists of payments from all energy resources handled by the DOE. It was
17 mentioned that the correct term for the fund is actually Special Account 151.

18
19 3.34. *National Commission on Indigenous Peoples's (NCIP) administrative costs and updated list of*
20 *companies operating in ancestral domains with exact location*: It was recalled that the MSG requested
21 for a copy of the new guidelines stating that administrative costs of NCIP should not be included in the
22 Memorandum of Agreements (MOAs) between the Indigenous Peoples (IP) and the mining companies.
23 In addition, the NCIP was also asked to submit a table summarizing the extractive operations operating
24 in ancestral domain.

25
26 3.35. The Secretariat shared that according to the NCIP representatives, they will be submitting the
27 necessary documents in time for the preparation of the second report.

28 29 **4. Validation process: evaluation framework**

30
31 4.1. The Secretariat suggested that the MSG go through the evaluation framework suggested by one of
32 the CSO representatives wherein the members of the MSG will have to discuss how to address the gaps
33 identified in the first report.

34
35 4.2. According to the Secretariat, addressing most of the gaps will rely on the availability of data from
36 government agencies specially MGB and DOE.

37
38 4.3. It was explained that most likely, a checklist approach will be used in reviewing the EITI report. Thus,
39 all the requirements in the EITI Standard will have to be included in the report.

40
41 4.4. The Secretariat noted that in case a requirement is not applicable, it will have to be categorically
42 stated in the report and that there should be an accompanying explanation. The report should also state

1 what the government agencies can do to generate the information and include it in their reporting
2 system.

3
4 • **License allocations**

5
6 4.5. The Secretariat shared that the report has no discussion on the following:

- 7 ○ whether the financial and technical requirements were met by all awardees;
- 8 ○ whether bidding rounds actually took place in 2012;
- 9 ○ non-trivial deviations from licensing procedures;
- 10 ○ names of applicants for bidding rounds; and
- 11 ○ efficiency and effectiveness of licensing system.

12
13 4.6. The Secretariat asked the government representatives to check whether the required information
14 are not confidential. For example, if the assessment on whether financial and technical requirements
15 were met is something that can be made public.

16
17 4.7. In order to comply with the first requirement under license allocations, a CSO representative
18 suggested that the government agencies submit a memorandum stating that based on the assessment
19 of the agencies, all licenses that were awarded complied with the financial and technical requirements.

20
21 4.8. A representative of the MGB shared that they have mandatory requirements for license applications
22 which is being assessed on a pass or fail approach. The preliminary assessment of submitted license
23 application comes from the MGB regional office but applications will be validated in the central office.

24
25 4.9. One member of the MSG suggested that the laws governing licensing processes be attached in the
26 report.

27
28 4.10. A CSO representative agreed that the appropriate laws should be attached but insisted that the
29 memorandum or statement from the agencies is necessary to prove that the law is actually being
30 implemented. It was mentioned that the statement should be sworn by the Secretary of the relevant
31 government agencies.

32
33 • **License register**

34
35 4.11. The Secretariat stated that DOE has no online license register which is also a requirement under
36 the EITI Standard.

37
38 4.12. The representative of DOE responded that they have an existing online register but it is not
39 updated. DOE committed to update the online register by December 2015.

40
41 4.13. It was mentioned that the link of the online license register will be provided in the next report.

1 4.14. A CSO representative asked that the Secretariat enumerate the information that should be made
2 available in the online register.

3

4 4.15. According to the DOE representative, what they cannot provide is the internal criteria for awarding
5 license which include the financial and technical requirements. This is because private agencies might
6 use the information and provide assistance to interested applicants. The same representative
7 mentioned that DOE has a review and evaluation committee which has the resolutions of each awarded
8 license.

9

10 4.16. To clarify, the Secretariat noted that the online register of both MGB and DOE should have the
11 names of licensees, coordinates, dates, duration of license and the commodity being produced.

12

13 4.17. The MGB representative mentioned that tenement maps are available online, however these maps
14 are in pdf form. The representative mentioned that information such as commodities and the date of
15 approval are indicated in the maps.

16

17 4.18. A question was raised by the CSO representative if it is possible to change the pdf and jpeg maps,
18 into a more interactive format. The MGB representative responded that this needs to be clarified with
19 the tenements division.

20

21 4.19. The same representative shared that they have acquired a MOA from DENR to have an online
22 license application. It was shared that the bidding for this project has already been conducted. The MGB
23 representative mentioned that the budget for the online application is around Php 7.5 Million.

24

25 4.20. A CSO representative asked if the coordinates are found in one excel form.

26

27 4.21. The secretariat clarified that the coordinates are in the contracts. It was mentioned that the report
28 will have a reference as to where the information can be found.

29

30 4.22. The CSO representative shared that they started to collate the coordinates of mining operations in
31 one excel file. It was suggested that this information be mapped out.

32

33 4.23. The Secretariat mentioned that the development of an interactive map is part of the USAID
34 proposal.

35

36 4.24. The Secretariat suggested to indicate in the report that not all information are in one document,
37 but there will be reference as to where it can be accessed.

38

39 4.25. The CSO representative added that there should be a table indicating where the information can
40 be found.

41

42 • **State ownership**

1 ***The report does not state details on contracts between companies and SOEs; Philippine Mining***
2 ***Development Corporation (PMDC) and Philippine National Oil Company (PNOC).***

3
4 4.26. If the MSG will be able to get information from PMDC and PNOC, the Secretariat stated that
5 complying with this requirement will just be a matter of including the information in the next report.

6
7 ***The report does not disclose the prevailing rules and practices regarding the financial relationship***
8 ***between the government and state-owned enterprises.***

9
10 4.27. The Secretariat asked the IA to inform the body on how this gap will be addressed since this is part
11 of their addendum work for the first report.

12
13 4.28. The IA shared that based on their discussions, PMDC and PNOC will be able to provide the
14 necessary information. In relation to this, the IA asked to be clarified if they would need to include
15 information relating to coal contracts handled by PNOC. The IA explained that PNOC handles a number
16 of different contracts but it is only identified in the report as part of the oil and gas sector.

17
18 4.29. Furthermore, the IA shared that they have gone through some of PMDC's agreements with certain
19 contractors. The IA mentioned that the presentation made by PMDC during one of the MSG meetings
20 last year will also be included in the supplemental report and in the 2nd report.

21
22 ***The report does not document the government's and/or SOE(s)' level of ownership in mining, oil and***
23 ***gas companies operating within the country's oil, gas and mining sector, including those held by SOE***
24 ***subsidiaries and joint ventures.***

25
26 4.30. According to the Secretariat, they will ask the IA to get all the details relating to this requirement.
27 The IA will also be instructed to inform the MSG if the information is not available from PMDC and
28 PNOC.

29
30 ***The report does not disclose any changes in the level of ownership during the reporting period, the***
31 ***terms of the transactions, the barriers to provision of this information and any government plans to***
32 ***overcome these barriers.***

33
34 4.31. One member of the MSG stated that this requirement is not applicable since there were no
35 changes in the level of ownership, which the IA also confirmed.

36
37 4.32. The Secretariat commented that there are information required in the EITI Standard that are not
38 relevant in the Philippine context or not worth mentioning because the information is already given.
39 However, the Secretariat stressed that there still has to be a statement in the report explaining that
40 these requirements are not applicable.

1 ***The report does not disclose details about any loans or loan guarantees provided by the government***
2 ***and/or SOEs to mining, oil and gas companies operating in the country.***

3
4 4.33. The Chair mentioned that the International Secretariat should clarify the definition of
5 “guarantees”. In addition, the Chair asked the IA to check whether PMDC and PNOC have such loan
6 guarantees.

7
8 4.34. The Chair asked to be clarified if PNOC’s loan from LandBank for example, will be construed as
9 government loan.

10
11 4.35. A CSO representative stated that if the use of the loan was not related to the extractive operation
12 of the company, then maybe there is no need to include it in the report. The Secretariat mentioned that
13 they will clarify this with the International Secretariat.

14
15 4.36. The same representative suggested providing policy evidence that the national government does
16 not provide any loans.

17
18 4.37. For the information of the body, the IA shared that audited Financial Statements (FS) have details
19 on the relevant terms and conditions in case a company has loan. The IA will check the audited FS and
20 will inquire with PNOC and PMDC at the same time.

21
22 • **Production and monitoring**

23
24 ***Production data for mining is not disaggregated by company; not disaggregated by region.***

25
26 4.38. The Secretariat pointed out that production data was asked in the reporting template but not all
27 companies provided this information.

28
29 4.39. The MGB representative stated that they can provide production data on a per region and per
30 company basis.

31
32 4.40. Aside from production data, a CSO representative stressed that it is important to get export data.
33 The same representative shared that one of her students was able to get 2000 to 2014 export data per
34 region from Philippine Statistics Agency (PSA).

35
36 4.41. According to the CSO representative, one alternative to have provincial data is by adding the
37 production and export data of companies operating in the same province. The locations where the
38 companies are operating will just have to be identified.

39
40 4.42. An industry representative commented that the MSG should still insist that the companies
41 completely fill up the reporting template and provide all required information including production and
42 export data.

1 ***Coal production data is disaggregated by province but the coal data is from the reporting agency only;***
2 ***not validated with the company.***

3
4 4.43. The Secretariat explained that coal data was not validated with the company because Semirara
5 Mining Corp. did not participate. According to the Secretariat, what was included in the first report is
6 only the aggregate data on coal provided by the DOE.

7
8 4.44. The representative of DOE stated that they can provide disaggregated data on coal production
9 since the operation of Semirara Mining Corp. only covers one municipality and 1 province.

10
11 4.45. If Semirara Mining Corp. will still not participate in the second, it was suggested that the MSG get a
12 copy of the annual company report of Semirara Mining Corporation. A CSO representative mentioned
13 that this report is publicly available since Semirara is a listed company.

14
15 4.46. The same representative recommended that all publicly available information on Semirara
16 including information from the LGUs, should be incorporated in the second report.

17
18 4.47. In addition, it was also suggested that the efforts of the DOE to make Semirara Mining Corp.
19 participate be documented and attached in the report.

20
21 • ***Social and economic impact: SOEs***

22
23 ***No discussion on materiality of quasi-fiscal expenditures provided by SOEs, including SOE subsidiaries***
24 ***and joint ventures; No developed reporting process for disclosure of quasi-fiscal expenditures; No***
25 ***evidence shown whether quasi-fiscal expenditures do not exist or are not material.***

26
27 4.48. According to the Secretariat, for this requirement to be applicable, the MSG should first determine
28 whether PMDC and PNOC have quasi fiscal expenditures. This is another information that the IA should
29 get from the PMDC and PNOC.

30
31 The Chair asked the IA to clarify what quasi fiscal expenditures mean.

32
33 4.49. The IA explained that these are payments made by the SOEs to finance social services, public
34 infrastructures, fuel subsidies and national debt. But for the SOEs, quasi fiscal expenditures are usually
35 in the form of dividends.

36
37 4.50. A CSO representative recommended to state in the report that SOEs do not provide quasi fiscal
38 expenditures but their contractors provide social expenditures that are reported to MGB.

39
40 • ***Social expenditures***

1 4.51. The Secretariat noted that the report did not disclose the nature and the deemed value of the in-
2 kind social expenditures transaction of companies because these information are not applicable.

3
4 4.52. As for the beneficiaries of mandated social expenditures, the Secretariat explained that this is
5 included in the reporting template and that companies are required to provide this information.

6
7 • **Revenue Collection**

8
9 ***The report does not include options that the MSG considered and what is the rationale for the chosen***
10 ***materiality definition.***

11
12 4.53. According to the Secretariat, the options that the MSG considered were not indicated in the first
13 report but an explanation of how the MSG arrived at the materiality definition is actually included.

14
15 4.54. The Secretariat then shared that the IA will present materiality options during today's meeting and
16 that the discussion will be documented.

17
18 ***Not all companies fully reported all payments in accordance with the materiality definition.***

19
20 4.55. The Chair stated that this statement is confusing and that the EITI International Secretariat should
21 clarify if this gap means that companies which participated did not fully report payments.

22
23 4.56. According to the Secretariat, this statement can be construed in two ways: 1.) did all companies
24 participate? and 2.) did all companies that participated indicate all the payments. If the statement refers
25 to the 2nd interpretation, the Secretariat stated that the MSG can contest and explain to the
26 International Secretariat that companies who participated provided complete information.

27
28 4.57. A CSO representative recalled that when this gap was being discussed during the pre-validation
29 workshop, the International Secretariat was referring to the companies that did not issue a waiver.

30
31 4.58. Another CSO representative inquired if the EITI board will allow the MSG to explain that without a
32 waiver the BIR cannot disclose tax payments of companies and that this is a constraint that cannot be
33 addressed unless existing laws will be amended.

34
35 ***Not all LGUs reported/submitted their templates.***

36
37 4.59. The Secretariat shared that out of 52 LGUs, only 32 submitted the reporting template. It was
38 clarified that LGUs hosting coal operations were not yet included in the first report.

39
40 4.60. The Secretariat informed the body that the forum for LGUs with coal operations will be conducted
41 next week. The said LGUs will also be covered by the online reporting of BLGF.

1 ***The report does not fully explain the impact of the non-participating LGUs and companies on the***
2 ***comprehensiveness of the report.***

3
4 4.61. It was elaborated that the International Secretariat wants to see the percentage of the LGUs and
5 companies that did not report as well as the impact of their non-participation in the comprehensiveness
6 of the EITI report. According to the Secretariat, these information should be clearly stated in the next
7 report.

8
9 4.62. The IA stated that the percentage and impact of the non-participating companies were discussed
10 in the executive summary part of the first report. However, the IA confirmed that there were no
11 discussions regarding LGUs that did not participate.

12
13 ***No discussion on the assurances to be provided to the Independent Administrator by the participating***
14 ***companies and government entities to assure the credibility of the data.***

15
16 4.63. The Secretariat explained that the required sign off from the head of the company and head of the
17 government agencies already provides assurance on the credibility of data. However, there should be a
18 discussion on this in the next report.

19
20 ***No discussion on the options that the MSG considered and the rationale for the agreed assurances.***

21
22 4.64. It was noted that discussion on this are reflected in the minutes of the MSG meetings. The
23 Secretariat stated that they will include the relevant parts of the minutes in the report.

24
25 ***No discussion on appropriate provisions for safeguarding confidential information.***

26
27 4.65. The Secretariat mentioned that this requirement was not included in the first report because there
28 was no confidential information disclosed.

29
30 4.66. An industry representative raised a concern that companies might violate antitrust policy since
31 they are being asked to provide sales data including price, in the second report.

32
33 4.67. One representative of the CSO responded that there is no antitrust policy in the country.

34
35 4.68. The same industry representative clarified that multinational companies follow antitrust laws so
36 there is a danger of being subjected to violating antitrust policy. Given this, the representative asked if
37 the MSG will consider sale prices as confidential information.

38
39 4.69. The Chair suggested to defer the discussion on antitrust policy violation.

40
41 ***No categorical statement that reporting companies and government entities had their financial***
42 ***statements audited in the financial year(s) covered by the EITI report.***

1 4.70. According to the Secretariat, it will be categorically stated in the next report that financial
2 statements have been audited.

3
4 ***No categorical assessment of the IA regarding the reliability of data.***

5
6 4.71. The Chair instructed the IA to address this gap.

- 7
8
 - **Taxes and other revenues**

9
10 ***No discussion on the rationale for exclusion of certain revenue streams from the EITI Report.***

11
12 4.72. The Secretariat noted that this requirement will be included in the discussion on materiality.

13
14 4.73. A CSO representative stated that it is important for the MSG members to check whether all the
15 requirements have been incorporated in the final report.

- 16
17
 - **In kind revenues**
 - **Infrastructure and barter arrangements**

18
19
20 4.74. The Secretariat recalled that during the pre-validation workshop, it was explained that these
21 information are not applicable. Nevertheless, the second report should have an explanation why these
22 requirement are applicable.

- 23
24
 - **Transportation revenues**

25
26 4.75. It was explained that transportation revenues only refer to Philippine Ports Authority (PPA)
27 payments. The Secretariat stated that the IA will further elaborate the discussion on PPA to include the
28 following:

- 29
 1. a description of the transportation arrangements
 2. a definition of transportation payments and tariffs, and methodologies used to calculate them
 3. tariff rates and volumes of transported commodities
 4. revenues received by the government (or SOEs) from transportation of commodities

- 30
31
32
33
34
 - **SOEs**

35
36 ***The report does not disclose SOE's payments to the government and/or material revenues collected on***
37 ***behalf of the state.***

38
39 4.75. According to the Secretariat, PMDC payments were not captured in the first report.

1 4.76. For the second report, the Secretariat suggested that the IA provide a separate discussion on
2 PMDC and PNOG and not lump it with other participating companies.

3
4 ***The report does not disclose the materiality of any financial transfers between government entities***
5 ***and SOEs operating in the extractive sector.***

6
7 4.77. One member of the MSG mentioned that this requirement/comment is vague.

8
9 4.78. The Chair noted that this requirement is not applicable in the Philippine context.

10
11 4.79. Based on the discussion, the general assessment of the body is that the identified gaps can be
12 addressed in the next report.

13
14 4.80. The Secretariat stressed that the remaining challenge for the MSG is to make Semirara Mining
15 Corp. participate in the next report. The participation of the said company will be crucial to the country's
16 validation.

17
18 4.81. The Chair asked Semirara's contribution in terms of meeting the total domestic coal demand.

19
20 4.82. The DOE representative responded that Semirara Mining Corp. covers 25% of the total domestic
21 demand for coal.

22
23 4.83. Moving forward, the DOE representative recommended that that MSG address all the concerns
24 raised by Semirara so that they will have no reason not to participate.

25
26 4.84. A CSO representative asked why DOE cannot make Semirara comply with the EITI requirements
27 considering that the company is just a contractor of the government.

28
29 4.85. The Chair deferred the discussion on the non-participation of Semirara Mining Corp.

30
31 **5. Validation process: guiding questions on validation**

32
33 5.1. The Secretariat shared that representatives for government, CSOs and industry provided answers to
34 the guiding questions and sent the answers in advance. For the industry, it was noted that the response
35 only came from the oil and gas sector. The representative of the mining sector will just provide their
36 inputs during the discussion.

37
38 5.2. The Secretariat went through each of the question and presented the answers provided by each
39 sector (the material is attached as Annex A).

- 40
41
 - Should effort and progress in meeting the requirements over time be taken into account in
42 validation?

1 5.3. The Secretariat stated that all the sectors answered that efforts and progress should be taken into
2 account in validation.

3
4 5.4. According to the Secretariat, they will just consolidate the responses of the three sectors including
5 the additional recommendation of the CSOs to extend the timeline to allow countries to produce three
6 reports before validation. Another suggestion from the CSOs is to have an annual report assessment in
7 order to monitor the effort and progress of countries towards compliance.

- 8
9
 - Should validation encourage reporting that go beyond the EITI requirements?

10
11 5.5. The Secretariat shared that both government and CSOs answered that reporting beyond the
12 requirements should be encouraged. The government representatives answered that countries should
13 be recognized if they go beyond what the EITI Standard requires. For CSOs, it was noted that reporting
14 beyond the requirements should not compensate for non-compliance with the minimum requirements.

15
16 5.6. According to the Secretariat, additional input from CSO is to have two tiers in terms of validation.
17 Aside from the validation for complying with the standard, it was suggested that there should be a
18 validation for additional information provided.

19
20 5.7. An industry representative shared that for that for their sector, they agree that validation should
21 recognize reporting beyond the requirements but this should not be encouraged. The same
22 representative explained that if more and more information will be required each year, the industry
23 representatives will lose credibility since they communicated to the companies that EITI will only focus
24 on transparency of revenues.

25
26 5.8. The industry representative clarified that it is acceptable for them to expand the scope of the report
27 as long as the information that will be added is in line with the purpose and objectives that were set out
28 by the MSG at the beginning of the process.

29
30 5.9. The Secretariat asked if the industry representatives would agree to the answer that reporting
31 beyond the requirements should be encouraged as long as the additional information is relevant to the
32 country objectives.

33
34 The representatives of the industry sector agreed.

- 35
36
 - Should the timeframe for countries to achieve compliance be the same for all implementing
37 countries? If so, should the timeframe be a fixed number of years as at present

38
39 5.10. A CSO representative commented that the answers of the three sectors are consistent with each
40 other. The sectors agree that there should be a fixed timeframe for all implementing countries.
41 However, the government representatives noted that compliance should not be confined to whether

1 requirements were met within a particular period but the efforts of the MSG to address the gaps should
2 also be recognized and be considered in achieving compliance.

3
4 5.11. The Secretariat stated that they will also add the suggestion of the CSOs to have an annual
5 assessment of the country's progress and set targets.

6
7 5.12. According to the same CSO representative, the scoping study should provide the baseline
8 information and a picture of the country's context. By having the baseline information, the MSG will be
9 able to determine the timeframe for addressing the challenges in EITI implementation.

10
11 5.13. As for the number of years, the CSOs suggested that the validation cycle be adjusted to 3.5 years
12 to allow countries to produce three reports before validation.

13
14 5.14. The CSO representative added that the International Secretariat should have clarified the role and
15 value of the scoping study in defining the baseline of the country and that the baseline should be the
16 basis of progress towards validation.

17
18 5.15. In addition, the same representative stressed that the scoping study should be linked to the
19 requirements of the EITI Standard in order to assess whether the country will be able to comply with the
20 Standard. According to the CSO representative, if a country will not be able to comply given that some
21 of the requirements will necessitate amendment of laws then the International Secretariat should advise
22 the country not to join EITI yet because laws cannot be amended within 3 years.

23
24 5.16. The CSO representative pointed out that the International Secretariat should have a minimum
25 checklist for countries applying for EITI candidacy. The same representative suggested that this strategy
26 in assessing countries that are applying to be EITI candidate countries be included in the statement that
27 the MSG will submit to the International Board.

28
29 The body agreed.

- 30
31 • Should progress and direction of travel matter for how much time countries are given to achieve
32 compliance?

33
34 5.17. It was mentioned that the explanation of the International Secretariat for using the term "direction
35 of travel" is that some countries do not progress but regress.

36
37 5.18. The sectors agree that the progress and direction of travel should matter and that the progress
38 should be assessed regularly.

- 39
40 • To what extent should the local context in which the EITI is being implemented be taken into
41 account during validation?

1 5.19. Based on the submitted responses, the Secretariat noted that the three sectors generally agree
2 that local context should be considered.

- 3 • Should EITI requirements continue to be assessed as met or unmet?
4

5 5.20. According to the Secretariat, the three sectors agree that EITI requirements should be assessed as
6 met or unmet but with the following recommendations:
7

- 8 - Assessment should be not per EITI requirement but per component under each requirement
- 9 - There should be an overall assessment for each requirement
- 10 - Requirements in the Standard should be further clarified
- 11 - Assessment tool should be made available to the countries from the beginning of EITI
12 implementation
13

14 5.21. The body agreed with the recommendations.
15

- 16 • Should there be more disaggregated assessments, showing which requirements are met and
17 which requirements are unmet, including the level of progress in meeting each requirement?
18

19 5.22. The Secretariat mentioned that the answer was already discussed in the previous question. It was
20 reiterated that the sectors agree to use “met” and “unmet” categories and to have a regular assessment
21 of progress.
22

- 23 • How can validation measure progress or direction of travel towards meeting a requirement?
24

25 5.23. Similar with the answers to previous questions, the body agreed that validation should remain a
26 checklist of met/unmet requirements but a point system should be utilized. The secretariat mentioned
27 that the sectors also agreed that annual assessment of progress and direction of travel be made prior to
28 validation.
29

- 30 • Should validation take place more frequently to measure progress, for example at the end of
31 each EITI reporting cycle, or is the current frequency of every 3 years adequate?
32

33 5.24. The Secretariat recalled the agreement earlier that validation should be conducted every 3 and a
34 half years and that there should be an annual assessment.
35

- 36 • Should the concept of “Candidate” and “Complaint” be replaced, and if so with what?
37

38 5.25. According to the Secretariat, all three sectors responded that the concept of “Candidate” and
39 “Complaint” should remain. However, it was suggested that compliance be assessed per requirement
40 and per sector. Another suggestion is to add additional concept for countries that are compliant and
41 implementing more than the minimum requirements of the EITI Standard.

1 The body agreed.

2

- 3 • What terminology could be suitable to indicate the various degrees of progress in meeting EITI
4 requirements? Are the current concepts of “limited progress” and “meaningful progress”
5 appropriate?

6

7 5.26. The MSG members agreed to use “limited” and “meaningful” as long as a scaling system will be
8 applied.

9

- 10 • How can validation incentivize countries to continue to progress and innovate both before and
11 after reaching compliance status?

12

13 5.27. According to the Secretariat, the government representatives suggested several ways to
14 incentivize progress such as giving awards, acknowledgement, appreciation, recognition, and innovation
15 before and after being a compliant country.

16

17 5.28. As for the CSOs, it was mentioned that adding another concept/tier for countries that are
18 implementing innovations may be an incentive for countries to work beyond compliance. In addition,
19 business representatives responded that validation will force the countries to assess themselves.

20

21 5.29. The Secretariat noted that they will just consolidate the responses given by the three sectors.

22

- 23 • Should multi-stakeholder groups and/or local and international experts on extractive sector
24 governance have a greater role in validation?

25

26 5.30. The Secretariat clarified the context of the question, stating that there are instances that the
27 validation reports are not good enough because sometimes the validator is not familiar with the local
28 context.

29

30 5.31. The government representatives responded that it should be the responsibility of the International
31 Secretariat to make sure that the validators are competent. It was mentioned that the role of the MSG
32 under the current rules should be maintained.

33

34 5.32. The CSOs responded that both local and international experts should have a greater role in
35 validation. While business representatives on the other hand noted that the MSG should be mindful of
36 conflict of interest and that there must be clearly defined parameters to avoid confusion of roles and
37 interest.

38

- 39 • Should the International Secretariat have a greater role in carrying out validation assessments?
40 What are the risks and benefits of this approach? What should be done to mitigate conflicts of
41 interest?

1 5.33. The Secretariat stated that the sectors have similar answers to the previous question. It was
2 mentioned that International Secretariat should not be involved in the validation process.

3
4 5.34. A CSO representative suggested to recommend to the International Secretariat that the validator
5 should be knowledgeable of the local context.

6
7 5.35. The Secretariat noted that the responses of the sectors will be consolidated and sent to the body
8 within the day. It is also noted that the responses have to be sent to the International Secretariat by
9 Monday next week.

10
11 5.36. The body agreed not to submit a letter to the International Secretariat because the comments on
12 the validation process will already suffice.

13 14 **6. Outline of the second report**

15
16 6.1. The Secretariat presented the outline for the contextual information and reconciliation report (the
17 material is attached as Annex B).

18
19 6.2. It was noted that a check list approach was followed in formulating the outline of the report.

20
21 6.3. The Secretariat mentioned that they expanded the content of the contextual information to include
22 additional information that the MSG agreed on add based on previous discussions such as evaluation of
23 mining monitoring reports, contextual information on small-scale mining, contextual information on
24 large-scale non-metallic mining and documentation of all presentations made during MSG meetings.

25
26 6.4. According to the Secretariat, some portions of the first report were retained because the MSG
27 previously agreed that these are important information.

28
29 6.5. It was clarified that updates on information included in the first report will be incorporated in the
30 second report. The Secretariat mentioned that a link to the first report will also be provided.

31
32 6.6. The body approved the outline for the contextual information and the reconciliation report.

33 34 **7. Presentation of the IA materiality threshold and material companies**

35 36 **• Materiality: revenue streams**

37
38 7.1. The options for the materiality threshold were presented by the IA (the presentation material is
39 attached as Annex C).

40
41 To give context, the proposed materiality threshold was compared to the threshold used for the first
42 report.

1 7.2. The IA recalled that last year they calculated materiality on the basis of total payments per
2 government agency. Therefore, there was a different threshold for each of the collecting agency. The
3 threshold was then applied on a per company basis.
4

5 7.3. According to the IA, the International Secretariat raised that this method is a bit confusing since
6 other countries only adopt one materiality across all revenue streams. For example, they may agree that
7 only payments amounting to USD 10 Million and above are considered material.
8

9 7.4. Because of the concern raised by the International Secretariat, the IA stated that their first proposal
10 is to adopt one threshold which is 2% of the total payments. For example, all payments made to the
11 government and the total will be multiplied by 2%. All revenue streams that would amount to the
12 resulting threshold will be reconciled.
13

14 7.5. According to the IA, if the 2% threshold will be applied in 2012 data, all revenue streams in the
15 mining sector that amount to at least Php 121 Million will be reconciled. As for oil and gas, what will be
16 reconciled are only revenue streams that amount to at least Php 934 Million.
17

18 The total revenue stream covered using 2012 data will aggregate to about Php 5.7 Billion for mining
19 sector which constitute to about 94.2% coverage and Php 46.5 billion for oil and gas which is equivalent
20 to almost 100% coverage.
21

22 7.6. To clarify, the IA stated that they will not be looking at per company payment but the aggregate
23 value of all participating entities. The IA noted that the initial simulation applying the 2% threshold
24 resulted to the following:
25

26 - For the oil and gas industry with a coverage of 99.56%, revenue streams that will be covered are
27 the following:
28

- 29 1. Corporate income tax (BIR)
- 30 2. Withholding tax - Profit remittance to principal (BIR)
- 31 3. Government share from oil and gas production (DOE)
- 32

33 - For the mining industry with a coverage of 94.16%, revenue streams that will be covered are the
34 following:
35

- 36 1. Corporate income tax (BIR)
- 37 2. Excise tax on minerals (BIR)
- 38 3. VAT on imported materials and equipment (BOC)
- 39 4. Royalty in mineral reservation (MGB)
- 40 5. Withholding tax - Foreign shareholder dividends (BIR)
- 41 6. Local business tax (LGU)
- 42 7. Customs duties (BOC)

1 8. Royalty for IPs (NCIP)

2
3 7.7. The IA stressed that they will reconcile the enumerated revenue streams regardless of the amount
4 of difference.

5
6 7.8. According to the IA, what will be excluded from the reconciliation are payments to PPA including
7 some NCIP and LGU receipts.

8
9 7.9. For revenue streams that will not be reconciled, the Secretariat clarified that the reported data of
10 both agencies and companies will still be included in the report.

11
12 7.10. A CSO representative stated that not reconciling social and environmental funds will raise a lot of
13 question to the public specially if there is a significant discrepancy between the reported payments of
14 companies and agencies.

15
16 7.11. The IA explained that the proposed materiality threshold will only apply to the main revenue
17 streams and that all funds including social expenditures will still be reconciled.

18
19 7.12. The Secretariat asked the IA to go through the list of revenue streams that will be covered
20 including those that will be not be reconciled.

21
22 7.13. The IA presented the said list. It was mentioned that Real Property Tax (RPT) will not be reconciled
23 because it falls below the threshold. According to the IA, the total RPT is only about Php 103 Million out
24 of the Php 6 Billion payments.

25
26 7.14. The Chair suggested that the 2% threshold be adopted but certain payments that the MSG
27 perceived as significant such as RPT, should also be reconciled even if these are below the threshold.

28
29 7.15. The MSG members and the IA agreed with the suggestion.

30
31 7.16. One member of the MSG asked if it is advisable to change the materiality definition for the 2nd
32 report.

33
34 7.17. The Secretariat explained that the normal practice in other country is to adopt a single amount for
35 materiality threshold. However, since the Philippines had no baseline information on payment per each
36 revenue stream when it was preparing the first report, the MSG decided to adopt a 5% materiality
37 threshold which was applied on the discrepancy between company and agency figures.

38
39 It was further elaborated that the materiality definition used in the first PH-EITI report was not the usual
40 materiality threshold used by other countries. According to the Secretariat, the MSG was able to justify
41 the materiality used since there is no baseline information.

1 7.18. A CSO representative raised a concern with regard to instances wherein the revenue stream falls
2 below the 2% threshold, but there is a significant discrepancy.

3

4 7.19. The Secretariat stated that the MSG can adopt the 2% threshold but there could be an exception
5 that significant payments and significant variances will still be reconciled.

6

7 7.20. The IA explained that the suggested materiality will actually be more stringent than the materiality
8 used for the first report. According to the IA, considering the suggestions, all payments will have to be
9 reconciled. This will be very challenging for the IA because it will come to a point that they will have to
10 validate 100% of total payments.

11

12 7.21. According to the IA, the following are the revenue streams that will be covered applying the 2%
13 materiality threshold.

14

- 15 - Corporate income tax
- 16 - Withholding tax- Foreign shareholder dividends
- 17 - Withholding tax - Profit remittance to principal
- 18 - Excise tax (will be included for mining)
- 19 - Local business taxes (will be included for mining)
- 20 - Custom duties (will be included for mining)
- 21 - VAT on imported materials and equipment (for mining)
- 22 - IP royalties will be included for mining
- 23 - Government share paid to DOE (for oil and gas)

24

25 7.22. For the information of the body, it was mentioned that the following revenue streams will not be
26 reconciled:

27

- 28 - Real property tax
- 29 - Mayor's permit
- 30 - Environmental fees
- 31 - Extraction fees
- 32 - Mine waste and tailings fee
- 33 - Occupation fee
- 34 - Local wharfage fees
- 35 - Registration and regulatory administrative fees
- 36 - Excise tax on imported goods (e.g. petroleum products)
- 37 - Wharfage fees
- 38 - Training fund
- 39 - Community tax and other LGU payments
- 40 - Withholding tax- Royalties to claim owners and IPs
- 41 - Rental fees
- 42 - Other penalties

1 7.23. For the mining industry, the IA reiterated that most of the revenue streams that were excluded are
2 LGU payments. However, a CSO representative noted that several revenue streams of oil and gas sector
3 were not covered by the materiality.
4

5 7.24. Considering the percentage of scope, the IA explained that corporate income tax and government
6 share alone comprise 99% of the total payments.
7

8 7.25. According to the IA, if the MSG agrees to use the 2% threshold, the second report will be able to
9 cover 94% of total payments made by mining companies and 99% of the oil and gas payments. The IA
10 pointed out that this percentage coverage is actually higher than the first report.
11

12 7.26. It was clarified that the reported payments including calculated discrepancies of non-material
13 revenue streams will still be reflected in the report.
14

15 7.27. Based on the foregoing discussions, the MSG approved the 2% (of all payments) materiality
16 threshold but noted that the reconciled benefit streams should still include RPT and business taxes
17 collected by LGUs.
18

19 7.28. The IA clarified that the figures that were presented will still change and that they will re compute
20 once they received the complete 2013 data. The IA will again present the materiality to the MSG ater
21 completing the information for 2013.
22

23 • **Materiality: participating entities**
24

25 7.29. The IA stated that they will include all operating companies however, they will only prioritize 25
26 companies; 21 for mining and 4 for oil and gas. Since these companies reported a total revenue of Php 1
27 billion and above, their non-participation may compromise the sufficiency of the scope. There was no
28 objection from the MSG on this proposed approach.
29

30 7.30. Members of the MSG were informed that most of the significant mining companies have already
31 provided their reporting template to the IA and that the reconciliation has already commenced.
32

33 7.31. As for the oil and gas sector, the IA shared that they already received the reporting template of
34 Chevron and Shell.
35

36 7.32. With regard to coal companies, the IA shared that the production levels of 14 other coal entities
37 were below 0.5%. According to the IA, the only material coal company is Semiara Mining Corp.
38

39 7.33. The IA noted that the revenue of Semirara only accounts for 10% of the total revenue of the three
40 industries; mining, oil and gas and coal.
41

42 7.34. The Chair suggested that the IA still send the reporting template to the 14 coal companies.

1 7.35. In addition, the Secretariat mentioned that all LGUs hosting coal operation should also be included.

2

3 **8. EITI open data requirements and open contacts portal**

4

5 8.1. The Secretariat shared that the EITI International Secretariat is doing consultations on the open data
6 portal policy they intend to issue (the presentation material is attached as Annex D). It was mentioned
7 that the International Secretariat produced a guidance note on publishing EITI data that all countries are
8 expected to comply with.

9

10 8.2. The Secretariat shared the following innovations under the guidance note:

11

12 1. All reporting templates with raw data should be in excel sheet and will be published by the
13 secretariat online

14 2. All tables in the final report should have an excel sheet which will be published and submitted
15 to the international secretariat together with the report

16 3. The summary data template should be submitted together with report

17 4. The IMF GFS manual should be used in referencing the revenues

18

19 8.3. A CSO representative suggested that instead of requiring that the templates be in excel form, item
20 number one should state that template should be processed so that that there will be a data set in excel
21 form. This way, the information of all companies will be consolidated.

22

23 8.4. According to the Secretariat, the Natural Resource Governance Institute (NRGI) is providing
24 technical assistance for the development of a contracts portal.

25

26 8.5. The Secretariat shared that they are currently developing the site. It was explained that the
27 contracts uploaded in this portal will be in open format.

28

29 8.6. Other features of the portal are metadata and annotations of contract. The Secretariat shared that
30 they hired a lawyer to do the annotation.

31

32 8.7. The Secretariat noted that they are targeting to complete the development of the contracts portal
33 in September because this will be presented during the Open Government Summit in Mexico.

34

35 8.8. The Secretariat reported that the BLGF's online reporting system for LGUs has already started. LGUs
36 are expected to report collected company payments using this online reporting system next year. This is
37 embedded in the eSRE of LGUs.

38

39 8.9. The Secretariat shared that they met with the Open Data champions of government agencies and
40 the PH-EITI TWG to require them to convert their existing data into open format. Agencies that were
41 engaged expressed their commitment to accomplish conversion of their respective data to open format.

42

1 **9. Proposed revisions on the BIR waiver**

2
3 9.1 The Secretariat shared that they had a meeting with some oil and gas companies at the DOE two
4 months ago. During the said meeting, it was recalled that the companies proposed to submit a consent
5 letter instead of a waiver. The information that are being requested form BIR was specified in the
6 consent letter.

7
8 9.2. According to the Secretariat, they sent the proposed consent letter to the BIR for their comments.

9
10 9.3. The BIR representative expressed that the decision on whether the consent letter is acceptable
11 should come from the MSG and not BIR. The same representative elaborated that if the consent letter
12 will be submitted in lieu of the waiver, the information that the BIR can provide to EITI will be limited to
13 the forms that are enumerated in the letter.

14
15 9.4. The BIR representative explained that not all information required by EITI can be found in the forms
16 since BIR is also being asked to complete payment details. In addition, BIR is also being asked to give
17 certifications issued to DBM regarding the 40% computation. It was noted that such information or
18 document is not included in the BIR forms.

19
20 9.5. According to the same representative, since EITI requires disaggregated data, they are asking their
21 Information Technology department to provide the disaggregated information on specific tax payment.
22 It was noted that the consent letter does not cover these information.

23
24 9.6. A CSO representative expressed concern that if the consent letter will be accepted then it might
25 appear that the MSG is allowing the companies to disclose information that they only want to disclose.

26
27 9.7. The industry representative responded that the intention for revising the BIR waiver is to attract
28 non-participating companies who might have concerns on signing the waiver. The intention also is to
29 show the specific information that the EITI requires in the report.

30
31 9.8. The DOE representative suggested revising the consent letter to include all the information that
32 were cited by the BIR representative. For instance, if payment details are covered by the confidentiality
33 provision of the NIRC, companies can also include this in the proposed consent letter.

34
35 9.9. The Secretariat expressed the concern that once the MSG accepts the consent letter, other
36 companies who already signed the BIR waiver might follow. What would possibly happen is that each
37 company will have its own version of the waiver. The Chair added this would pose a challenge to BIR.

38
39 9.10. The Secretariat clarified that the waiver is not open-ended. What is being waived is the application
40 of the legal provision imposing sanctions to BIR if they disclose the information.

1 9.11. The CSO representative commented that the concerns of the companies should have been
2 addressed when the first report was published, because they were able to see how the data was used.

3
4 9.12. The Secretariat suggested setting a meeting with the oil and gas companies that are proposing the
5 consent letter. Representatives from BIR, DOE and Shell were invited to attend the said meeting. The
6 purpose of the said meeting is to address the concerns of the oil and gas companies and encourage
7 them to participate.

8
9 9.13. The members of the MSG agreed not to change the waiver.

10
11 9.14. Before moving to “Other Matters”, a CSO representative requested for an update on the status of
12 scanning of documents. The Secretariat responded that copy of Multi-partite Monitoring Team reports
13 and SDMP monitoring reports are currently being collected from the MGB regional offices.

14
15 9.15. DOE representative asked the Secretariat if MGB also had experience refusal from mining
16 companies. The Secretariat responded that a number of mining companies also refused to participate.
17 MGB representative explained that out of 38 operating metallic companies, only one did not submit BIR
18 waiver. The Secretariat added that not all companies who submitted BIR waiver submitted their reports.

19 20 **10. Beneficial ownership reporting template (for MSG’s approval)**

21
22 10.1 The Secretariat reported that the EITI International Standard has a template for beneficial
23 ownership and that the MSG may opt to use the template in getting information from the companies.

24
25 10.2 The Secretariat explained that the information required in the beneficial ownership template
26 include the tax identification number of companies, name of shareholders and percentage of shares.

27
28 10.3. An MSG member clarified that if beneficial ownership is being considered, the tax identification
29 number required refers to the Securities and Exchange Commission (SEC) registration number.

30
31 10.4. A CSO representative suggested requesting the beneficial ownership information from the SEC,
32 similar to how the GIS and FS of the companies were obtained.

33
34 10.5. The IA responded that they have already started on the beneficial ownership part of the report
35 and that they already have copies of the GIS of the companies. The IA also added that they already
36 conducted some table analysis in terms of shareholders.

37
38 10.6 The Secretariat suggested that since the beneficial ownership template is not required and is just
39 being encouraged to adopt, the IA will just use the information from SEC. The body agreed.

40 41 **11. Other Matters**

1 • Nominations for new EITI Board members

2

3 11.1. The body was informed that the members of the EITI Board will change next year. Election of the
4 new members of the Board will be conducted during the EITI Global Conference scheduled in February
5 2016.

6

7 11.2. It was mentioned that the International Secretariat is asking whether the PH-EITI MSG intends to
8 send names of nominees. The Secretariat clarified that each sector can nominate a representative to the
9 EITI Board. According to the Secretariat, the members of the industry, CSOs and government can start
10 discussing if they would want to send names. As of the moment the guidelines are being revised.

11

12 • Entrenching EITI reporting in existing processes

13

14 11.3. According to the Secretariat, if the MSG agrees to participate in this pilot project, a consultant will
15 be hired to conduct a scoping study if the MSG would want the Philippines to be one of the pilot
16 countries that will embed EITI reporting processes in existing government systems.

17

18 11.4. The Secretariat noted that the MSG has to make a decision on whether the Philippines will already
19 implement entrenching of EITI reporting or not. The Chair suggested that the secretariat inquire first
20 whether the Philippine Statistical Authority is already doing something similar, that is, creating a
21 database for government information. This is to avoid duplication of efforts.

22

23 • Update on submission of templates

24

25 11.5. The members of the MSG were informed that eight companies expressed that they will not
26 participate in the 2nd report but mostly because they started commercial operation in 2014. Mining
27 companies that started operation in 2014 are the following:

28

- Century Peak Corporation
- Strong Built (Mining) Development Corporation
- Atro Mining - Vitali, Inc.,
- TVI - Agata

32

33 11.6. The IA mentioned that Libjo Mining Corp. has not given its final decision yet.

34

35 11.7. The IA enumerated those that are awaiting confirmation and approval from the board: Berong
36 Nickel Corporation, Zambales Diversified Metals Corporation, Ore Asia Mining and Development
37 Corporation, Investwell Resources, Inc., Citinickel Mines and Development Corporation and Philodril
38 Corporation.

39

1 11.8. A member of the MSG clarified if there are companies that participated last year that did not
2 participate this year. The IA confirmed that last year, Galoc Production Company, Nido Petroleum
3 Limited and Forum Energy Pacific participated but this year they deferred.

- 4
- 5 • Update on action plans of agencies based on MSG's recommendations
- 6

7 11.9. The Secretariat mentioned that the MICC required the agencies to submit actions plans. DBM, BIR
8 and BLGF submitted. The actions plans are in the kits. Others are still being followed up by the
9 Secretariat.

- 10
- 11 • Report on LGU roadshows/Feedback from LGUs
- 12

13 11.10. The Secretariat stated that reports from the road shows are being prepared and will be circulated
14 to the MSG once finalized. In general, the Secretariat shared that there is sufficient interest in EITI
15 subnational implementation. It was mentioned that other issues from LGUs were discussed, and some
16 LGUs expressed their sentiment that they need to see outcomes after a series of forums.

- 17
- 18 • Coal forum
- 19

20 11.11. The Secretariat reminded the body of the Forum with LGUs hosting coal operations which will be
21 held on September 9, 2015.

- 22
- 23 • NCIP Workshop (Oct.6-7)
- 24

25 11.12. The Secretariat discussed the workshop with NCIP which will gather all Regional Directors of the
26 agency. The Chair and the commissioners are also expected to be there in the forum. IP representatives
27 are also invited so that they can explain how they receive the royalties and how they utilize it. At the
28 same time there will be a workshop on the reporting template.

29

30 11.13. The CSO representative asked if the design of the program should be shown to a conflict
31 management expert because the information that will surface might cause more conflict, especially
32 when royalties are being discussed.

33

34 11.14. The Secretariat suggested that the participants be limited to the regional directors of the NCIP
35 since the objective of the forum is to engage them for improvement of the quality of data being
36 reported.

37

38 11.15. The CSO representative suggested to separate the regional directors and the indigenous people.
39 The first day would be NCIP and the second day would be the IPs. For the second day, the suggestion is
40 not to show the figures, and let the discussion surface the issues concerning the IPs.

41

42 The body agreed to the suggestion.

1 11.16. The CSO representative stated that it is important that IPs are being engaged, because the EITI
2 International Secretariat is asking how the IPs are being involved in the EITI process. For example, in
3 PNG, what they did is they added the IPs as one of the sectors they engage with on top of the industry,
4 CSO and government. They are considered as a different party because they receive money from the
5 extractive industry. The CSO representative suggested there should be an IP representative in the MSG
6 as well.

7

- 8 • Financial report

9

10 11.17. The Secretariat gave a summary of the finances and spending for PH-EITI. For the government
11 funds, the approved budget for 2015 is PhP6.5 million, out of which PhP2.2 million have been spent. For
12 the CIDA grant, everything had been spent. It was used to pay for the information materials for the
13 roadshows. For the MDTF, the total grant is 45 million, out of which the actual expenditure is just PhP1
14 million, but the obligated amount is 23.8 Million. The PhP15 million is still being asked as part of the 2nd
15 tranche.

16

17 **ADJOURNMENT**

18

19 There being no other matters to discuss, the meeting was adjourned at 2:00 PM.

	GUIDING QUESTION	MSG RESPONSE (Government Representatives)
1	Should effort and progress in meeting the requirements over time be taken into account in validation?	<p>GOVERNMENT: Yes. All efforts should be counted Recommendation: There should be guidelines on how to measure efforts. How would the MSG know that the efforts are enough? Action point: Government to formally respond to Semirara’s letter</p> <p>CSO: There should be a fixed time period for countries to get validated. The current time frame allows countries to produce reports before the deadline for validation. This period maybe too short. Extending the time to allow countries to produce three reports before the deadline for validation maybe a better option. In addition, assessment of the annual report should be done to monitor the effort and progress of countries towards compliance and to ensure that appropriate reforms and remedies are done to achieve compliance. Monitoring of effort and progress should be done annually. This will provide the context/explanation on the results of the validation which should still be pass or fail based on the minimum requirements of the EITI standards.</p> <p>BUSINESS: Yes provided baseline, criteria and method to measure effort and progress is clearly defined/established</p>
2	Should validation encourage reporting that go beyond the EITI requirements?	<p>GOVERNMENT: Yes, but encourage only to the extent that the standards will still be followed by all countries, and there will just be a separate special citation or recognition for countries that include additional information.</p> <p>CSO: Yes, validation should encourage reporting beyond the EITI requirements. However, reporting beyond the requirements should not compensate for non-compliance with the minimum requirements. EITI can have two tiers in terms of validation: validation in terms of the minimum compliance and validation in terms of what the local/country MSG has agreed to report on top of the minimum compliance. Countries can also be classified to those complying with just the minimum standards and countries that are implementing innovations to recognize the efforts of countries to go beyond EITI. However, it is not enough to just express the interest to go beyond the minimum standards. Thus, the second tier validation is proposed. Countries should be also assessed on how they are implementing the commitments that go beyond the minimum requirements. If countries will go beyond the minimum requirements, clear standards for the additional commitments should be defined by the</p>

		<p>MSG of the country. Failure to meet these additional commitments should not stop the countries from complying with the minimum requirements of the EITI standards. But the international board should also take note and monitor the country's progress in meeting its additional commitment.</p> <p>BUSINESS: No</p>
3	Should the timeframe for countries to achieve compliance be the same for all implementing countries? If so, should the timeframe be a fixed number of years as at present	<p>GOVERNMENT: The definition of compliance should not be confined to whether requirements were met within a particular period. When we talk about compliance, the mere recognition of the gaps and the fact that the MSG is doing something about it should also be considered compliance. Regarding the perceived danger of complacency in case countries will set different time periods, this will not arise because the MSG itself has an internal check and balance. Countries can set milestones (short term, medium term, long term) and should be held accountable for the milestones they set. Progress should be assessed against these milestones.</p> <p>CSO: Yes, countries should have a fixed time frame (fixed number of years). The fixed time frame adds pressure to countries (particularly the governments) to seriously implement reforms and policies that will ensure compliance. EITI should also monitor the implementation and compliance with reforms. However, the time frame should be realistic to consider complex situation. Increasing the timeframe to three cycle reporting (3.5 years from candidacy) as maximum period for validation maybe needed to give countries sufficient time to implement reforms.</p> <p>BUSINESS: Timeframe should be the same. Firm determination of reporting "scope & level of disaggregation" is crucial to achieve the EITI reporting requirement and timeline. Equally important is determination on how to activate the dispensation or exception process.</p>
4	Should progress and direction of travel matter for how much time countries are given to achieve compliance?	<p>GOVERNMENT: Same as number 3</p> <p>CSO: Countries can appeal and request for extension. Progress and direction should matter when countries are appealing for extension to achieve compliance especially if it's the first time a country is evaluating its regulatory regime.</p> <p>BUSINESS: Yes provided baseline, criteria and method to measure progress, time, travel, etc. is clearly defined/established</p>
5	To what extent should the local context	<p>GOVERNMENT:</p>

	<p>in which the EITI is being implemented be taken into account during validation?</p>	<p>Local context should be fully considered in doing validation.</p> <p>CSO: Adjusting the current maximum time frame should give countries time and flexibility to address challenges that they maybe encountering at the local level. Local context will matter on the decisions of countries to implement additional reporting requirements on top of the minimum EITI standards thus the proposal to implement a two-tier validation. . The role of the scoping study for EITI implementation should be emphasized, that it should serve as a preliminary assessment stage where the candidate country simply review and understand their regulatory/revenue regimes so that they can come up with more appropriate scope and timeframe for reporting and validation, noting however, that the ultimate goals for the country are (1) to report all the extractive activities in the country and (2) institutionalize EITI reporting and make it mandatory for companies to comply.</p> <p>BUSINESS: There should be minimum requirements which are common to all and country specific items which the MSG in that country can consider</p>
6	<p>Should EITI requirements continue to be assessed as met or unmet?</p>	<p>GOVERNMENT: Yes but the determination of met or unmet should utilize a point system. There should be a scale or percentage in assessing whether requirements are met.</p> <p>Assessment should be not per EITI requirement but per component under each requirement. Then there should be an overall assessment for each requirement. Example: 100% for first requirements. 60% for second requirement. An overall passing rate should be determined.</p> <p>CSO: Yes. The key, however, is to ensure that the requirements are clarified further and that the assessment tool was made available from the beginning of the implementation of countries so that the local MSGs can do a self-assessment on how they are progressing in terms of the EITI requirements. The challenge, in the case of the Philippines, is that some of the specific requirements of the standards were only clarified during the pre-validation workshop. It will be easier for countries to comply if the parameters of the requirements were presented from the very beginning.</p> <p>BUSINESS: Firm determination of reporting “scope & level of disaggregation”, deep understanding of the EITI requirements and allowed exceptions are the main considerations to be addressed such that PH will pass the evaluation process. Therefore, met and unmet assessment is sufficient and straight forward.</p>
7	<p>Should there be more disaggregated</p>	<p>GOVERNMENT:</p>

	assessments, showing which requirements are met and which requirements are unmet, including the level of progress in meeting each requirement?	<p>Same as number 6</p> <p>CSO: Yes. This will be helpful in the evaluation of the annual report so that the MSGs can have a clear picture of the level of progress before the deadline for validation. What should be disaggregated, to what level of detail, and when it applies should be clear from the beginning. The MSG should be able to determine from the beginning whether such disaggregation is possible, before making a commitment to do so. Otherwise it might be setting itself up for non-compliance. Again, the scoping study should contain this information.</p> <p>BUSINESS: Same as no. 6</p>
8	Same as number 7	
9	How can validation measure progress or direction of travel towards meeting a requirement?	<p>GOVERNMENT: Same as number 3</p> <p>CSO: This assumes that validation takes into consideration progress and direction of travel. Our stand is for validation to remain a checklist of met/unmet requirements. Assessment of progress and direction of travel should be done annually prior to validation to ensure compliance.</p> <p>BUSINESS: Same as no. 4</p>
10	Should validation take place more frequently to measure progress, for example at the end of each EITI reporting cycle, or is the current frequency of every 3 years adequate?	<p>Annual reporting should still be followed but validation should be every 2.5 years as per present rule</p> <p>CSO: There should be an annual assessment in which countries can decide to get validated or not with a maximum of three reporting cycles to get validated. The first validation cycle should be adjusted to 3.5 years to take into account the time needed for the scoping study and preparation for the first report.</p> <p>BUSINESS: Once every three years is sufficient</p>
11	Should the concept of “Candidate” and “Complaint” be replaced, and if so with what?	<p>GOVERNMENT: The use of the terminologies “candidate” and “compliant” are acceptable insofar as determining a country’s performance against the standard. However, compliance should be assessed per requirement (ex: compliant with first requirement but not with second requirement) Compliance should also be assessed per sector (mining, oil, coal) so that other sectors are not affected by non-participating sectors. The advantage of this approach is that it will help government</p>

		<p>focus on problematic sectors.</p> <p>CSO: The concepts should remain. Another concept can be added for countries that are compliant and implementing more than the minimum requirements.</p> <p>BUSINESS: Keep things simple, suggest retain current.</p>
12	<p>What terminology could be suitable to indicate the various degrees of progress in meeting EITI requirements? Are the current concepts of “limited progress” and “meaningful progress” appropriate?</p>	<p>GOVERNMENT: Instead of “limited” and “meaningful”, a scaling system should be applied.</p> <p>CSO: Yes, limited progress and meaningful progress are appropriate.</p> <p>BUSINESS: Secure from the international EITI specifics, criteria, definitions, scoring mechanism used to arrive with the validation rating of “no meaningful progress” and “meaningful progress”. This is one of the key points for PH-EITI must execute and embed in the PH reporting process in order pass the “validation” part.</p>
13	<p>How can validation incentivize countries to continue to progress and innovate both before and after reaching compliance status?</p>	<p>GOVERNMENT: Positively- by giving award, reward, acknowledgement, appreciation, recognition of the progress and innovation before or after being a complaint country</p> <p>Negatively- by subjecting to sanctions or penalties such as delisting as at the present rules</p> <p>CSO: The threat of not getting validated after the first validation if compliance is not maintained is sufficient to encourage countries to maintain compliance. Adding another concept/tier for countries that are implementing innovations maybe an incentive for countries to work beyond compliance.</p> <p>BUSINESS: It will force the countries to assess themselves vs an agreed standard and show to the world where they are</p>
14	<p>Should multi-stakeholder groups and/or local and international experts on extractive sector governance have a greater role in validation?</p>	<p>GOVERNMENT: It is incumbent upon the International Secretariat to ensure the competence of the Validator, specially on its knowledge of local context and extractive industry The role of the MSG in validation should still be the same under the current rules. This is in order to preserve the independence of validator and the integrity of the process</p> <p>CSO: Local and international experts should have a greater role in validation.</p>

		<p>BUSINESS: It depends mindful of Conflict of Interest. Parameters must be clearly defined to avoid confusion of roles and interest and to clearly establish accountabilities</p>
15		<p>GOVERNMENT: To avoid conflict of interest, International Secretariat should not be involved in validation because they act as advisers of the country</p> <p>CSO: Independent validators should carry the assessments, not the secretariat to mitigate conflicts of interest.</p> <p>BUSINESS: The international bodies should be guardians of the standard and the group which can clarify concerns or answer questions</p>

CONTEXTUAL INFORMATION OUTLINE:

- I. LEGAL FRAMEWORK AND FISCAL REGIME OF MINING, OIL, GAS COAL
 - A. Summary description of the fiscal regime, including the level of fiscal devolution
 - B. An overview of the relevant laws and regulations
 - C. Information on the roles and responsibilities of the relevant government agencies
 - D. Ongoing reforms

- II. OVERVIEW OF THE EXTRACTIVE INDUSTRIES INCLUDING ANY SIGNIFICANT EXPLORATION ACTIVITIES
 - A. Information about the contribution of the extractive industries to the economy for 2013
 - i. Size of the extractive industries in absolute terms and as a percentage of GDP, including an estimate of informal sector activity
 - ii. Total government revenues generated by the extractive industries (including taxes, royalties, bonuses, fees, and other payments) in absolute terms and as a percentage of total government revenues.
 - iii. Exports from the extractive industries in absolute terms and as a percentage of total exports.
 - iv. Employment in the extractive industries in absolute terms and as a percentage of the total employment.
 - v. Key regions/areas where production is concentrated.
 - B. Production data
 - i. Total production volumes and the value of production by commodity, and by region/province
 - ii. Total production volumes and the value of production by commodity, and, when relevant, by state/region.

- III. STATE PARTICIPATION IN THE EXTRACTIVE INDUSTRIES
 - A. An explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises (SOEs), e.g. the rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing.
 - B. Disclosures from SOE(s) on their quasi-fiscal expenditures such as payments for social services, public infrastructure, fuel subsidies and national debt servicing. Should include SOE subsidiaries and joint ventures.
 - C. Disclosures from the government and SOE(s) of their level of beneficial ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period. This information should include details regarding the following:

- i. terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g. full-paid equity, free equity, carried interest.
- ii. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues.
- iii. loans or loan guarantees to mining, oil and gas companies operating within the country

IV. DISTRIBUTION OF REVENUES FROM THE EXTRACTIVE INDUSTRIES

- A. Extractive industry revenues, whether cash or in-kind, recorded in the national budget.
- B. Explanation of allocation of revenues, with links provided to relevant financial reports as applicable, e.g. sovereign wealth and development funds, sub-national governments, state-owned enterprises, and other extra-budgetary entities.
- C. References to national revenue classification systems, and international standards such as the IMF Government Finance Statistics Manual.

V. REVENUE MANAGEMENT AND EXPENDITURES

- A. A description of any extractive revenues earmarked for specific programmes or geographic regions including:
 - i. description of the methods for ensuring accountability
 - ii. efficiency in their use.
- B. A description of the country's budget and audit processes and links to the publicly available information on budgeting, expenditures and audit reports.
- C. Timely information from the government that will further public understanding and debate around issues of revenue sustainability and resource dependence, e.g., assumptions underpinning forthcoming years in the budget cycle and relating to projected production, commodity prices and revenue forecasts arising from the extractive industries and the proportion of future fiscal revenues expected to come from the extractive sector.

VI. REGISTER OF LICENSES

- A. Any license, lease, title, permit, or concession by which the government confers on a company(ies) or individual(s) rights to explore or exploit oil, gas and/or mineral resources.
- B. Reference to publicly available register or cadastre system(s) with the following timely and comprehensive information regarding each of the licenses pertaining to companies covered in the EITI Report:
 - i. License holder(s)
 - ii. Coordinates of the license area
 - iii. Date of application, date of award and duration of the license

- iv. In the case of production licenses, the commodity being produced
 - C. Information about licenses held by all entities, including companies and individuals or groups that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality threshold.
 - D. Documentation of any significant legal or practical barriers preventing such comprehensive disclosure including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them.
 - E. Gaps in the publicly available information and efforts to strengthen these systems.
- VII. ALLOCATION OF LICENSES (Information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report)
- A. Description of the process for transferring or awarding the license
 - B. Technical and financial criteria used
 - C. Information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable
 - D. Any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards
 - E. List of applicants and the bid criteria for the bidding rounds
 - F. Commentary on the efficiency and effectiveness of these systems
- VIII. BENEFICIAL OWNERSHIP
- A. Publicly available register of the beneficial owners of the corporate entity(ies) that bid for, operate or invest in extractive assets
 - i. identity(ies) of their beneficial owner(s)
 - ii. the level of ownership
 - iii. guidance on how to access this information.
 - B. level of beneficial ownership of state-owned enterprises and any changes in the level of ownership during the accounting period covered by the EITI Report
 - C. Appropriate definition of the term beneficial owner. The definition should be aligned with EITI definition and take international norms and relevant national laws into account.
 - D. Beneficial owners of joint ventures
- IX. CONTRACTS
- A. Copies of contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals.
 - B. The full text of any contract, concession, production-sharing agreement or other agreement granted by, or entered into by, the government which provides the terms attached to the exploitation of oil gas and mineral resources.
 - C. The full text of any annex, addendum or rider which establishes details relevant to the exploitation rights or the execution thereof.
 - D. The full text of any alteration or amendment to the documents

- E. Documentation of the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals.
 - i. relevant legal provisions
 - ii. actual disclosure practices
 - iii. reforms that are planned or underway.
 - iv. overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published.
- F. The full text of any license, lease, title or permit by which a government confers on a company(ies) or individual(s) rights to exploit oil, gas and/or mineral resources.
- G. The full text of any annex, addendum or rider that establishes details relevant to the exploitation rights
- H. The full text of any alteration or amendment to the documents
- I. Evaluation of IP contracts
- X. EVALUATION OF MINING MONITORING REPORTS FOR 2013
- XI. CONTEXTUAL INFORMATION ON SMALL SCALE MINING
- XII. CONTEXTUAL INFORMATION ON LARGE SCALE NON-METALLIC MINING
- XIII. DOCUMENTATION OF ALL PRESENTATIONS DURING MSG MEETINGS

OUTLINE OF RECONCILIATION REPORT:

- I. EXECUTIVE SUMMARY
 - A. Overview of the contents of the report
 - B. Explanation of the reconciliation process
 - C. Summary of key findings
 - i. Collections per agency and aggregate
 - ii. Discrepancies per agency, aggregate and percentage as compared to company figures
 - iii. Key findings for LGUs
 - a. Collections per LGU and aggregate as compared to company figures
 - b. Shares in national wealth and status of distribution (explanation for delays or non-distribution)
 - iv. Causes of discrepancies
 - v. Assessment of data quality and comprehensiveness
 - vi. Recommendations
 - a. IA
 - b. MSG
 - vii. Observations on actions taken by the MSG from the previous report
- II. SCOPE OF THE REPORT
 - A. Companies
 - i. List of companies included in the report
 - ii. Determination of material companies
 - iii. SOEs (PNOC and PMDC)
 - a. Role of SOEs
 - b. Material payments to SOEs from companies
 - c. Transfers between SOEs and other government agencies
 - d. quasi-fiscal expenditures provided by SOEs, including SOE subsidiaries and joint ventures
 - iv. Excluded companies and rationale for exclusion
 - B. Government agencies
 - i. List of reporting agencies and general mandate
 - C. Revenue streams
 - i. List of revenue streams, definition and legal basis (see sample matrix below)

Type	Description	Rate	Responsible agency	Paid to government?	Unilateral disclosure?
Excise tax	Imposed on coal, metallic and non-metallic	2% of actual market value of	Collected by BIR	Yes	No

	minerals	gross output at time of removal			
SDMP	Set aside by companies for social development programs of host communities	1.5% of operating expenses	Monitored by MGB	No. Fund is used directly for programs and monitored by MGB.	No

ii. Determination of material revenues

- a. considerations for materiality
- b. options considered by MSG
- c. rationale for thresholds
- d. Excluded revenue streams and rationale for excluding them

- D. Total revenues received from each of the benefit stream agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds

III. METHODOLOGY

A. Development of reporting template

B. Data gathering process

C. Reconciliation method

- i. Agreed upon procedures
- ii. Threshold of amount that will be reconciled
- iii. Description of walk through procedures

D. Issues encountered

- i. BIR waiver
 - a. Companies that did not execute waiver and reasons for non-execution
 - b. Impact of lack of waiver on the comprehensiveness of BIR data
 - c. Efforts exerted to get waiver
- ii. Non-submission or delayed submission of templates
 - a. List of companies without templates and the impact of their non-participation on the comprehensiveness of the report
 - b. List of companies with delayed submission and Impact of on the comprehensiveness of the report
- iii. Agencies with delayed or incomplete data

- a. Impact on the comprehensiveness of the report
 - iv. LGUs with delayed or incomplete data
 - a. Impact on the comprehensiveness of the report
- E. Assurances agreed upon to ensure credibility of data
 - i. Options considered by the MSG
 - ii. Rationale for assurances agreed upon
- F. Provisions for safeguarding confidential information

IV. DISCREPANCIES

- A. Overview of chapter
 - i. Explanation of how the data in the tables can be understood by explaining each column and defining technical terms.
- B. Summary of discrepancies for all agencies (provide table)
- C. BIR
 - i. Mining
 - a. Revenue streams and funds
 - 1. Description
 - 2. Findings on variances , reconciled amount and reasons (table)
 - ii. Oil and Gas
 - a. Revenue streams and funds
 - 1. Description
 - 2. Findings on variances , reconciled amount and reasons (table)
 - iii. Coal
 - a. Revenue streams and funds
 - 1. Description
 - 2. Findings on variances , reconciled amount and reasons (table)
- D. BOC and PPA
 - i. Revenue streams and funds (for mining, oil, gas, coal)
 - a. Description
 - b. Findings on variances , reconciled amount and reasons (table)
 - ii. Transportation
 - a. A description of the transportation arrangements including: the product; transportation route(s); and the relevant companies and government entities, including SOE(s), involved in transportation.
 - b. Definitions of the relevant transportation taxes, tariffs or other relevant payments, and the methodologies used to calculate them.
 - c. Disclosure of tariff rates and volume of the transported commodities.

- d. Disclosure of revenues received by government entities a SOE(s), in relation to transportation of oil, gas and minerals.

E. MGB

- i. Revenue streams and funds
 - a. Description
 - b. Findings on variances , reconciled amount and reasons (table)
- ii. Mandatory Social expenditures and Environmental funds
 - a. Kinds/nature and the deemed value
 - b. name and function of the beneficiary , whether government or third-party
 - c. reconciliation of social expenditures if feasible. Otherwise, unilateral reporting should be adopted
- iii. Status of mining royalties (e.g. 10% received by the MGB from the 5% collection)

F. DOE

- i. Revenue streams and funds (oil/gas and coal)
 - a. Description
 - b. Findings on variances , reconciled amount and reasons (table)
- ii. Status of Special Account 151 (Malampaya fund)

G. NCIP

- i. List of companies and LGUs in ancestral domains
- ii. Revenue streams and funds
 - a. Description
 - b. Findings on variances , reconciled amount and reasons (table)
- iii. Social projects of mining companies in IP areas

H. LGUs

- i. Revenue streams and funds (LGC and local tax codes)
 - a. Description
 - b. Findings on variances , reconciled amount and reasons
- ii. Share in national wealth
 - a. Discussion of sharing scheme and revenue sharing formula
 - b. Reconciliation of DMB figures with LGU figures
 - c. Discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred between the central government and each relevant sub-national entity
- iii. Findings on timeliness on distribution of LGU shares
- iv. Information on expenditures from natural resource revenues

I. Discretionary Social expenditures (CSRs)

- i. Discussion of approach to reporting these expenditures
 - ii. Types of social expenditures/ projects and deemed value
 - iii. Beneficiaries (LGUs and organizations)
- J. Sale of the state's share of production or other revenues collected in-kind
 - i. volumes sold and revenues received by the government and SOEs
- K. Infrastructure provisions and barter arrangements

(Note: If any of the above information is not applicable, discuss why and provide evidence)

- V. AUDIT PROCEDURES
 - A. Company data
 - B. Government data
 - i. COA's mandate to audit
 - ii. What data of the reporting agencies does COA audit
 - iii. COA's audit procedures
 - C. Assessment of data quality, comprehensiveness, and compliance with international standards of company and government data (statement on whether companies and government had their financial statements audited for the financial year covered)
- VI. RECOMMENDATIONS
 - A. Improving data quality
 - B. Improving EITI implementation
 - C. Assessment of MSG's actions on recommendations from the first report
- VII. ADDITIONAL INFORMATION PER COMPANY
 - A. Incentives
 - B. Employment
 - C. Gross production, exports and sales
 - D. Data from ARMM
 - E. Beneficial ownership

Elevating Transparency

PH - Extractive Industries
Transparency Initiative

MSG Meeting

September 2015

*Isla Lipana & Co/
PwC*



Key concepts

Defining materiality

1

Scoping

2

Status update

3

Other matters

4



Defining materiality



-the multi-stakeholder group is required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds.
- Payments and revenues are considered material if their omission or misstatement could significantly affect the comprehensiveness of the EITI report.
- In establishing materiality definitions and thresholds, the multi-stakeholder group should consider **the size of the revenues streams relative to total revenues.**

Defining materiality (cont'd)



*2012 Final
materiality
basis*

- 5% of total payments on a per local government agency basis of each participating entity



*Exploring
materiality
for 2013*

- 5% of total payments on a per local government agency basis of each participating entity

or

- 5% of total payments on a per industry basis (much more aligned with EITI implementation in other territories)

Defining materiality (cont'd)

2013 proposed materiality calculation

Materiality calculation	Mining	Oil & Gas
Total payments	6,058,702,367	46,704,794,899
@2% threshold	121,174,047	934,095,898
Total in scope (above threshold)	5,704,966,923	46,499,058,661
% tested	94.16%	99.56%
Total untested	353,735,444	205,736,238
% untested	5.84%	0.44%

Defining materiality (cont'd)

	2% of total revenues per industry (2013)	5% of total revenues per government agency (2012)
Revenue streams	<ul style="list-style-type: none">• Uniform across all entities• Analysis using 2012 data:<ol style="list-style-type: none">a) for the OG industry with coverage of P46.4B or 99.56% (untested of P205M or 0.44%), revenue streams that will be covered include:<ol style="list-style-type: none">1. Corporate income tax (BIR)2. Withholding tax - Profit remittance to principal (BIR)3. Government share from oil and gas production (DOE)	<ul style="list-style-type: none">• Varies per entity, largely dependent on the breakdown of payments• Analysis using 2012 data:<ol style="list-style-type: none">a) For SPEX, revenue streams reconciled include the following:<ol style="list-style-type: none">1. Customs duties (BOC)2. Wharfage fees (PPA)3. Mayor's permit (LGU)4. Other payments imposed by LGU (LGU) <p>Reconciled P6 million of the total P65 million total variance.</p>

Defining materiality (cont'd)

2% of total revenues per industry (2013)

5% of total revenues per government agency (2012)

Revenue streams

b) for mining industry with coverage of P5.7B or 94.16% (untested of P353M or 5.84%), revenue streams that will be covered include:

1. Corporate income tax (BIR)
2. Excise tax on minerals (BIR)
3. VAT on imported materials and equipment (BOC)
4. Royalty in mineral reservation (MGB)
5. Withholding tax - Foreign shareholder dividends (BIR)
6. Local business tax (LGU)
7. Customs duties (BOC)
8. Royalty for IPs (NCIP)

b) For Carrascal Nickel, revenue streams reconciled include the following:

1. Withholding tax (BIR)
2. Customs duties (BOC)
3. VAT on imported materials and equipment (BOC)
4. Local business tax (LGU)
5. Other taxes (LGU)

Reconciled P128.3M of the total P128.7M total variance.

**The above revenue streams were the only items with variance above the threshold calculated on a per government agency. Variances noted on major revenue streams were excluded from the reconciliation procedures due to materiality.*

Defining materiality (cont'd)

2012 final materiality calculation

Bureau of Internal Revenue	Per client	Per BIR	Variance	For recon
Excise tax on minerals	100	140	40	Y
Corporate income tax	350	320	(30)	N
Withholding tax				
Foreign shareholder dividends	40	40	-	N
Profit remittance to principal	50	55	5	N
Royalties to claim owners	200	260	60	Y
Improperly accumulated retained earnings tax (IAET)	15	15	-	N
	755	830	75	
Percentage rate	<u>5%</u>			
Threshold	<u>38</u>			

Scoping - Participating entities

Focusing on key entities that substantially represent respective industries without compromising sufficient representation of the EITI report (Report)

- Companies that have reported total revenue of PhP1B will be in scope (i.e. threshold for top1k corporations)
- Mining - these entities account for 93.2%
- OG - participants comprise 98.6%.
- In the overall, there will be 22 companies that will be prioritized for reconciliation purposes, which represent 95.5% of qualified sector. Other submissions may be included as reference and information only in the Report.

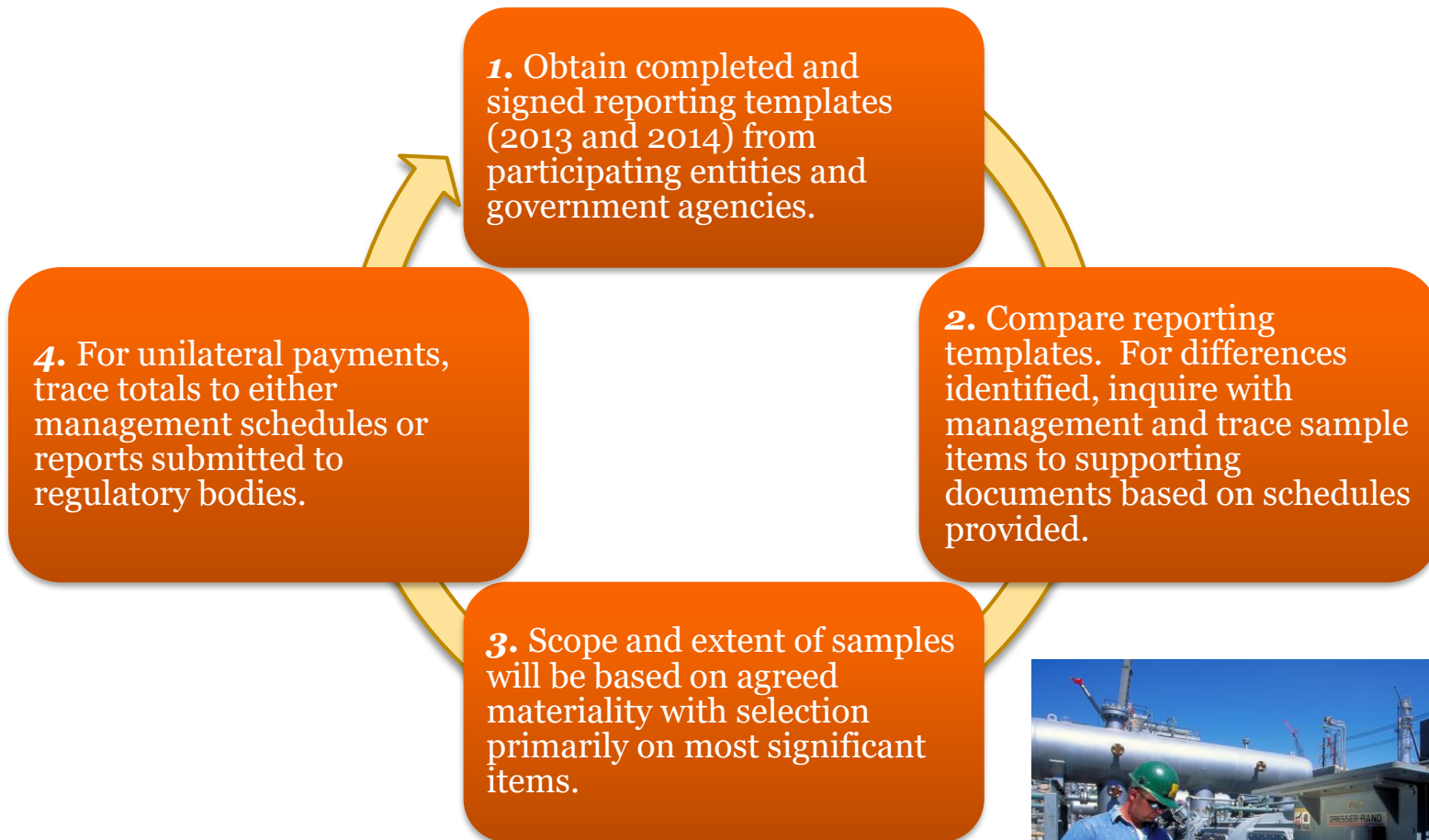
Scoping - Participating entities (mining)

No.	Company Name	Revenue	With template
1	Carmen Copper Corporation	13,583,949,974	Yes
2	Philex Mining Corporation	10,243,407,000	
3	Oceana Gold Inc.	9,690,340,571	Yes
4	Carrascal Nickel Corporation	4,408,216,890	Yes
5	Platinum Group Metals Corporation	3,759,984,460	Yes
6	Hinatuan Mining Corporation	3,438,856,117	Yes
7	Rio Tuba Nickel Mining Corporation	3,189,633,584	Yes
8	Taganito Mining Corporation	3,109,100,863	Yes
9	SR Metals, Incorporated	2,596,408,518	
10	Marcventures Mining and Development	2,516,601,260	Yes
11	TVI Resources Development Philippines, Inc.	2,389,331,130	
12	Lepanto Consolidated Mining Company	2,025,213,000	Yes
13	Adnama Mining Resources Incorporated	1,781,413,069	
14	Apex Mining Company Inc.	1,735,840,754	
15	Eramen Minerals, Inc.	1,635,755,712	Yes
16	Cit nickel Mines and Development Corporation	1,623,657,743	
17	Filminera Resources Corporation	1,527,132,756	
18	Rapu-Rapu Minerals, Inc.	1,399,692,846	Yes
19	Benguet Nickel Mines, Inc.	1,289,326,284	
20	SR Languyan	1,239,321,472	
21	Greenstone Resources Corporation	1,234,981,700	Yes

Scoping - Participating entities (OG)

No.	Company Name	Revenue	With template
1	Chevron Malampaya LLC	25,063,402,000	Yes
2	Shell Philippines Exploration B.V.	24,136,053,000	Yes
3	PNOC - Exploration Corporation	6,451,522,709	
4	Galoc Production Company	3,436,893,895	

Reconciliation process



Status update

- **Outstanding templates**

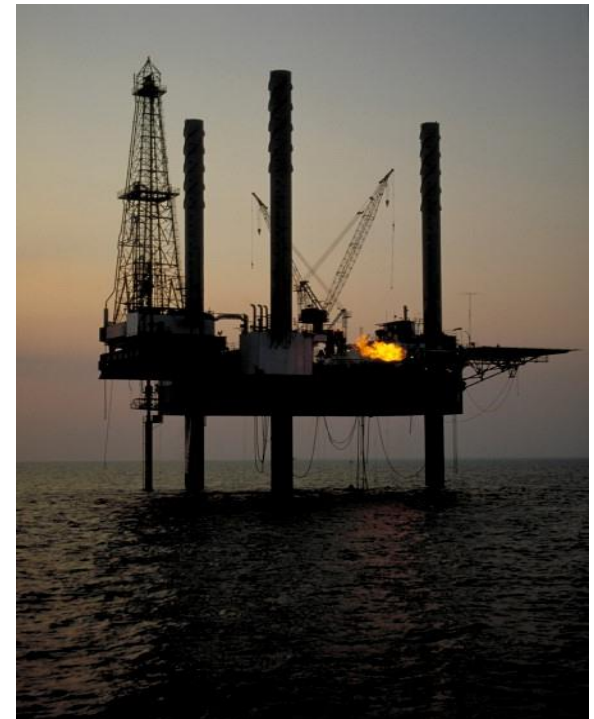
1. 20 received for participating entities
2. Government agencies (partial)
 - a. BOC (27 entities)
 - b. MGB (Royalties, Envi expenditures, Safety/health and SDMP)
 - c. LGU (completed roadshow with 25 submitted to date)
 - d. BIR (large taxpayers)
 - e. NCIP (initial submissions made)

- **Others**

1. Entities that expressed non-participation include Century Peak entities (2), Strong Built, Forum Energy, Galoc Production, Nido Petroleum, and Oriental Petroleum.
2. Awaiting confirmation include Libjo, Berong Nickel, Zambales, Ore Asia, Investwell Resources, and Philodrill.
3. Three (3) entities with no valid contact details

Other matters

- Contextual information
 1. Level of involvement of economist (e.g. identified key economic indicators)
 2. Expected narrative on small scale mining
- Timeline
 1. Initial cutoff of August 31
 2. Preliminary results to be presented in October MSG meeting
 3. Submission of final report on December 4



Questions?

GUIDANCE NOTE ON PUBLISHING EITI DATA

PH-EITI Secretariat
Department of Finance



Requirements (for the IA):

1. All reporting templates with raw data should be in excel sheet and will be published by the secretariat online
2. All tables in the final report should have an excel sheet which will be published and submitted to the international secretariat together with the report
3. The summary data template should be submitted together with report
4. The IMF GFS manual should be used in referencing the revenues

The MSG is encouraged to:

1. publish the data in a machine-readable format

For example:

The government in Country X reports to have received a total of US \$200,000,000 from its oil sector, and US \$10,000,000 from its mining sector in 2013.



```
<CountryXGovernmentRevenues2013> The  
<ReportedBy>government</ReportedBy> in Country X reports to have received a total  
of US <ValueOil>$200,000,000</ValueOil> from its oil sector, and US  
<ValueMining>$$10,000,000</ValueMining> from its mining sector in  
2013.</CountryXGovernmentRevenues2013>
```

2. code the data according to national and international classifications standards

GFSM 2001 Codes	Description
11	Taxes
1112	Taxes on income, profits, and capital gains (payable by corporations and other enterprises) <i>Taxes on income payable by natural resource enterprises</i> <i>Taxes on extraordinary profits payable by natural resource enterprises</i>
112	Taxes on payroll and workforce <i>Taxes on payroll and workforce payable by natural resource enterprises</i>
1141	General taxes on goods and services (value added tax, sales tax, turnover tax) <i>Value added taxes payable by natural resource enterprises</i> <i>Unrequited value added taxes payable by natural resource enterprises</i>
1142	Excises <i>Excise taxes payable by natural resource enterprises</i>
1143	Profits of fiscal monopolies <i>Profits of natural resource fiscal monopolies</i>
1145	Taxes on use of goods and on permission to use goods or perform services
11452	Other taxes on use of goods and on permission to use goods or perform activities <i>Fees payable by natural resource enterprises</i>
1146	Other taxes on goods and services <i>Other taxes on goods and services payable by natural resource enterprises</i>
1151	Customs and other import duties (import taxes) <i>Taxes on imports payable by natural resource enterprises</i>
1152	Taxes on exports <i>Taxes on exports of natural resources</i>
1153	Profits of export or import monopolies <i>Profits of natural resource export monopolies</i>
1161	Other taxes payable solely by business

3. consider automated online disclosure of extractive revenues



**MONGOLIA EXTRACTIVE INDUSTRIES
TRANSPARENCY INITIATIVE SECRETARIAT**

EITI Extractive Industries Transparency Initiative

HOME ABOUT EITI TRANSPARENCY MEDIA CENTER LEGAL FRAMEWORK EITI REPORTS **E-REPORTING**

NEWS INTERVIEWS INFOGRAPHICS TEMPLATES UPCOMING EVENTS

МУОНТ-ын Цаг үе, үзэл бодол шууд ярилцлага

SUBMITTED BY ADMIN ON THU, 08/20/2015 - 11:31

Монголын Олборлох үйлдвэрлэлийн ил тод байдлын санаачилгын ажлын албаны зохицуулагч Ш.Цолмон "Цаг үе, үзэл бодол" шууд нэвтрүүлэгт оролцож УУЛ УУРХАЙ ИЛ ТОД байхын ач холбогдлын талаар ярилцлаа. 2015.08.12



**MONGOLIA EXTRACTIVE INDUSTRIES
TRANSPARENCY INITIATIVE**

Mongolia EITI e-Reporting system launched. Extractive companies must

ACTIONS TAKEN:

- **Contracts portal using framework developed by NREGI**

MPSA No. 264-2008-VII

[Review Contract Text](#) [Annotate Contract](#)

Pdf Type: Structured
Text type : [Choose](#)

Contract State:

Metadata:	Draft Edit Metadata	Complete
PDF Text:	Draft Review Text	Complete
Annotations:	Annotate	

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- Contracts uploaded in pdf will also be available in text format to allow users to search within the document

MPSA No. 264-2008-VII VIEW METADATA

TEXT PDF VIEW 1 Search in this document..

MINERAL PRODUCTION SHARING AGREEMENT
No. 264-2008-VII

This MINERAL PRODUCTION SHARING AGREEMENT is made and entered into in Quezon City, Philippines, this day of JUL 09 2008 by and between:

THE REPUBLIC OF THE PHILIPPINES, herein referred to as the GOVERNMENT, represented in this act by the Secretary of the Department of Environment and Natural Resources, with offices at the Department of Environment and Natural Resources Building, Visayas Avenue, Diliman, Quezon City

and

ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION, and ANATOLIA JACA, ASTERIO BUQUERON, CRISTETA C. BAGANO, LUCILA PASCUAL, MERCEDES AYTONA, REGINA DE VERA, RICARDO A. VERCHES AND BIGA COPPER MINES, INC., as represented herein by ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION hereinafter collectively referred to as the CONTRACTOR, a corporation duly organized and existing under the laws of the Republic of the Philippines, with office at 7th F, Quad Alpha Centrum No. 125 Pioneer St., Mandaluyong City, Metro Manila, and represented in this act by its Chairman and President, Mr. Alfredo C. Ramos, as authorized by its Board of Directors (please refer to ANNEX "A")

MINERAL PRODUCTION SHARING AGREEMENT
No. 264-2008-VII

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and

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WITNESSETH :

WHEREAS, the 1987 Constitution of the Republic of the Philippines provides in Article XII, Section 2 thereof that all lands of the public domain, waters, minerals, coal, petroleum and other natural resources are owned by the State and that their exploration, development and utilization shall be under the full control and supervision of the State;

WHEREAS, the Constitution further provides that the State may directly undertake such activities or it may enter into a Co-Production, Joint Venture, or Mineral

Contract Name: MPSA No. 264-2008-VII

Contract Identifier: ph_Toledo-Copper-Project

Language: [en]

Country: Philippines [PH]

Resource: Copper, Gold

Government Entity: Department of Environment and Natural Resources

Government Identifier :

Type of Contract: Production or Profit Sharing Agreement

Signature Date: 2008-07-09

Document Type: Contract

Company

Company Name: Atlas Consolidated Mining and Development Corporation

Participation Share:

Jurisdiction of Incorporation : Philippines

Registration Agency: Securities and Exchange Commission

Incorporation Date : 1969-10-16

Company Address : 9th Floor Quad Alpha Centrum, 125 Pioneer Street, Mandaluyong City

Company Number: (632) 584 9788

Parent Company: Atlas Consolidated Mining and Development Corporation

OpenCorporates Link :

➤ Metadata

 Annotations**MINERAL PRODUCTION SHARING AGREEMENT**No. 235-2007-IVB

This **MINERAL PRODUCTION SHARING AGREEMENT** is made and entered into in Quezon City, Philippines, this _____ day of JUN 08 2007 by and between:

THE REPUBLIC OF THE PHILIPPINES, herein referred to as the **GOVERNMENT**, represented in this act by the Secretary of the Department of Environment and Natural Resources, with offices at the Department of Environment and Natural Resources Building, Visayas Avenue, Diliman, Quezon City

Nom de la société signataire du contrat et composition des actionnaires mentionnés dans le document//Name of company executing the document and composition of the shareholders

[◀ PREVIOUS](#) [NEXT ▶](#)

BERONG NICKEL CORPORATION, a corporation duly organized and existing under the laws of the Republic of the Philippines, herein referred to as the

Berong Nickel Corporation ("Berong"), a company incorporated under the laws of the Philippines--Front page, Signature page

WITNESSETH :

WHEREAS, the 1987 Constitution of the Republic of the Philippines provides in Article XII, Section 2 thereof that all lands of the public domain, waters, minerals, coal, petroleum, and other natural resources are owned by the State

ACTIONS TAKEN:

- **BLGF online reporting for LGUs**

Reference No.

LGU

Taxpayer Code

Date Paid

Assessed By

Check No./Proof of Receipt

Taxpayer Name

Legal Basis (Section/Article No.)

Collected By

	Reporting Item	Amount (in PhP)
	<input type="text"/>	10,000.00
<input type="button" value="+ Add Item"/>	TOTAL AMOUNT PAID	10,000.00

- **Met with TWG and open data champions of government agencies to discuss record keeping in open data format**