

PH-EITI 27th MSG MEETING

9:00 AM- 12:00 PM | November 13, 2015

**Visayas Room, Department of Finance,
Roxas Boulevard, Manila**

Attendees:

Asst. Sec. Ma. Teresa S. Habitan	Department of Finance (DOF)
Elsa P. Agustin	DOF
Febe J. Lim	DOF
Engr. Romualdo Aguilos	Mines and Geosciences Bureau—Department of Environment and Natural Resources (MGB-DENR)
Analyn Alarde	Bureau of Internal Revenue (BIR)
Yolanda Luna	BIR
Frederick William Crespillo	National Commission on Indigenous Peoples (NCIP)
Jocelyn Pendon	Bureau of Local Government Finance (BLGF)
Jose Arnold Tan	BLGF
Rosanna Salvador	BLGF
John Aries Macaspac	Department of Budget and Management (DBM)
Rainier Adrian Barrida	DBM
Dr. Cielo Magno	Bantay Kita
Starjoan Villanueva	Alternate Forum for Research in Mindanao, (AFRIM) Inc.
Ronald Allan A. Barnacha	Philippine Rural Reconstruction Movement (PRRM)/ North Luzon
Prof. Maria Aurora Teresita W. Tabada	Visayas State University
Chadwick Llanos	Cebu Alliance for Safe and Sustainable Development (CASSE)
Benjamin Austria	Petroleum Association of the Philippines (PAP)
Gerard Brimo	Nickel Asia Corporation (NAC)/Chamber of Mines of the Philippines (COMP)
Atty. Gay Alessandra V. Ordenes	Secretariat
Abigail D. Ocate	Secretariat
Mary Ann Rodolfo	Secretariat
Joy Saquing	Secretariat
Marikit Soliman	Secretariat
Liezel Empio	Secretariat
Mary Grace Jurado	Secretariat
Ryan Dael	Secretariat

John Martin Arreola Secretariat
Rhea Bagacay Secretariat

RESOURCE PERSONS:

Sittie Butocan Bangko Sentral ng Pilipinas (BSP)
Abigael Ilagan BSP
Pocholo Domondon PricewaterhouseCoopers /Isla lipana
Corina Molina PricewaterhouseCoopers /Isla lipana

AGENDA:

- Minutes of the 26th MSG meeting
- Matters arising from previous MSG meetings
- Presentation of BSP policies on gold trading
- Presentation of scoping study on non-metallic mining operations
- Presentation of updates on the EITI report
- Other matters

1. Call to Order

1.1. The Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (MSG) meeting was called to order at 9:10 AM.

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

2. Minutes of the 26th MSG meeting

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

2.2. The Chair gave the MSG members another week to comment on the minutes

3. Matters Arising

3.1. *Establishment and management of a revenue-linked database:* The Secretariat reported that the contracts portal is already functioning. In addition, it was also mentioned that the process of gathering supporting documents from the Mines and Geosciences Bureau (MGB) is still ongoing. The said documents are intended to be uploaded in the contracts portal.

1 3.2. *Offer of Timor Leste to conduct training for the PH-EITI MSG on the Petroleum Fund Process:* The
2 Secretariat recalled that the MSG decided to defer the discussion of this item in future meetings.

3
4 The Chair noted that there has been an instruction for the Secretariat to make a concept note for the
5 proposed training.

6
7 3.3. *Copies of Bureau of Internal Revenue (BIR) and MGB reports to the Department of Budget and*
8 *Management (DBM) regarding their collections per Local Government Unit (LGU) and per company:* It
9 was reported that BIR and MGB were requested to provide the copies of certification of shares of local
10 government units to the Independent Administrator (IA). The secretariat noted that the IA will give
11 updates regarding this matter.

12
13 3.4. *Addressing Legal Barriers to EITI Implementation:* The Secretariat recalled that the draft resolution
14 supporting the Tax Incentive Management and Transparency Act (TIMTA) was circulated and still no
15 comments were received from the MSG members.

16
17 3.5. The Chair suggested that the resolution be deemed approved since this has been presented to the
18 body and there were no comments submitted to the Secretariat.

19
20 The body agreed.

21
22 3.6. *Secretariats Institutionalization:* It was shared that Director Tan of the Department of Finance (DOF)
23 is still reviewing the proposal to DBM.

24
25 3.7. The Chair instructed the Secretariat to draft a follow up memo regarding the review of the proposal.

26
27 3.8. *Draft EITI Bill:* The Secretariat shared that the Technical Working Group (TWG) on the EITI bill met
28 three weeks ago to further discuss the salient features of the draft bill. Among the agreements is to
29 expand the powers and functions of EITI. It was mentioned that the bill will give EITI the power to
30 compel agencies to give data as well as to exercise oversight functions on the reporting process of EITI
31 participating agencies and companies.

32
33 3.9. According to the Secretariat, the TWG members also agreed that the DOF should still be in charge of
34 implementing EITI.

35
36 3.10. On the issue of whether participation in the EITI should be mandatory, it was shared that the
37 recommendation of the TWG is to integrate EITI reporting in the reportorial requirements of the
38 government agencies. Consequently, whatever sanctions are imposed by the agencies for non-
39 compliance of these reportorial requirements will be the same sanctions imposed for non-participation
40 in the EITI process.

1 The Secretariat further elaborated that the MSG will not be tasked to impose sanctions, rather it is the
2 responsibility of the reporting government agencies as part of their regulatory functions.

3
4 3.11. According to a representative of the Civil Society Organizations (CSOs), it is clear that EITI
5 participation of the companies is going to be mandatory based on the draft bill. However, the same
6 representative clarified if the sanctions are going to be identified by the government agencies.

7
8 3.12. The Secretariat clarified that the sanctions will be based on existing laws since EITI participation
9 will just be integrated in existing reportorial requirements of government agencies.

10
11 3.13. An industry representative pointed out that since the government agencies are also required to
12 report and participate in the EITI process, non-participating agencies should also be sanctioned. The
13 same representative asked how will the government agencies be sanctioned.

14
15 3.14. The Secretariat explained that the agreement of the TWG is to hire a consultant who will draft the
16 bill, which will be reviewed by the MSG.

17
18 3.15. The CSO representative suggested that the consultant be also tasked to review existing sanctions
19 in terms of reporting and then ask the MSG discuss if these are acceptable or not.

20
21 3.16. *Uploading of MGB Documents*: The body was informed that the scanned documents are currently
22 being compressed to be uploaded on the contracts portal. However, it was reported that around 30% of
23 the environmental reports still needs to be scanned.

24
25 3.17. The Secretariat shared that the MGB personnel handling these documents are pre-occupied with
26 the preparations for the annual Philippine Mine Safety and Environment Association (PMSEA)
27 conference next week, as they are the organizers of the said event. This is the reason why some of the
28 documents have not been scanned yet.

29
30 3.18. The Chair asked if the scanning of the documents can be accomplished by the end of the year.

31
32 3.19. The Secretariat responded that scanning can be completed if MGB can make all the documents
33 available.

34
35 3.20. A CSO representative asked to be clarified on how 100% completion of documents is defined. If it
36 pertains to 100% of all the companies that are required to report or 100% of what MGB has provided to
37 the Secretariat. The same representative noted that what was submitted by the MGB may not all be
38 from the companies covered by the report.

39
40 3.21. The Secretariat confirmed that it is based on all the reporting companies.

1 3.22. Another CSO representative asked if the mining company operating in the Autonomous Region in
2 Muslim Mindanao (ARMM) is included.

3
4 3.23. The MGB representative clarified that mining companies located in ARMM are not being
5 monitored by the MGB central office since ARMM is covered by a separate Department of Environment
6 and Natural Resources (DENR).

7
8 3.24. A CSO representative noted that it is important for the IA to include in the contextual information
9 of the report the reason why mining companies operating in ARMM were not covered. In relation to
10 this, it was shared that the Department of Justice (DOJ) issued an opinion that mining licenses should be
11 issued by the national government however, the MGB in ARMM is issuing license for large-scale
12 operations.

13
14 The same representative furthered that as part of the contextual information, it should be mentioned
15 that there are two large-scale mining companies operating in Tawi-Tawi. According to the CSO
16 representative, there is legal question on whether these operations are legitimate or not.

17
18 3.25. The CSO representative expounded the suggestion and mentioned that the legal question and the
19 regulatory capacity of MGB ARMM including production audit and environmental monitoring should be
20 discussed in the contextual information in order to have a complete picture.

21
22 3.26. *Selection process for MSG members:* The Secretariat mentioned that this matter has been pending
23 for quite some time. The body was informed that only the CSOs and PAP have given their process of
24 selecting MSG representatives. It was mentioned that the Secretariat is still waiting for the selection
25 process of the Chamber of Mines of the Philippines (COMP) and the Government sector.

26
27 The Secretariat pointed out that the submission of the selection process is important and that the
28 transitional arrangement of the MSG members is also part of the meeting agenda.

29
30 3.27. An industry representative asked when the members will transition. In response, the Secretariat
31 said that the term of all the MSG members will end in January 2016.

32
33 3.28. To clarify, the Secretariat mentioned that it is up to the sectors to decide whether the current
34 representatives will be retained or do a rotation but still retain some of the current members to
35 preserve institutional memory.

36
37 3.29. The representative from the Petroleum Association of the Philippines (PAP) shared that their
38 annual meeting is scheduled in February. Hence, the selection of new MSG representatives will be in
39 February 2016.

40
41 It was mentioned that the oil and gas sector already submitted their guidelines on the selection process.

1 3.30. As for the government sector, the Chair stated that government agencies that should be
2 represented in the MSG were identified in EO 147.

3
4 The Chair requested the DOF representative to write down the process stating that the agencies
5 participating in the MSG are identified in EO 147 and the determination of the specific government
6 representatives is upon the discretion of the Secretaries.

7
8 3.31. Board of Investments (*BOI*) and *BIR incentives*: The Secretariat reported that a request to provide
9 the MSG with a copy of the list of incentives was already made to the Ways and Means Committee.

10
11 In addition, it was shared that BOI asked for the consent of Semirara Mining Corporation to disclose the
12 incentives of the company. The body was informed that Semirara sent a letter stating that they do not
13 object to BOI's disclosure of their incentives. The said letter is included in the meeting kits.

14
15 3.32. One member of the MSG asked if Semirara Mining Corp. already signed the BIR waiver.

16
17 The Secretariat responded that Semirara has not yet signed and updates on this will be given later in the
18 meeting.

19
20 3.33. *Proposed amendment to the Local Government Code (LGC)*: It was recalled that the DILG
21 representative suggested to commission a study first. The Secretariat mentioned that hiring of the
22 consultant for this will be part of the work plan for next year.

23
24 3.34. *MGB regional directors should be convened*: The Secretariat mentioned that the MGB was
25 supposed to invite PH-EITI to the meeting of the MGB regional directors last October. The intended
26 purpose was to inform all regional directors about EITI since the scope of the report next year will also
27 cover small-scale and non-metallic mining.

28
29 3.35. The MGB representative explained that there was no expanded meeting last October. However, it
30 was mentioned that the MGB will have an expanded meeting in January or February 2016.

31
32 The same representative stated that they will invite the Secretariat to the expanded meeting next year.

33
34 3.36. A CSO representative suggested to organize a separate meeting with the MGB regional directors
35 and not rely on the schedule of the MGB expanded meeting. This is to make sure that there is a
36 dedicated time to discuss EITI implementation.

37
38 3.37. According to the Secretariat, they made the same suggestion but due to time constraints and since
39 the schedule of all regional directors has to be considered, the MGB recommended that the EITI be
40 discussed during the expanded meeting.

1 3.38. The CSO representative stated that the MGB needs to make sure that EITI is included in the agenda
2 of the expanded meeting.

3
4 3.39. *Summary of ore shipment:* It was shared that a summary of ore shipment per company should be
5 provided by the regional directors for the year of 2013 and 2014. The MGB representative was asked to
6 clarify if this information will already be included in the reporting template of MGB.

7
8 The MGB representative confirmed that information on ore shipment is included in their template.
9

10 3.40. *BIR waiver:* The Secretariat recalled that there were companies that proposed to amend the BIR
11 waiver. However, MSG members agreed not to allow such revisions because it may encourage other
12 companies to also come up with their own version of the waiver.

13
14 3.41. Another agreement was for the Department of Energy (DOE) to explore the possibility of
15 requesting Semirara Mining Corp. to execute the waiver as presently crafted. It was shared that DOE has
16 been scheduling a meeting with the said company but it keeps on being postponed.

17
18 3.42. The Secretariat mentioned that another meeting with Semirara is scheduled after today's meeting.
19 On the other hand, it was mentioned that according to Director Abad of DOE, Semirara already signified
20 its intent to participate.

21
22 3.43. In relation to this, a representative of the oil and gas sector mentioned that some of their
23 members are also proposing some revisions to the waiver. The same representative recalled that they
24 submitted their suggested revisions last year but the MSG rejected their proposal on the basis that other
25 companies have already signed the waiver.

26
27 3.44. Considering that this year is a new cycle of reporting, the oil and gas representative stated that if
28 the MSG would still not accept revisions because some companies have already signed the waiver, some
29 of the PAP members might find it difficult to agree on signing the waiver.

30
31 3.45. The Chair noted the concern raised and mentioned that the IA will give updates later on the
32 number of companies that have signed the waiver.

33
34 3.46. *National Commission on Indigenous Peoples (NCIP) guidelines:* The Secretariat shared that NCIP
35 was asked to furnish the MSG with a copy of the guidelines stating that NCIP should not collect
36 administrative costs from the companies as part of the stipulations in the MOAs. This matter is still
37 pending.

38
39 3.47. *Updated list of companies operating in ancestral domains:* it was mentioned that this is another
40 pending deliverable of the NCIP. However, the Secretariat shared that DOF provided this information
41 which was already relayed to the IA.

42 The DOF representative clarified that MGB was the source of the information that they provided.

1 3.48. *Malampaya fund*: It was reported that the IA will give an update later on their data gathering
2 status regarding this matter.

3
4 3.49. *Gold policies of Bangko Sentral ng Pilipinas (BSP)*: The Secretariat mentioned that there was a
5 suggestion last meeting to invite BSP to present their policies on gold trading. The said presentation is
6 part of the main business of the meeting.

7
8 3.50. *Information on the licensing process*: A clarification was made with the International Secretariat
9 regarding the requirements for the inclusion of information on licensing processes in the report. It was
10 shared that the feedback obtained is that they would want to see a categorical statement in the report
11 that all the approved licenses have been made pursuant to existing laws and regulations.

12
13 3.51. In addition, it was mentioned that a categorical statement on the procedure for approving licenses
14 and the technical and financial criteria used should be included. The Secretariat stated that the list of
15 applicants for oil and gas as well as mining licenses should also be part of the report including a
16 statement if bidding rounds were conducted.

17
18 3.52. The CSO asked the MGB representative if the assessment of applicants for licenses is based on the
19 track record of the company or the track record of the beneficial owners of the company. In case one
20 person is part of two different companies, the same representative asked if MGB will assess the
21 application based on legal personality and track record of the company or the individual owners of the
22 company.

23
24 3.53. The MGB representatives responded that in the processing of permit, the company has to comply
25 with mandatory requirements which will be evaluated in the MGB regional office up to the central
26 office.

27
28 3.54. The CSO representative gave an example wherein one of the owners of a company that has been
29 suspended by MGB set up a new company and applied for license to operate. The same representative
30 asked if MGB will assess the applicant as owner of the suspended company or just as a new applicant.

31
32 3.55. The MGB responded that it will be assessed based on the mandatory requirements, but the track
33 record of the owner will also be looked into. The MGB representative clarified that there are owners of
34 the company and there are operators.

35
36 3.56. The same CSO representative shared that there is one large scale mining operation that has been
37 violating MGB regulations but the owner of that company is currently applying for a black sand mining
38 permit under a different company name.

39
40 3.57. The MGB representative explained that if an operator will be hired, the transfer of assignment and
41 Memorandum of Agreement (MOA) between the owners and operators will be assessed and signed by

1 the MGB. It was reiterated that MGB will also look at the track record of the operator. However, the
2 same representative expressed that he is not familiar with the details of assessing license applications.

3
4 3.58. The CSO representative proposed that the issue be flagged for future reporting of EITI where
5 beneficial owners vis a vis issuance of licenses and contracts will be covered.

6 7 **4. BSP presentation on gold trading policies** 8

9 4.1. Two BSP representatives presented the organization's policies on gold trading. The presentation
10 covered the buying and selling program of BSP, as well as the benefits of BSP's gold buying activities to
11 the Philippines and current efforts to strengthen gold buying operations (the presentation material is
12 attached as Annex A).

13
14 4.2. A brief background on BSP gold operations was first given, explaining that President Marcos gave
15 the directive for the central bank to establish a gold refinery in 1974. It was shared that in year 1979, the
16 London Gold Market which now the London Bullion Market Association (LBMA) formally recognized the
17 gold refinery as an acceptable melter and assayer of good delivery bars.

18
19 4.3. The laws that govern gold trading were also discussed such as RA No. 7076 (1991) which states
20 that all gold produced by small-scale miners shall be sold to the Central Bank. According to the BSP
21 representative, the said law was enacted and developed to help the small-scale miners.

22
23 4.4. Another significant law is RA No. 7653 (1993) stating that the Central Bank may buy and sell gold in
24 any form, subject to the regulation that the Monetary Board may issue. This also stipulates that the BSP
25 may also buy gold as part of its international reserves.

26
27 4.5. The MSG members were informed that BSP has a Responsible Gold Sourcing Policy which is a
28 commitment made to ensure that the BSP's source of gold products complies with the standards set by
29 the LBMA.

30
31 4.6. The BSP representative then discussed the gold buying program of the organization. BSP purchases
32 gold from gold sellers, small-scale miners, traders, and panners.

33
34 4.7. The gold is bought in pesos and the price is determined by the prevailing international gold buying
35 price and prevailing peso dollar exchange rate. The gold is then refined into forms that are acceptable in
36 the international bullion market. However, some of the gold may also be manufactured into semi-
37 finished material in the form of grains and sheets for re-sale by the BSP.

38
39 4.8. The BSP representative highlighted that the organization has five existing buying stations located in:
40 Quezon City, Baguio City, Naga City, Zamboanga City, and Davao City.

41
42 4.9. The representative shared the following requirements for selling gold to the BSP:

- letter of delivery and sale
- customer information packet
- risk assessment checklist for source of origin
- government issued ID and Tax Identification Number (TIN)
- ID picture of the seller and authorized representative, if any
- registered bank account details

4.10. According to the BSP representative, some of the present requirements for acceptance of gold by the BSP is that it should be in bar or disc form and should be free of mercury, amalgam, slags and other foreign matter.

4.11. The BSP representative also gave the specific dimensions and weight required that is acceptable to BSP. It was also noted that the gold should have a minimum gold assay of 30%.

4.12. The presenter also discussed the payment scheme being followed by the BSP. It was reported that BSP pays an initial amount equivalent to 99% of the value of delivery based on received weight and preliminary assay. Then from this, 2% excise tax and 5% creditable withholding tax will be deducted.

4.13. It was explained that the final settlement of the balance shall be paid upon completion of final assay. A breakdown of the deductions for processing cost and metal recovery factors were given.

4.14. The summary of the gold purchases per region was also presented. It was highlighted that starting in 2012, the amount of gold purchased by BSP dramatically decreased because of the imposition of the 7% tax on the gold from small scale miners.

4.15. In relation to the gold selling program of BSP, the representative shared that the BSP's Department of General Services (DGS) sell grains and sheets of gold in the Security Plant Complex in Quezon City.

4.16. The selling price of gold is again based on the prevailing international market price and peso dollar exchange rate. Also a service fee of Php 3.55 per gram (for gold grains) and Php 7.25 per gram (for gold sheets) is charged including 10% Value Added Tax (VAT).

4.17. The Chair clarified if the VAT is only 10% and not 12%. The BSP representative responded that they will confirm this with their office.

4.18. Following the discussion on the selling price, a flow chart was presented on how interested individuals can buy gold from the BSP.

4.19. The BSP representative mentioned that purchasing gold is beneficial for the country because it builds up international reserves using local currency, diversifies reserve portfolio, and ensures fair trade for small scale miners.

1 4.20. Currently, it was mentioned that BSP is reviewing the tax regime on small-scale miners and they
2 are strengthening dialogues with the sellers of gold.

3
4 4.21. The Chair asked if there were any discussion in the BSP with regard to reviewing the organization's
5 functions and mandate to buy gold from small-scale miners.

6
7 4.22. The BSP representative responded that RA No. 7076 still provides the mandate of the BSP. It was
8 mentioned that because bulk of the purchases of BSP comes from small scale miners, what BSP is doing
9 is reviewing the 7% tax imposition on the small-scale mining sector.

10
11 4.23. One member of the MSG raised that it might be interesting to compare the selling price of the
12 local exporters to the selling price of BSP.

13
14 4.24. The Chair clarified if BSP is mandated to only buy gold from small-scale miners.

15
16 The representative of the BSP clarified that the small-scale miners are mandated to sell only to BSP but
17 the BSP can buy to other sellers.

18
19 4.25. According to the CSO representative, they were informed that small scale miners are actually
20 selling gold to large scale miners. The same representative asked if BSP have already conducted a study
21 with regard to this issue.

22
23 4.26. Because of the significant decrease in BSP's purchase of gold, the BSP representative stated that
24 consultations were conducted in provinces where a large percentage of gold were being purchased.
25 According to the same representative, one of the things that surfaced during the consultations is that
26 the decrease in selling of gold to BSP is due to the large disparity in the selling price given the tax
27 imposition.

28
29 4.27. The Chair inquired whether BSP also buys gold from large-scale mining operations. The Chair noted
30 that if BSP is also buying gold from large-scale mining which is also mandated to pay the 2% excise tax,
31 then the decline in the purchase of gold by BSP might be due to other issues other than the imposition
32 of tax unless BSP is only withholding tax from small-scale miners and not from large-scale.

33
34 4.28. The industry representative shared that for many years, the small scale-miners have not been
35 taxed. This is the reason why there is resistance from the sector when they were asked to pay taxes.
36 According to the same representative, the question that needs to be asked is if the country is benefiting
37 now that taxes is being imposed but the gold is not being sold to the central bank.

38
39 4.29. As for the large-scale, the industry representative mentioned that in the past, the only reason why
40 their companies do not sell gold to the central bank is because the refining charges are higher compared
41 to refineries abroad.

1 4.30. The same representative stated that if the refining charges of the Central Bank were
2 internationally competitive, they would be able to buy more gold from large-scale mining companies.

3
4 4.31. The DOF representative mentioned that it is a governance issue whether or not to withhold excise
5 tax from small-scale mining. According to the same representative it is not good fiscal policy to exempt
6 the sector from tax just because the government cannot withhold tax.

7
8 4.32. In addition, it was mentioned that the monetary objective of selling gold to BSP should be
9 balanced with the extraction of the resource. Hence, the operators should pay and compensate for the
10 utilization of the resource. The DOF representative noted that removing the tax imposition is basically
11 allowing the miners to extract the resources for free.

12
13 4.33. In terms of gold buying, the IA asked if the BSP only accepts bullion and not dore. The IA then
14 shared that most of the gold producers are selling their products in dore form which still contain
15 impurities.

16
17 4.34. According to the IA, if BSP is not accepting dore since this is still subject to processing then it would
18 be more convenient for companies to sell their gold outside the country.

19
20 4.35. An industry representative responded that BSP accepts dore.

21 22 **5. Presentation on scoping study of the non-metallic mining sector**

23
24 5.1. The consultant for the scoping study on Large-Scale Non-Metallic (LSNM) mining and quarrying in
25 the Philippines presented the initial findings (the presentation material is attached as Annex B).

26
27 5.2. For the information of the body, it was mentioned that the scoping study covered the following:

- 28 • legal and regulatory framework for LSNM
- 29 • revenue streams and financial arrangements
- 30 • list of areas and companies with LSNM operations
- 31 • case studies of 3 areas

32
33 5.3. The consultant noted that the laws and regulations governing large-scale metallic mining which was
34 presented last year also apply to LSNM and quarrying. Therefore, the consultant will only highlight
35 the major distinctive features applicable to LSNM.

36
37 5.4. The consultant noted the difference between quarry resources and non-metallic minerals by
38 providing the definitions under RA 7942. It was mentioned that for purposes of the scoping study, the
39 consultant treated both large-scale development of quarry resources and non-metallic minerals as a
40 single sector separate only from the large-scale metallic mining industry and small-scale mining.

1 The consultant shared that the data from the MGB also treat these sectors as one.

2
3 5.5. With regard to exploration permit, it was shared that the term for the LSNM is 2 years, renewable
4 for like periods, but not to exceed a total term of 4 years. The consultant noted that this is shorter
5 compared to the total term for the metallic sector which is 6 years.

6
7 5.6. A CSO representative clarified if LSNM operators can only renew once given that the maximum term
8 is 4 years.

9
10 5.7. The consultant explained that the law provides for the renewal that should exceed to 4 years but
11 the law also gives some flexibility in terms of renewing it. During the time of exploration for example, if
12 a company did not make a Declaration of Mining Project Feasibility (DMPF) within 4 years, the MGB
13 could still allow further extension of the term provided that it is only for the purpose of issuing the
14 DMPF.

15
16 5.8. With regard to large-scale quarrying, it was mentioned that more than one final mining area may be
17 filed in an applied area. However, the aggregate of all final mining areas for all mineral agreements
18 should not exceed the maximum limits provided by the law.

19
20 5.9. The consultant also noted that the large-scale and small-scale non-metallic mining operations are
21 treated as one in the data gathering.

22
23 5.10. The consultant also presented the government agencies and other bodies that are mandated to
24 regulate LSNM mining and quarry resources. It was mentioned that the Department of Environment and
25 Natural Resources (DENR) is the primary regulating government agency while MGB is directly in charge
26 of the administration and disposition of mineral lands and mineral resources. Other agencies discussed
27 were the DOF, BIR, BOC, DOTC-PPA, BOI, NCIP and LGUs.

28
29 5.11. In terms of the revenue streams and financial arrangements, the consultant pointed out that LSNM
30 mining and metallic mining sector.

31
32 5.12. As for the cement industry, it was mentioned that the consultant looked into the Cement
33 Manufacturers' Association of the Philippines (CEMAP) annual report in 2012.

34
35 5.13. The consultant shared that in the said report, CeMAP issued a statement that they have
36 successfully influenced the government guidelines (EO 79) so that cement industry is **exempted** from
37 the general provisions that all new mining agreements will be on hold until new mining revenue
38 legislation is passed.

39
40 In addition, CeMaP also stated in their 2013 report that they succeeded in convincing the executive
41 branch (e.g. DENR, NEDA, DTI, etc.) and Congress to exempt non-metallic mining (including cement)

1 from proposed tax increases. However, the consultant noted that she has not seen any document that
2 would support these claims.

3
4 5.14. A CSO representative clarified if all of the materials produced by the non-metallic sector are locally
5 consumed. The consultant answered in the affirmative.

6
7 5.15. It was also shared that the cement industry has been lobbying to avail income tax holidays with the
8 justification that they have significant contributions to the economy.

9
10 5.16. The consultant discussed the payments of the LSNM sector to the national government including
11 income tax, excise tax, mine wastes and tailings fee, custom duties and fees, VAT, documentary stamp
12 tax, capital gains tax, harbor or port fees and other fees/charges. Other payments to the LGU were also
13 enumerated and discussed.

14
15 5.17. The consultant then reported the areas and companies with LSNM operations. According to the
16 consultant, there are 55 registered LSNM and quarrying companies that are Mineral Production Sharing
17 Agreement (MPSA) holders but only 44 are shown in the website of MGB.

- 18
19 • 44 large-scale non-metallic mining/quarrying companies
 - 20 ○ 28 in Luzon
 - 21 ○ 8 in Visayas
 - 22 ○ 8 in Mindanao
- 23 • Product
 - 24 ○ 25 limestone & shale (including marble)
 - 25 ○ 1 dolomite
 - 26 ○ 10 clay (silica, bentonite, zeolite)
 - 27 ○ 6 aggregates
 - 28 ○ 2 sand & gravel

29
30 5.18. The size of areas covered by the MPSAs per region and per stage of operation was also presented
31 to the body. In addition, the LSNM companies operating in each region were enumerated. The
32 consultant mentioned that one of the biggest player in the LSNM sector is Holcim Phils.

33
34 5.19. A brief background on the potential case studies was given by the consultant. According to the
35 consultant, the three provinces where there is a significant LSNM mining or quarrying operations are
36 Cebu, Rizal, and Bulacan.

37
38 5.20. Based on the definitions presented by the consultant, a CSO representative asked the MGB to
39 clarify whether black sand mining falls under quarrying or large-scale non-metallic mining.

1 5.21. The MGB representative responded that black sand is considered metallic because of its iron
2 content. The CSO representative then shared that in some areas only a quarrying permit is needed for
3 black sand mining.

4
5 5.22. According to the MGB representative, what happened in the past is that the company will first
6 apply for quarrying permit, but because it has commercial disposition on metallic, the company also
7 needs to apply for mineral processing permit. However, the same representative explained that
8 companies would now have to apply for MPSA for metallic mining if they want to go into black sand
9 mining.

10
11 5.23. The CSO representative then asked if there is already disaggregated data on how many black sand
12 miners are in the exploration and operation stage.

13
14 The MGB representative shared that there is no disaggregated data on black sand mining operations.

15
16 5.24. The same CSO representative asked if MGB has instructions to LGUs that continue to issue quarry
17 permits to black sand miners. In relation to this, the CSO representative also inquired whether MGB has
18 the capacity to monitor or differentiate between regular sand quarry and black sand mining.

19
20 5.25. The MGB representative responded that there are monitoring activities for black sand mining. It
21 was mentioned that black sand cannot be sold unless it came from a legitimate source. The same
22 representative furthered that the Mining Industry Coordinating Council (MICC) has a resolution
23 regarding black sand mining.

24
25 5.26. One member of the MSG recalled that there was an issuance last year directing all local
26 government not to issue permits for black sand mining.

27
28 5.27. A CSO representative asked if the consultant was able to get employment data on LSM sector.
29 Another representative raised that MGB has quarterly industry report which includes information on
30 non-metallic and metallic mining operations however, the data for these two sectors were aggregated in
31 some variables. For example, there is only total employment for both metallic and quarry operations.
32 The same CSO representative then proposed that the MGB disaggregate their data in the future.

33
34 5.28. The MGB representative shared that the aggregated employment data in their report comes from
35 the DOLE.

36
37 5.29. The Chair clarified if MGB does not generate its own employment data of the mining industry. In
38 response, the MGB representative stated that they require the companies to report employment figures
39 in the integrated annual report but some companies are not complying.

40
41 5.30. In relation to LGU data, a representative of Bureau of Local Government Finance (BLGF) shared
42 that there are currently working with the Department of the Interior and Local Government (DILG) to

1 incorporate the information required by EITI in their Electronic Statement of Receipt and Expenditure
2 (eSRE).

3
4 5.31. It was mentioned that a pilot testing of the online reporting of payments to LGUs is scheduled on
5 November 24, 2015. According to the same representative, the system roll out will be in December
6 2015. The members of the MSG were invited in both events.

7
8 5.32. Going back to the issue on expansion of mining operations, a CSO representative asked if there are
9 requirements that needs to be complied with before a company can expand their operations. The same
10 representative asked if the company would also consult with the people in the community before
11 expansion.

12
13 5.33. The scoping study consultant responded that based on the law, an evaluation should be conducted
14 by the MGB before any expansion is granted. The MGB should check if the company is complying with
15 the terms and conditions of their agreement. According to the consultant, the Environmental
16 Management Bureau (EMB) also has to make sure that the company is also complying with the
17 provisions in the Environmental Compliance Certificate (ECC).

18
19 5.34. A CSO representative suggested to request data from EMB on LSNM mining operations in Region
20 XII because Holcim operates in the said region but this was not included in the list presented by the
21 consultant.

22
23 5.35. Going back to the extension of the term of exploration, one member of the MSG asked if the
24 companies are still allowed to extract during the time of extension. The MGB representative responded
25 that there should be no more extraction since the extension is only for the purpose of completing the
26 DMPF.

27
28 5.36. The CSO representatives pointed out that some of the companies that applied for non-metallic
29 permit have been exploring for as long as 18 years. The same representative asked if MGB is actually
30 doing a review of these extensions.

31
32 5.37. According to MGB, they are reviewing these extensions and this why many MPSAs have been
33 canceled already.

34
35 5.38. A member of the MSG raised that there is a lack of monitoring system in the mining sector. It was
36 noted that sanctions cannot be imposed unless diligent monitoring will be done.

37
38 5.39. The consultant proposed that the MSG formally engage the Federation of Non-Metallic Association
39 of the Philippines. The Chair asked the Secretariat to draft a letter regarding this.

6. Presentation of updates on the EITI report

6.1. Two representatives from the Isla Lipana gave updates on the status of the 2nd country report. A progress report on both the reconciliation report and contextual information were presented to the body (the presentation material is attached as Annex C).

6.2. The IA shared that they received 36 reporting templates out of the 38 confirmed participating entities.

6.3. For the confirmed material companies or those entities that have more than Php 1 billion worth of revenues, only CTP Construction and Mining Corp. and Citinickel Mines and Development Corporation have not submitted their templates.

6.4. The IA updated that the in-scope entities cover 95% of the original targeted mining companies, 94% of which have already submitted the reporting template.

For oil and gas on the other hand, the in-scope companies cover 97% of all of companies. The IA shared that for this sector, all material companies have submitted their templates.

6.5. The IA gave a summary of material and non-material companies that declined to participate for the 2nd report including those that have no operations for the year of 2013. It was mentioned that SR Languyan is the only material company that declined to participate.

6.6. The Secretariat clarified that the MSG already agreed that participating entities will be limited to material companies. In this regard, the Secretariat advised that in presenting the updates, the IA should refer to the number of material companies. For example, how many material companies did not participate.

The Secretariat added that the IA can just provide an explanation in the report that non-material companies are also included in the report for disclosure purposes but they are not counted in the computation of the scope for material companies

6.7. The IA responded that in the presentation of the actual report, the material companies will be segregated from the non-material entities.

6.8. To clarify, the IA stated that there are 27 material companies; 23 from mining and 4 from oil and gas sector. The IA further clarified that out of the 23 material mining companies, 20 have submitted their templates while 2 have outstanding templates and 1 declined which is SR Languyan.

6.9. The IA clarified that the 32 mining entities indicated in the table include all the material companies as well as the non-material companies that have submitted their template.

1 6.10. The Chair reiterated the suggestion that for purposes of reporting, the IA should go straight to
2 reporting on the material companies. In relation to this, a CSO representative suggested that the IA put
3 a note under the table stating that there are other companies that reported but they are classified as
4 non-material.

5
6 The body agreed.
7

8 6.11. The IA stated that the same approach will be applied for revenue streams, the material revenue
9 streams will also be segregated from the non-material revenue streams.
10

11 6.12. The CSO representative commented that in the report, the IA should emphasize that the reason
12 why the MSG identified the material companies is to cover a significant portion of the sector given the
13 time constraints. The suggestion is being made because non-material companies should still be
14 encouraged to participate on the EITI process, since their local operations may also have a significant
15 impact.
16

17 6.13. The same representative further stated that the IA should explain that the material companies are
18 material in terms of revenue and not on the extent of operation.
19

20 6.14. The IA gave an update on the template submission of the government agencies. For the BIR, it was
21 mentioned that the IA is still waiting for information on non-large tax payers from the concerned
22 Revenue District Offices (RDOs).
23

24 On the other hand, it was shared that reconciliation procedures for BOC and DOE data are already on-
25 going. The IA then shared that the reporting template of MGB is still for approval of the Director.
26

27 6.15. The MGB representative responded that they have submitted initial data to so that the IA can
28 proceed with the reconciliation. However, the approved one has not yet been submitted to the IA.
29

30 6.16. Going back to the BIR data, the IA shared that certain large-scale mining companies are still
31 included as part of the registration of RDOs and not under the jurisdiction of Large Taxpayers Assistance
32 Division (LTAD) of the BIR central office. The IA mentioned that data from RDOs cannot be released yet
33 because there are 10 companies who have not signed the waivers.
34

35 6.17. The Secretariat clarified that only 3 material companies have not submitted their signed waiver.
36 Aside from SR Languyan that declined to participate, the remaining material mining companies that
37 needs to sign the waiver are Adnama and Citinickel. All other waivers of material non-large taxpayers
38 were submitted to LTAD. The next step is for the LTAD to transfer the waivers to the RDOs.
39

40 6.18. A CSO representative recalled that the MSG agreed to include in the report how MGB is spending
41 their 10% share in royalties from mineral reservation. The same representative asked if IA has the data
42 on the budget and audit of the 10% share of MGB.

1 The IA responded that they have initial data on this.

2
3 6.19. The CSO representative clarified that the IA needs to capture not just the budget but including the
4 final expenditure of the 10% share.

5
6 6.20. According to the same representative, Director Jasareno of MGB made a commitment that the Php
7 1 billion penalty from Philex will be put in a trust fund to compensate the people affected by the
8 accident. The MGB was requested to make a report on the said fund for inclusion in the report. It was
9 noted that the suggestion was supported by Ms. Halcon of COMP.

10
11 6.21. The IA then reported that out of 72 LGUs that are covering large-scale metallic mining activities,
12 only 16 have not submitted their templates. As for LGUs covering coal operations, 14 out of 34
13 templates are still pending.

14
15 6.22. The body was informed that the NCIP has not submitted their reporting template while DBM data
16 in the share in national wealth is currently being reconciled. The IA shared that they received the
17 template of DBM last week.

18
19 6.23. Another IA representative expounded that the reconciliation of DBM data will be done in in two
20 layers. The first one will be the on the reconciliation of actual disbursements to the different LGUs and
21 the other is on the amount allocated based on the receipts reported by the different collecting agencies.

22
23 6.24. The Secretariat requested the assistance of BLGF to follow up on the LGUs that have not submitted
24 their reporting template.

25
26 6.25. A CSO representative asked for the suggestion of the IA in terms of tracking or reconciling the
27 SDMP of companies. It was recalled that last year, the MSG cannot verify whether the reported SDMP
28 figures are accurate or not because SDMPs are 5-year plans.

29
30 6.26. The IA explained that the first option would be a comparison on the independent data of MGB. In
31 case there is no information, the IA will do a sample selection of certain transaction from the SDMP. The
32 IA furthered that the report will only cover top 5 or 10 SDMP transactions, hence it will not be an overall
33 encompassing audit of the SDMP.

34
35 6.27. The same representative shared that they tried to leverage on certain audits conducted by the
36 MGB. However, based on the discussions with the said agency, limited audits were conducted. For
37 instance in 2013, MGB only mentioned 6 audits on this fund. The IA stated that ensuring the accuracy of
38 the activities done through the SDMP may still be a gap that would have to be raised in the 2nd report.

39
40 6.28. A CSO representative asked if the MGB can provide the information for the baseline year of the
41 SDMP reports. If for example, a company reported that they are in their 3rd year of implementing the

1 SDMP, then the IA would just have to back track and see the production data and costs reported for the
2 two previous years. In this case, SDMP expenditures in the next years can be already be reconciled.

3
4 6.29. The same representative asked if MGB has data on the remaining balance of company SDMPs
5 including how much were spent each year.

6
7 6.30. The MGB representative responded that SDMP expenditures are being monitored semiannually.

8
9 6.31. The CSO representative requested the MGB to provide the IA with whatever data they have in
10 terms of tracking SDMP expenditure and let the IA provide recommendation on how interpret the data
11 and include it the report.

12
13 6.32. The MGB representative stated that he will first verify if they have the information that is being
14 requested.

15
16 6.33. A concern was raised that if the information on SDMP still needs to be culled from MGB reports,
17 then this will be an additional task for the IA. However, this is not included in their Terms of Reference
18 (TOR).

19
20 6.34. In response to this concern, the CSO representative recommended that the regional offices of
21 MGB be asked to submit SDMP data in excel form.

22
23 6.35. The Secretariat responded that the IA can include the requested SDMP data as long as the
24 information will readily come from MGB and it is just a matter of including it in the report.

25
26 6.36. According to the Chair, the MSG needs to know the current state of the MGB data first. The data is
27 there but the MSG does not know what is the state and form of the available data. The MGB
28 representative was asked to provide a copy of SDMP data so that the MSG will know the status of the
29 data. The Chair requested that the data be submitted to the MSG on the week of November 23rd.

30
31 6.37. The IA noted that the companies have been requested to report their actual expenses as well as
32 the mandatory funds that should be maintained based on their declared operating cost. The IA
33 explained that in case there are discrepancies, they will try to engage the companies to clarify how the
34 SDMP funds were treated. It was pointed out that the IA only has 2012 and 2013 data.

35
36 6.38. According to the IA, if the information on the expenses for each year and the data for the baseline
37 year are readily available then they can easily include it as part of the report.

38
39 6.39. For the purpose of reconciling 2012 and 2013 information, the IA mentioned that they at least
40 have the data to show whether the company is in a deficit or surplus situation. The IA also noted that
41 they can look at the financial statements of the companies to verify the accuracy of the data that they
42 reported.

1 6.40. The initial results of the reconciliation procedure were then presented by the IA. It was shared that
2 there is a Php 6.12 million pre-reconciliation variance in the mining receipts.

3
4 6.41. According to the IA, the more material variances were from Carrascal Nickel Corporation and
5 Philex Mining Corporation.

6
7 6.42. The IA reported that they are almost done with the reconciliation procedure for oil and gas sector.
8 The reported variance is less than 1%. The same representative continued that the remaining items to be
9 reconciled are from Shell Philippines Exploration B.V., Nido Production Galoc, and Chevron Malampaya
10 LLC.

11
12 6.43. For the contextual information, the IA reported that they were able to confirm that DBM monitors
13 the release of funds. The IA shared that they were able to review four projects completed for the year
14 2012 and 2013 under the malampaya fund. The 2012 cost is around Php 1.9 Trillion while projects in
15 2013 amounted to Php 4.9 Trillion.

16
17 6.44. It was shared that the Department of National Defense got Php 1.2 trillion from the Malampaya
18 fund while the National Electrification Administration got Php 5.6 billion.

19
20 6.45. It was noted that DBM does not have information on the current ending balance so the IA would
21 need to coordinate with the Bureau of Treasury (BTr).

22
23 6.46. The CSO representative asked if the DBM identified the specific projects of the two agencies.

24
25 The IA reported that the four projects refers to the following:

- 26 • Weather high endurance class and training of navy personnel
- 27 • electrification program and barangay line enhancement program
- 28 • Mindanao modular generator sets
- 29 • re-painting of superstructures

30
31 6.47. With regard to SOEs, the IA mentioned that the EITI International Secretariat highlighted that the
32 following items should be included in the report: barter arrangements, dividend policy, outstanding
33 loans provided by SOEs to different mining projects, quasi expenditures being done by the SOEs and a
34 statement if the SOEs have corresponding ownership in certain mining projects.

35
36 6.48. The IA representative continued that they were able to confirm three of the items. According to
37 the IA, they have confirmed that there are no quasi reporting and barter arrangements based on their
38 discussions with PMDC and PNOC. The IA furthered that they were able to confirm that PMDC has
39 outstanding loans from different government banks.

6.49. In addition, it was mentioned that Carmen Copper has an outstanding loan from Land Bank which was settled in 2014. The IA shared that they are still waiting for confirmation from 4 other companies that disclosed loans from local banks, but have not yet specified whether a portion of the loan is attributed to Land Bank.

6.50. According to the IA, an enumeration of the mining contracts that PNOC and PMDC have will be included in the report.

6.51. The next step is for the IA to continue with the reconciliation procedures. The IA shared that they scheduled the reconciliation until November 27 while the draft report of both the contextual information and reconciliation report is due on December 4.

6.52. The IA stated that the aim is to submit the report to the International Secretariat by December 18, 2015. This would mean that the MSG members have two weeks to review and comment on the report.

6.53. The MSG members requested if the IA can submit the draft contextual information (as edited by the technical writer) by Wednesday next week. The IA mentioned they will try to talk to the technical writer regarding this.

6.54. Going back to SDMP data, the MGB representative requested for an extension of deadline to submit the requested data since the environment division of MGB will be hosting the PMSEA next week.

7. Other Matters

7.1. Succession Planning: The secretariat stated that the term of the MSG members will officially end on January 2016. However, it was noted that the internal rules provide that sectors can come up with their own mechanism to retain institutional memory.

7.2. A CSO representative relayed that they have decided that most of the representatives will remain but they will make a final decision in the general assembly in February 2016. However, two of the members have already expressed that they will renew their term.

7.3. The CSO representative shared that they are organizing IP representatives to possibly take the place of the two outgoing members.

7.4. The Chair noted that DOE has to be reminded that they are a critical component of the MSG. The same representative also noted that if the MSG wants to invite an IP representative, then the selection process must be discussed.

7.5. A CSO representative shared that on November 25 an activity will be organized to process IP representatives if they want to be part of the MSG. The same representative noted that having an IP

1 representative is not a requirement of the EITI however they are tracking which MSGs have IP
2 representatives.

3
4 7.6. The chair noted that as far as representation is concerned there may be conflicting positions in one
5 IP community, that is why processing is very important.

6
7 7.7. The CSO representative shared that the approach is to provide technical assistance to IPs under
8 Banta Kita's programs until they can make their own coalition.

9
10 7.8. The chair notes that the government sector has to abide by the decision of the agencies' secretaries
11 who are their principals. The same representative also mentioned that by July there will be new
12 secretaries.

13
14 7.9. *Updates from the EITI International Board:* The secretariat shared that Malawi was just accepted as
15 a candidate country, making it the 49th EITI participating country. The board also agreed to establish a
16 working group to work on the proposals for the validation procedures (presentation material is attached
17 as Annex D):

18
19 7.10. *Testing of validation procedures:* The secretariat mentioned that there are five countries that are
20 scheduled to undergo validation during the last quarter of the year, namely Ghana, Mongolia, Sao Tome
21 & Principe, Solomon Islands, and Timor Leste. Since the discussion on refinements of the process of
22 validation is still ongoing, these countries will undergo a pilot testing of the revised validation
23 procedures, although the outcome of that validation will not determine if the country will be a
24 compliant country or not.

25
26 7.11. The secretariat continued that the procedure would be a combination of secretariat review and
27 quality assurance by an independent validator. The international secretariat will do the validation
28 process, and then whatever findings they come up with will be validated by an external evaluator.

29
30 7.12. Afterward the findings will be reported to the validation committee of the EITI board. The
31 secretariat shared that the results will be presented for consideration by the board in Kiev, but will not
32 have implications on the country's status.

33
34 7.13. The secretariat also notes that the formal validation for these 5 countries will commence on
35 January 2016. Also, countries that have validation schedule for January 1, 2016 have two possible
36 options:

- 37 1. Combination of secretariat review and external validator.
- 38 2. The usual procedure where they will procure an independent administrator applying the
- 39 same standards and validation procedure.

40
41 7.14. *Implications for the Philippines:* The secretariat shared that right now the country is waiting for the
42 final decision on the validation procedure, which will be released by February at the next board meeting.

1 The Philippines is also awaiting decisions to the refinement of the standard. It was noted however that
2 the current standard will not be watered down. Therefore, compliance of all material companies is still a
3 must.

4
5 7.15. The secretariat shared that for the Philippines, it is more prudent to proceed following the current
6 standard.

7
8 7.16. *Election of Country Representatives from the government:* The secretariat shared that by
9 November 20, countries are encouraged to submit to the international secretariat inputs regarding the
10 selection procedure for country representatives. On November 27, the International Secretariat will
11 finalize selection procedure and by December 18 countries should submit the names of their nominees
12 to the international secretariat. This only applies to country representative for government, another
13 procedure is applied to the CSO and industry representative, which will start in January 2016.

14
15 7.17. The secretariat shared that right now the proposal is to add another seat to the board for
16 implementing countries. The proposal is to group countries according to region. right now Minister Pires
17 from Timore Leste is the alternate member, representing the region. The secretariat stated that the
18 Philippines might want to nominate a government representative.

19
20 7.18. The chair asked who is the authority that is suppose to nominate. The secretariat stated that there
21 are no rules on nomination yet.

22
23 7.19. The CSO representative suggested that the MSG nominates a name and send it to the president for
24 approval. The DOF representative agreed, and stated that if the nomination comes from the Office of
25 the President they might not know who is the most appropriate person.

26
27 7.20. The chair noted that usually if it's an international secondment of government people, it is coursed
28 through the office of the president. The chair asked what are the requirements for the position.

29
30 7.21. The secretariat responded that it has to be someone in the senior level. The same representative
31 proposed to set a deadline for the MSG members to submit names until the end of the month, then in
32 the next MSG meeting in December 4, it can be discussed whom to nominate.

33
34 7.22. Another CSO representative suggested to do the nomination now, and respectfully nominated
35 Asec. Habitan for the position.

36
37 The chair noted the nomination.

38
39 7.23. The CSO representative mentioned that it can be communicated to the Finance Secretary that the
40 MSG agreed to nominate Asec. Habitan to the board for his consideration.

41
42 7.24. *Open Contracts Portal:* The secretariat reported that prior to the OGP summit in Mexico, the Open

1 Contracts Portal was launched, which was developed with NRGi. The secretariat shared that the website
2 is already up, and all contracts are in open format. The next step is to make use of NRGi's tool in
3 resourceproject.org, where information from the reporting template of the companies will be uploaded
4 there as well, so that we don't have to come up with a new tool, and we will be riding on existing
5 mechanisms of NRGi, which are very useful.

6
7 *7.25. Updates from the global conference in Lima:* The secretariat shared that there will be two awards
8 given during the conference, and we are asked to participate. First is the impact story award where a
9 narrative of how EITI has created an impact on the Philippines will be sent. The Secretariat asked the
10 body if they are interested to join, because an entry has to be sent.

11
12 A CSO representative noted that EITI Philippines can already cite the following: improving the systems
13 for the transfer of share of local governments, identifying gaps in terms of governance and regulation.

14
15 *7.26.* The chair noted in fact the Department of Budget is changing its current process.

16
17 *7.27.* A CSO representative agreed that a narrative of PH-EITI should be sent. The body agreed.

18
19 *7.28.* The secretariat shared that there will be a national expo in the conference where again the impact
20 of EITI will be showcased. The theme of the conference is: "From Report to Results". The secretariat
21 shared it is coordinating with the tourism development board regarding this.

22
23 *7.29.* Lastly the secretariat reported that four names have already been sent to the international
24 secretariat which will be sponsored to attend the event in Peru. In addition, the World Bank will be
25 funding two more from each sector. The deadline for submission of names is on December 11. The
26 secretariat noted that interested participants need to register in the EITI website individually, then
27 inform the national secretariat to coordinate with the international secretariat.

28
29
30 *7.30. Next Activities:* The secretariat shared that the next activities will be the workshop of the online
31 reporting system in partnership with the BLGF on November 24. The next MSG meeting is on December
32 4.

33 34 **ADJOURNMENT**

35
36 There being no other matters to discuss, the meeting was adjourned at 12:35 PM.

BSP Policies on Gold

*Presentation to the Philippine-Extractive
Industries Transparency Initiative (PH-EITI)
Multi-Stakeholder Group Meeting
13 November 2015, 9:00 a.m.
Department of Finance*



BANGKO SENTRAL NG PILIPINAS

Outline of Presentation

- I. Brief Background on BSP Gold Operations**
- II. BSP Gold Buying Program**
- III. BSP Gold Selling Program**
- IV. Benefits of BSP Gold Operations to the Country**
- V. Current Efforts to Strengthen Gold Buying Operations**



I. Brief Background on BSP Gold Operations

- ✓ The then Central Bank, under Letter of Instruction No. 171 dated 27 February 1974, was directed by President Marcos to take all necessary steps for the establishment of a Gold Refinery.
- ✓ The Gold Refinery produced its first “good delivery bar” in 1977.
- ✓ The London Gold Market (precursor of the London Bullion Market Association or LBMA) formally recognized the Gold Refinery as an acceptable melter and assayer of good delivery bars in September 1979.



What laws authorize the BSP Gold Operations?

- ✓ Section 17 of RA No. 7076 (1991) states that *“all gold produced by small-scale miners in any mineral area shall be sold to the Central Bank, or its duly authorized representative, which shall buy it at prices competitive with those prevailing in the world market regardless of volume or weight.”*
- ✓ Chapter IV, Article II, Section 69 of RA No. 7653 (1993), states that *“the Bangko Sentral may buy and sell gold in any form, subject to such regulation as the Monetary Board may issue.”*



The BSP's Responsible Gold Sourcing Policy

- ✓ BSP commits to ensure that the source of its gold products complies with the standards set forth by the LBMA with the ultimate goal of building customer trust.
- ✓ The BSP shall:
 - ✓ Buy its gold only from known sources and areas that have not used gold to finance any form of crime or conflict, terrorism, human rights violations, and money laundering activities
 - ✓ Suspend or discontinue transacting with gold suppliers identified as operating in contravention to this policy
 - ✓ Adhere to the laws and regulation against money laundering, any form of crime, human rights violations, and terrorism and its financing
 - ✓ Provide relevant training on this policy to involved BSP employees and sellers
 - ✓ Maintain a QMS subject to audit by a third party certifying body



II. BSP Gold Buying Program

- ✓ *Source: gold sellers, small-scale miners, traders, and panners*
- ✓ *Price: At prevailing international gold buying price and prevailing peso-dollar exchange rate set by the BSP Treasury Department on a daily basis*
- ✓ *Refinement: Refines into London good delivery bars or into semi-finished material in the form of grains and sheets for re-sale to local jewelers and industrial users*



Where does the BSP purchase gold?

The BSP has five existing gold buying stations (GBS) located in:

- 1. Quezon City*
- 2. Baguio City*
- 3. Naga City*
- 4. Zamboanga City*
- 5. Davao City*



What are the requirements for selling gold to the BSP?

- 1. Duly accomplished Letter of Delivery and Sale*
- 2. Customer Information Packet (on an annual basis)*
- 3. Risk Assessment Checklist for Source of Origin*
- 4. Government-issued ID and Tax Identification Number (TIN)*
- 5. ID picture of the seller and authorized representative, if any.*
- 6. Registered Bank Account details*



What are the requirements for acceptance of gold by the BSP?

In Physical Form:

- ✓ In bar or disc form (powder and jewelry are not acceptable)
- ✓ Does not contain mercury or amalgam in any quantity
- ✓ Free of slags and other foreign matter
- ✓ No sign of metallic segregation/ layering or poured shortness
- ✓ Not damp or wet



What are the requirements for acceptance of gold by the BSP?

Maximum dimensions:

- ✓ Bar: 6.5" long X 3" wide X 1.5" thick
- ✓ Disc: 4" Diameter X 2" thick

Maximum weight:

- ✓ Bar or disc: at 5 kg
- ✓ Per lot or transaction: at 10 kg



What are the requirements for acceptance of gold by the BSP?

In minimum gold assay:

30%



What is the payment scheme followed by the BSP?

- ✓ BSP pays an initial amount equivalent to 99% of the value of delivery based on as-received weight and preliminary assay by specific gravity method, less 2% excise tax and 5% creditable withholding tax, on or before the third business day for first time sellers, and on or before the second business day for returning sellers.
- ✓ Final settlement of the balance shall be paid upon completion of final assay (fire assay done by MROD) or not later than 13 business days from date of delivery/sale.



Will the seller pay for the processing cost of recovery of gold and metal recovery factors?

**SCHEDULE IN ASSIGNING DEDUCTIONS FOR PROCESSING COST
AND METAL RECOVERY FACTORS:**

Bar Assay, Gold Fineness (%)	Processing Cost* (PhP/troy oz. of material received)	Metal Recovery Factor (%)
99.5 and above	34.00	99.8
90.0 to less than 99.5	37.77	99.3
70.0 to less than 90.0	39.37	99.0
50.0 to less than 70.0	42.17	98.9
30.0 to less than 50.0	45.67	98.6

Silver recovery – 97 percent for assay of 1 percent and higher; no recovery for assay below 1 percent

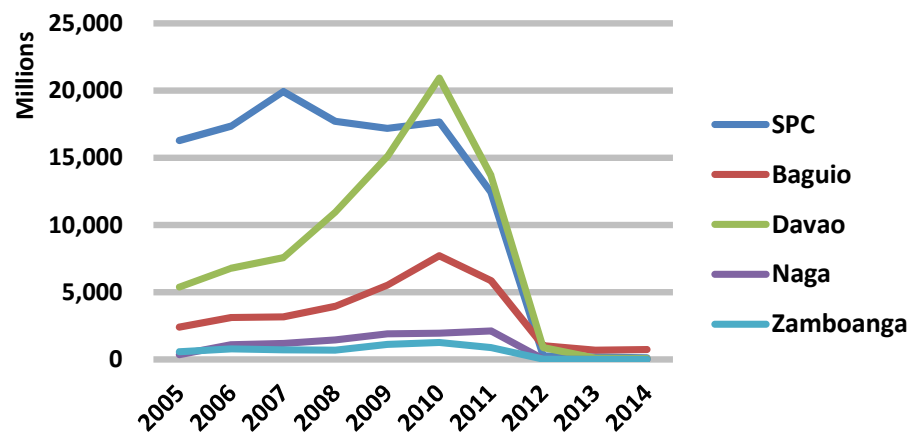
*Minimum charge of PhP 1,600.00 per delivery

Additional assay fee of PhP 1,600.00 per lot in excess of one lot per delivery

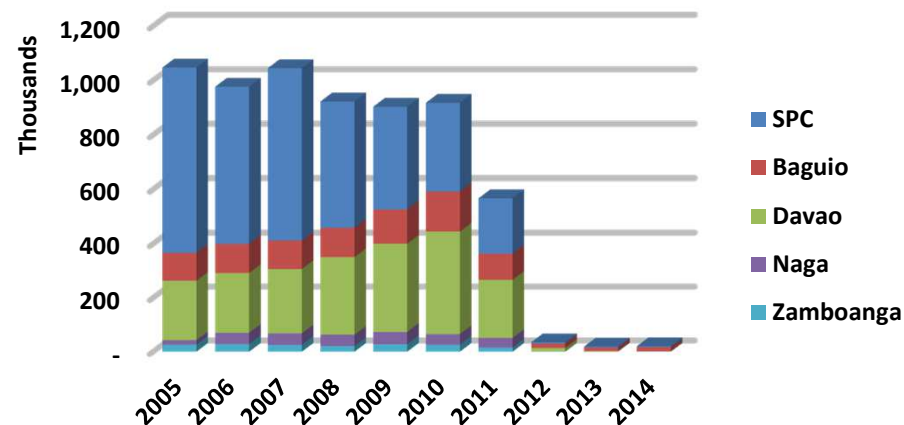


BSP Gold Purchases per Region

Purchases In Pesos



In Troy Ounces



IN GOLD BARS

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
SPC	1,685.55	1,432.24	1,565.07	1,141.29	926.11	793.99	491.66	9.61	7.83	5.51
Baguio	243.91	253.45	248.50	256.64	299.35	350.32	227.59	36.93	29.19	33.73
Davao	528.96	547.84	591.79	711.43	813.72	945.87	535.72	31.17	4.33	3.70
Naga	36.87	90.89	78.21	95.15	103.04	89.90	82.81	0.70	0.54	0.36
Zamboanga	59.20	65.25	55.45	45.49	61.05	57.04	33.39	1.31	0.39	0.58
TOTAL	2,554.49	2,389.67	2,539.02	2,250.01	2,203.26	2,237.12	1,371.18	79.72	42.28	43.89

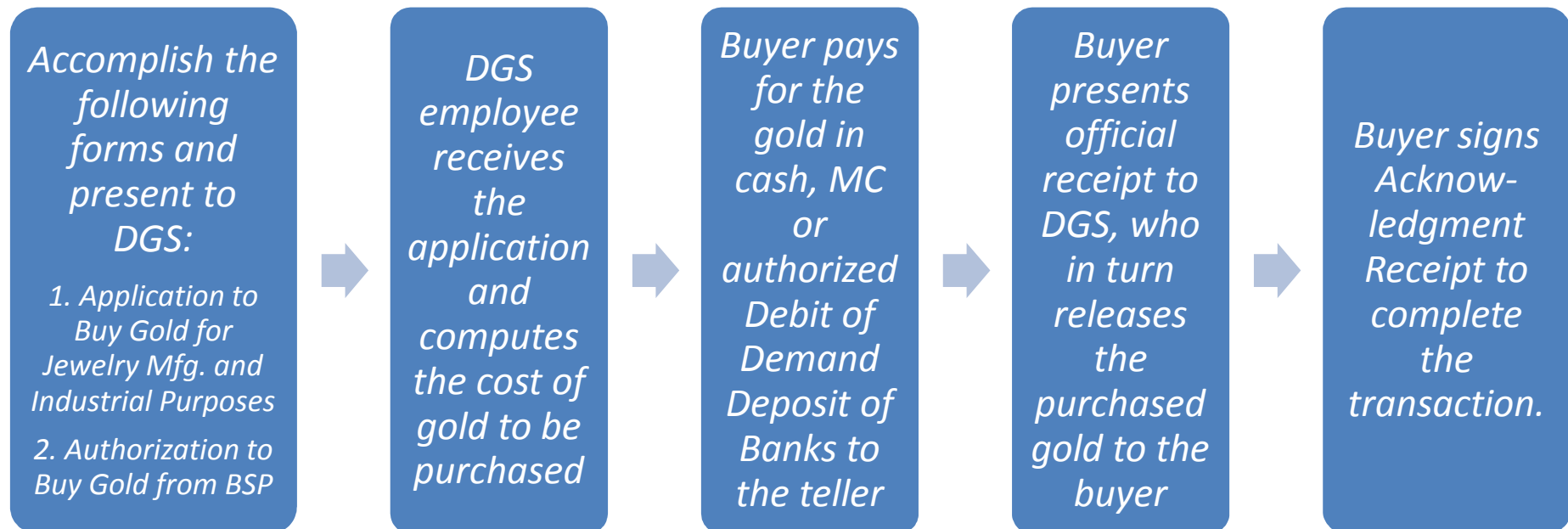


III. BSP Gold Selling Program

- ✓ *Grains and sheets packaged into 50 and 100 grams is sold at the DGS, Security Plant Complex*
- ✓ *24K and minimum assay is 99.5%*
- ✓ *At prevailing international market price and prevailing peso-dollar exchange rate set by the BSP Treasury Department on a daily basis*
- ✓ *A service fee of P3.55 per gram for gold grains and P7.25 per gram for gold sheets is charged, plus 10% VAT.*



How can interested individuals buy gold from BSP?



Are imports and exports of gold allowed?

- ✓ *Importation in any form is allowed except for:*
 - ✓ *Coin blanks, which require prior BSP approval*
 - ✓ *Any manufactured article where stamps, brand or marks do not indicate the actual fineness of gold quantity*
- ✓ *Export in any form is likewise allowed except for gold from small-scale mining*

IV. How does BSP's purchase of gold benefit the country?

(1) Builds up International Reserves using local currency

The BSP shall maintain international reserves, adequate to meet any foreseeable demands on the BSP for foreign currencies, which may include but shall not be limited to gold and assets in foreign currency.

(Sections 65 in relation to 66 of RA No. 7653, The New Central Bank Act of 1993)

- Ample gross international reserves (GIR) level improves credit worthiness and serves as “self insurance” against external shocks
- Buying gold using pesos increases the country's GIR, whereas buying gold using dollars only changes the composition of GIR but does not increase it
- Buying gold using dollars acquired from the market affects the money supply, which will require BSP to step up open market operation with cost to the BSP



How does BSP's purchase of gold benefit the country?

(2) Diversifies reserve portfolio

Gold is perceived as a “safe-haven” asset, having the following advantages over other assets:

- Allows asset diversification – “Do not keep your eggs in one basket” to protect the value of total reserve portfolio
- Accords economic security – gold value is less volatile as compared to the value of currencies
- Enables physical security – gold maintains an intrinsic value and is less susceptible to foreign exchange controls



How does BSP's purchase of gold benefit the country?

(3) Ensures fair trade for small-scale miners

Consistent with the intent of R.A. No. 7076, selling gold to BSP provides small-scale miners with the following:

- Access to international market prices
- Fair valuation for their gold



How does BSP's purchase of gold benefit the country?

(4) Benefits the small-scale mining communities



500,000 small-scale miners¹

75% engaged in subsistence mining²



30 out of 80 provinces³

**Supports as many as
2.3 million Filipinos⁴**



**Accounts for 75% of total gold
mining production**

1/Largest measurable estimate based on Daniel, A. and Keevil, N.; "Big Issues in Small Mining: Mercury, Cyanide and the Technical Case for Recognition of Small Mining in the Philippines;" Liu Research Institute for Global Issues, University of British Columbia - Philippine Studies Series, 28 February 2013.

2/ A Background Study on the small-scale gold mining operations in Benguet and South Cotabato and their impact on the economy, the environment and the community by the Alternate Forum for Research in Mindanao. (2012)

3/Mendoza, H.D.; "Eco-Friendly Recovery of Gold and Copper for Small-Scale Mining Industry;" Department of Mining, Metallurgical, and Materials Engineering, University of the Philippines; 27 June 2014

4/Calculated by multiplying 500,000 small-scale miners by the average family size of 4.6 persons (2010), Ericta, C., Philippine Statistics Authority, 30 August 2012



V. Current Efforts to Strengthen Gold Buying Operations

- ✓ Review of the current tax regime on SSMs and proposed legislative measure
- ✓ Information campaign
- ✓ Conduct of dialogues and interviews with SSMs, SSM cooperatives and traders

Conclusion

Gold will remain an integral element of the Bank's reserves as it provides security and diversification amid economic uncertainty.



Thank you.



BANGKO SENTRAL NG PILIPINAS

SCOPING STUDY ON LARGE SCALE NON-METALLIC MINING and QUARRYING in the PHILIPPINES

Prepared by: *Atty.* Brenda Jay Angeles Mendoza
For EITI PHILIPPINES

OUTLINE OF PRESENTATION

Introduction

- I. Legal & regulatory framework
- II. Revenue streams & financial arrangements
- III. List of areas & companies with large scale non-metallic operations
- IV. Case studies of 3 areas

INTRODUCTION

- 1st EITI country report, December 2014
- Stakeholder feedback
 - Need to include large-scale nonmetallic mining (& quarrying) in future EITI reports
 - Large percentage of the sector remain unregulated
 - LGU difficulty in tracking volume of production & payments made by the sector

I. LEGAL AND REGULATORY FRAMEWORK

Applicable laws and regulations

Government agencies & other bodies with mandate over the sector

Relevant local ordinances

Applicable Laws & Regulations

- Rep. Act No. 7942 (1995)
 - DAO 2010-21
- Exec. Order No. 79 (2012)
 - DAO 2012-07
 - DAO 2013-10 (application fees)
 - DAO 2013-11 (EP applications)
- Exec. Order No. 192 (1987)
 - DAO 2015-02 (Harmonizing PEISS & RA 7942)
 - DAO 2015-06 (MGB organizational structure)
- RA 7160

Definitions (Sec. 3, RA 7942)

QUARRY RESOURCES

- Any common rock or other mineral substances declared as such by MGB Director
- No metals or metallic constituents &/or other valuable minerals in economically workable quantities
- Examples: Andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clay, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, volcanic glass

NON-METALLIC MINERALS

- Non-metallic
- Of economically workable quantities
- Examples: kaolin, feldspar, bull quartz, quartz or silica, sand & pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious & semi-precious stones & other non-metallic minerals later discovered & declared to be of economically workable quantities

Large-Scale Exploration, Development, and Use of Non-Metallic Minerals

1. EXPLORATION PERMIT (Chap. IV, RA 7942)

- Qualified person
- Term: 2 years, renewable for like periods, but not to exceed a total term of 4 years
 - Declaration of Mining Project Feasibility must be done during the term of the permit (Sec. 18, IRR)
 - In case of failure, another 2 years may be granted for a limited purpose (Sec. 30, IRR)
- Maximum Areas
 - Onshore, in any one province: (a) individual – 1,620 has. (b) corp. – 16,200 has.
 - Onshore, in entire country: (a) individual – 3,240 ha. (b) corp. – 32,400 has.
 - Offshore, in entire country: (a) individual – 8,100 has. (b) corp. – 81,000 has. (Sec. 18, IRR)

Large-Scale Exploration, Development, and Use of Non-Metallic Minerals & Quarry Resources

2. MINERAL AGREEMENT (Chap. V, RA 7942)

- Qualified person
- Term: not exceeding 25 years, renewable for another 25 years
- Maximum areas for non-metallic minerals:
 - Onshore, in any one province: (a) Individual – 810 has. (b) corp. – 2,000 has. per final mining area.
 - Onshore, in entire Philippines: (a) individual – 1,620 has. (b) corp. – 5,000 has. per final mining area
 - Offshore, in entire country: (a) individual – 4,050 has. (b) corp. – 40,500 has. (c) EEZ – larger area (Sec. 33, IRR)

MINERAL AGREEMENT

➤ Terms & conditions:

- Exploration period up to 2 years, renewable for like periods but not to exceed a total of 6 years;
- Each mining area after final relinquishment shall not be more than 2,000 has.

MINERAL AGREEMENT for LARGE-SCALE QUARRY OPERATIONS (Sec. 43, RA 7942; Chap. VIII, IRR)

- Cement raw materials, marble, granite, sand and gravel, & construction aggregates
- During development, construction, operation period
- Mechanized operation
- A final mining area, not exceeding:

	Individual	Corporation
Sand & gravel, including lahar	40 has.	100 has.
Marble, granite, construction aggregates	200 has.	500 has.
Cement raw materials (e.g., limestone, shale, silica)	1,000 has.	2,000 has

MINERAL AGREEMENT for LARGE-SCALE QUARRY OPERATIONS

- More than 1 final mining area may be filed in its applied area, but the aggregate of all final mining areas for all MAs shall not exceed maximum limits
 - For sand & gravel, each additional final mining area requires the approval by any 2 of the Sanggunian thru a Resolution
 - For sand & gravel/lahar deposits, MA shall exclude the Exploration period and immediately proceed to Development & Operation periods

- No new mineral agreement until a revenue legislation is passed (EO 79)
- Exceptions:
 - Expansion of existing contract areas that do not exceed the maximum hectarage per province set by RA 7942
 - Grant & issuance of Exploration Permit & other forms of mining permit (DAO 2012-07)

Large-Scale Exploration, Development, and Use of Non-Metallic Minerals & Quarry Resources

3. SPECIAL MINES PERMIT (Sec. 48, IRR)

- Given to a Mineral Agreement applicant:
 - with area status & clearance
 - with NCIP precondition certification
 - with endorsement from concerned *Sanggunian*
 - has no pending mining dispute/conflict
- Term: 1 year, renewable once

Large-Scale Exploration, Development, and Use of Non-Metallic Minerals & Quarry Resources

4. FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT (FTAA)

- No FTAAAs may be granted with respect to cement raw materials, marble, granite, sand & gravel, and construction aggregates. (Sec. 50, IRR)

Large-Scale Exploration, Development, and Use of Non-Metallic Minerals & Quarry Resources

5. Industrial Sand and Gravel Permit

- Issued by MGB
- Extraction, removal & disposition of sand & gravel and other loose & unconsolidated materials that:
 - Necessitate use of mechanical processing
 - Covers more than 5 has. but not exceeding 20 has. at any one time (Sec. 47, RA 7942 and Sec. 72b, IRR)
- Term: 5 years, renewable for like periods but not to exceed total term of 25 years

➤ A Mineral Agreement or FTAA contractor:

- With right to extract and remove sand and gravel and other loose and unconsolidated materials
- Without need of a permit within the area covered by its agreement
- Extraction is for the exclusive use in the mining operations (not for commercial disposition)
- Right coterminous with the expiration of the agreement (Sec. 48, RA 7942)

Large-Scale Exploration, Development, and Use of Non-Metallic Minerals & Quarry Resources

6. MINERAL PROCESSING PERMIT (Sec. 109, IRR)

- Any person who shall engage in processing minerals
- Term: 5 years, renewable for like periods but not to exceed total term of 25 years
- Exception: Contractors and Industrial & Sand Gravel Permit holders with an approved Work Program for the production period
 - Work Program in lieu of MPP

MINERAL PROCESSING PERMIT

- Approval of application depends on project cost:
 - More than PHP500M - Secretary
 - PHP200M-HP500M – Secretary through the MGB Director
 - Less than PHP200M – Secretary through the RD
- (Sec. 111, IRR)

Large-Scale Exploration, Development, and Use of Non-Metallic Minerals & Quarry Resources

7. ORE TRANSPORT PERMIT (OTP) (Sec. 116, IRR)

- Transport of all minerals, mineral products and by-products
 - By permit holder, contractors, accredited traders, retailers, processors, and other mining rights holders
 - Issued by RD or authorized representative

- Transport of sand & gravel shall be covered by a Delivery Receipt

- For MPSA and FTAA Contractors:
 - OTPs are issued under the Agreements
 - Written notice prior to shipment or transport of ores to MGB-RO for purpose of monitoring mining activities in the contract area

Local Ordinances

For the selected provinces:

- Revenue Code or Tax Code
- Environmental Code
- Related Resolutions

Government & other bodies mandated to regulate large-scale non-metallic mining & quarry resources

- DENR as primary government agency
 - Conservation, management, development, & proper use of environment & natural resources
 - Licensing & regulation
 - Equitable sharing of benefits from natural resources for the welfare of Filipinos (EO 192)
- MGB directly in charge of the administration & disposition of mineral lands and mineral resources (EO 192)

Government & other bodies mandated to regulate large-scale non-metallic mining & quarry resources

DENR Secretary	MGB Director	MGB Regional Office/Director
Enter into mineral agreements on behalf of government	Recommend approval of mineral agreements to the Secretary	Receive all proposed mineral agreements filed with its office (>5ha)
Promulgate rules & regulations to implement RA 7942	Monitor compliance of contractor of terms & conditions of mineral agreement	
Delegate such authority to MGB Director	May deputize, when necessary, any member of PNP, NGO, to police all mining activities	
Charge reasonable filing fees & other charges		
Ensure that environmental standards in mining are enforced		

DAO 2012-07 and DAO 2015-02

MGB DIRECTOR/REGIONAL DIRECTOR

- Require contractors to undertake remediation measures for affected areas, incl. communities involved
- Issue suspension order for a mining operation, in cases of illegal mining, exploration & transport of minerals, imminent danger to life/property due to mine accidents & incidents

EMB DIRECTOR/REGIONAL DIRECTOR

- Enforce in mining projects different environmental laws, rules & regulations, esp. the PEISS as provided under PD 1586, RA 6969, RA 9275, RA 8749
- Issue NOV, CDO, and impose fines & penalties upon proponent's violation of its ECC, PD 1586, DAO 2003-30 & other environmental laws

DENR-MGB

Agency	Mandate	Role	Basis
DENR-MGB	<p>Promulgate rules and regulations pertaining to mineral resources exploration, development, and utilization.</p> <p>Directly implement mining-related programs of DENR.</p>	<p>Collect payment of royalty in mineral reservations</p> <p>Allocate 10% share of all royalties and revenues derived by the government from the development and utilization of the mineral resources within mineral reservations to special projects and administrative expenses related to the exploration and development of other mineral reservations.</p> <p>Collect annual occupation fees from contractor or permit holder on public or private lands.</p>	<p>Exec. Order No. 192 (1987); Rep. Act No. 7942 (1995); DAO 2010-21</p>

DOF

Agency	Mandate	Role	Basis
DOF	Manage in a sound and efficient manner the financial resources of the government	<p>Institutionalize and administer fiscal policies in coordination with other government agencies.</p> <p>Generate and manage the financial resources of the government.</p> <p>Supervise the revenue operations of all LGUs.</p> <p>The DOF Secretary, in consultation with the DBM Secretary: promulgate the necessary rules and regulations for a simplified disbursement scheme for the speedy and effective enforcement of the internal revenue allotment provisions of the Code.</p>	<p>Exec. Order No. 292 (1987)</p> <p>Rep. Act No. 7160 (1991), Section 288</p>

DOF-BIR

Agency	Mandate	Role	Basis
DOF-BIR	Assess and collect all national internal revenue taxes, fees, and charges; enforce all related forfeitures, penalties, and fines, including execution of judgments in cases decided in its favor by the Court of Tax Appeals and ordinary courts.	<p>Obtain information from any person or entity other than the person whose tax liability is subject to audit or investigation, summon any person, examine any data relevant to the inquiry, and take testimony of persons in ascertaining the correctness of any return, or in making a return, or in determining the liability of any person for any internal revenue tax, or in collecting any such liability, or in evaluating tax compliance.</p> <p>Make assessments of correct amount of tax due and prescribe additional requirements for tax administration and enforcement.</p> <p>Conduct inventory of goods to determine tax liability and place business under surveillance if with reason to believe that income, sale, or receipt is not correctly declared for tax purposes.</p> <p>Prepare an annual report containing detailed statement of the collection of the BIR and specifying sources of revenue by type of tax, manner of payment, by revenue region and by industry group and its disbursement by classes of expenditures.</p> <p>Notwithstanding Section 270 of the Code (on confidentiality of tax information), upon request of Congress and in aid of legislation, furnish the appropriate Committee pertinent industry audits, collection performance data, status reports in criminal actions initiated against persons and taxpayer's returns. Provided that, if the return information can be associated with or identify a particular taxpayer, the information shall be furnished only to the Committee when sitting in an executive session, unless taxpayer otherwise consents in writing in such disclosure.</p>	National Internal Revenue Code of 1997, Sections 5, 6, 19, 20

DOF-BOC

Agency	Mandate	Role	Basis
DOF-BOC	Collect customs duties, taxes, and corresponding fees, charges, and penalties, account for all customs revenues collected, exercise police authority for the enforcement of tariff and customs laws, prevent and suppress smuggling, pilferage and all other economic frauds within all ports of entry, supervise and control exports, imports, foreign mails and clearance of vessels and aircrafts in all ports of entry administering all appropriate legal requirements, prevent and prosecute smuggling and other illegal activities in ports under its jurisdiction, exercise supervision and control over its constituent units.	<p><i>Its Collection Districts</i> are tasked to:</p> <p>Collect duties, taxes, fees, charges, penalties and fines accruing to the Government under the Tariff and Customs Code and related laws.</p> <p>Exercise police powers conferred by the Code which include enforcement of penalties and fines.</p> <p>Examine goods, assess duties, fees, charges, penalties, and fines accruing to the Government under the Code.</p> <p><i>Its Customs Revenue Collection Monitoring Group</i> is tasked to:</p> <p>Maintain an updated accounting of all Customs revenues collected;</p> <p>Provide the Commissioner with accurate and timely information and analysis of collection statistics.</p>	Exec. Order No. 127 (1987), Sections 33, 36, 37

DOTC-PPA

Agency	Mandate	Role	Basis
DOTC-PPA	Establish, develop, regulate, manage, and operate a rationalized national port system in support of trade and national development.	<p>Collect all dues, fees, and rates collectible under Title VII but excluding Part VII of the Tariff and Customs Code, as amended, regardless of the port or place of call of the vessel, whether government or private port.</p> <p>Supervise, control and regulate all matters and affairs pertaining to the operation of and issuance of permits or licenses to construct ports, port facilities, warehouses, and other facilities within port districts.</p> <p>Exercise all powers pertaining to all matters concerning port facilities, port operations or port works.</p> <p>Exact reasonable administrative fines in specific amounts for specific violations arising out of the use of the port.</p> <p><i>Note:</i> all revenues of the PPA generated from the administration of its port or port-oriented services and from whatever sources shall be used exclusively for the operations of the PPA, as well as for the maintenance, improvement, and development of its port facilities, upon approval of the PPA Board of Directors of its budget requirements, as exemption to PD 1234 and the budgetary processes in PD 1177, as amended.</p>	<p>Exec. Order No. 513 (1978), which amended</p> <p>Pres. Decree No. 857 (1975), Sections 8 and 9.</p> <p>Exec. Order No. 159, as amended (1987)</p>

DTI-BOI

Agency	Mandate	Role	Basis
DTI-BOI	Regulate and promote investments in the country	<p>Prepare investments priority plan (IPP).</p> <p>Promulgate rules and regulations to implement law.</p> <p>Approve applications for registration (including refund and limit of incentives),.</p> <p>Inspect books and compliance.</p> <p>Cancel or suspend enjoyment of incentives.</p> <p>Regulate investment/doing of business by foreigners/business organizations owned in whole or in part by foreigners</p>	Exec. Order No. 226 (1987), Chap. III

NCIP

Agency	Mandate	Role	Basis
NCIP	Formulate and implement policies, plans, and programs to promote and protect the rights and well-being of the indigenous peoples and indigenous cultural communities (IPs/ICCs), including recognition of their ancestral domain as and rights thereto.	<p>Through its Ancestral Domains Office, issue, upon the free and prior informed consent (FPIC) of the ICCs/IPs concerned, appropriate certification prior to any grant of any license, lease or permit for the exploitation of natural resources affecting the interests of ICCs/IPs.</p> <p>Promulgate rules and regulations to implement the provisions of the law.</p> <p>Register the indigenous people's organization that will be authorized to receive and manage the royalties.</p> <p>Give its concurrence to the release of royalties to the IP organization or its trustee bank to check on the use of the funds.</p> <p>Direct financial and management audits of IP organizations managing its royalties and other benefits, or exercise visitorial powers as provided for by law.</p>	Rep. Act No. 8371 (1997), Sections 44, 46 NCIP Admin. Order No. 3 (2012), Part VIII

LGUs

Agency	Mandate	Role	Basis
LGUs	<p>Exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the Local Government Code, consistent with the basic policy of local autonomy.</p> <p>Exercise its right to receive a just share in the national taxes and an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, and to share the same with their inhabitants by way of direct benefits.</p>	<p>Through an appropriate ordinance, impose tax, fee, or charge or generate revenue under the Local Government Code.</p> <p>Collect local taxes, fees, and charges (to be done by its city, municipal, or barangay treasurer, or their duly authorized deputies)</p> <p>Observe process for the approval of local tax ordinances and revenue measures, and conduct public hearings prior to its enactment.</p> <p>Publish all local tax ordinances or revenue measures in full for 3 consecutive days in a newspaper of local circulation, or if no such local newspaper, post the same in least two conspicuous and publicly accessible places.</p> <p>Furnish all tax ordinances and revenue measures to their respective local treasurers for public dissemination.</p> <p><i>Note:</i> Revenue collected shall inure solely to the benefit of, and subject to the disposition by, the LGU levying the tax, fee, charge or other imposition, unless otherwise specifically provided.</p> <p>Receive their share in the national internal revenue taxes (IRA) and in the proceeds from the development and utilization of national wealth, and share the same with the local inhabitants by way of direct benefits.</p>	<p>Rep. Act No. 7160 (1991), Sections 129, 130, 132, 170, 186, 188, 189; Sections 3, 18</p> <p>Rep. Act No. 7160, Title III, Chapters I-II,</p>

II. REVENUE STREAMS AND FINANCIAL ARRANGEMENTS

Payments
Expenditure
Collection
Distribution

Non-Metallic Mining (Cement Industry)

Context

➤ CEMAP Annual Industry Report (2012)

- “CeMAP successfully influenced the government guidelines (EO 79) so that cement is **exempted** from the general provisions that all new mining agreements will be on hold until new mining revenue legislation is passed. This is because the Association was able to identify the difference between metallic and non-metallic mining, as well as the strategic importance of cement for the government’s critical infrastructure programs.”
- “CeMAP succeeded in identifying strategic industries qualified for 2013 BOI incentives, with cement qualifying as a **strategic industry**.”
- “CeMAP also submitted a DTI-recommended cement industry roadmap where the association showed that the cement industry must get fair treatment through measures such as incentives and tariffs for a level-playing field. This is largely because of power subsidies and cement tariffs in other countries while the Philippines has none.”

Non-Metallic Mining (Cement Industry) Context

➤ CEMAP Annual Industry Report(2013)

- “CeMAP also succeeded in convincing the executive branch (e.g. DENR, NEDA, DTI, etc.) and Congress to **exempt** non-metallic mining (including cement) from proposed tax increases.”

➤ IPP 2014-2016

- Cement industry with strong backward (mining & quarrying) & forward linkages (construction sector)
- Increase in improvement of infrastructure → increase in demand for cement, beyond 2016
- Cement plants a major source of livelihood & employment in communities
- With general capacity to export, peak in 2001 & 2008, but has declined since then

Payments to National Government

1. INCOME TAX (Sec. 83, RA 7942; Sec. 217, IRR)

- after lapse of ITH, liable under the NIRC
- not entitled to ITH:
 - 2013 IPP – For exploration & development of mineral resources, mining/quarrying & processing of metallic and non-metallic minerals: Incentives limited only to zero-duty on import of capital equipment, spare parts & accessories by BOI-registered enterprises
 - 2014-2016 IPP – Mining/quarrying and mineral processing projects are limited to capital equipment incentives.
- Note: Cement manufacturing industry

2. **EXCISE TAX** [Sec. 84, RA 7942; Sec. 217(b), IRR]

- tax on goods manufactured or produced in the country for domestic sale or consumption or for any other disposition
- paid on mineral products
 - non-metallic minerals and quarry resources: 2% based on –
 - actual market value of the gross output thereof at the time of removal, in the case of those locally extracted or produced; or
 - value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, in the case of importation. (Sec. 151, NIRC as amended)

3. MINE WASTES AND TAILINGS FEE (Sec. 85, RA 7942, Sec. 190, IRR)

- paid semi-annually
- based on amount of mine waste & mill tailings that a company generates for the period
 - PHPo.05.MT of mine waste produced
 - PHPo.10/MT of mill tailings generated
- Exceptions/Exemptions
 - Manner of use of mine waste/mill tailings
 - Use of MWT disposal systems w/ zero-discharge of materials/effluents &/or with wastewater treatment plants

4. CUSTOMS DUTIES & FEES

- paid on imported articles, upon each importation, even though previously exported from the country (Tariff & Customs Code)
 - Rates of import duty depends on article: chemicals, explosives, mechanical and electrical equipment, vehicles, etc.

5. VALUE-ADDED TAX (VAT)

- paid on every sale, barter or exchange of goods or properties, on the sale of services, and on the importation of goods in the country (NIRC)
 - standard VAT rate: 12% of the gross selling price or gross receipts

6. DOCUMENTARY STAMP TAX

- paid upon any document subject to tax under Title VII of the NIRC
 - Rate varies

7. CAPITAL GAINS TAX

- paid on gains presumed to have been realized on the sale, exchange or disposition of lands and/or buildings which are not actually used in its business and are treated as capital assets, based on the real property's gross selling price or fair market value (6%)
- paid upon the net capital gains realized from the sale, barter or exchange of shares of stock in a domestic corporation not traded through the local stock exchange (5-10%) (NIRC)

8. HARBOR FEES, WHARFAGE DUES, BERTHING CHARGE, STORAGE CHARGE, ARRASTRE CHARGE, TONNAGE DUES

- paid on vessels and cargoes, regardless of the port or place of call of the vessel, whether on government or private port (Tariff & Customs Code)

9. FILING FEES & OTHER CHARGES (Sec. 89, RA 7942; Sec. 221, IRR)

- Authority given to DENR Secretary
 - DAO 2013-10 – increased fees for mining applications

Exploration Permit	PHP300/ha but not less than PHP200,000/application
Mineral Agreement	PHP300/ha but not less than PHP300,000/application
FTAA	PHP300/ha but not less than PHP500,00/application

FILING FEES & OTHER CHARGES

- Payment for performance or accomplishment of work or service by MGB/RO for interested parties: (Sec. 252-260, IRR)
 - Surveys of mining claims & other mineral lands, etc.
 - Office & field investigations of conflicting mining locations
 - Geological, geophysical & geochemical surveys
 - Investigate mineral discoveries & locations, exploration & development work
 - Drafting or projection work
 - Blue/white prints of survey/sketch plans
 - Other work & services to interested parties as may be requested & within the scope of MGB functions
- Mines Survey & Investigation & Monitoring Fund (Sec. 253, IRR)

FILING FEES & OTHER CHARGES

- Administrative fees (Sec. 263, IRR)
 - Paid before any of the documents listed in Sec. 261 can be registered
 - Documents relating to applications for Mineral Agreements, FTAA's, Exploration Permits, etc.

Payments to National Government

1. Income tax
2. Excise taxes
3. Mine Wastes & Tailings Fees
4. Customs Duties & Fees
5. Value-Added Tax
6. Documentary Stamp Tax
7. Capital Gains Tax
8. Harbor/Port fees
9. Other fees and charges

Payments to LGUs

1. Local Business Tax
 - Cement an essential good → tax implication for cement manufacturers, etc. (Sec. 143, LGC)
2. Real Property Tax
 - Exemption: owned by registered cooperatives
3. Special Education Levy
4. Occupation Fees
5. Community Tax
6. Toll Fees or Charges
7. Other Fees

Expenditures

1. Development of Mining Communities, Mining Technology, and Geosciences (SDMP and CDP) [Sec. 57, RA 7942; Sec. 134-136, IRR)
2. Environmental protection and enhancement (EPEP and AEPEP), [Sec. 69, RA 7942; Sec. 169-174, IRR)
 - “Direct milling cost” definition for cement plant operations

3. Rehabilitation (CLRf) [Sec. 71, RA 7942; Sec. 180, IRR]

- Mine Rehabilitation Fund (MRF)
 - Monitoring Trust Fund (MTF)
 - Rehabilitation Cash Fund (RCF)
- Mine Wastes & Tailings Fees (MWT Fees)
- Final Mine Rehabilitation/Decommissioning Fund (FMR/DP Fund)

4. Royalty payment for ICCs (Sec. 17, RA 7942; Sec. 16, IRR)

Collection

- Government share in MPSA
 - excise tax
- Government share in other Mineral Agreements
 - negotiated by government & contractor based on:
 - capital investment in the project
 - risks involved
 - contribution of the project to the economy
 - other factors that will provide for a fair and equitable sharing between the parties.
 - taxes, duties, & fees provided in existing laws
 - paid to the nearest BIR office where the mining/contract area is located and in accordance with existing BIR rules and regulations

(Sec. 80-81, RA 7942; Sec. 212-216, IRR)

Type of Payment	Collecting Agency
Corporate income tax	BIR
Excise tax	BIR
Mine wastes and tailings fee	MGB
Customs duties and fees	BOC
Value-added tax	BIR
Documentary stamp tax	BIR
Capital gains tax	BIR
Harbor fees, wharfage dues, berthing charge, storage charge, arrastre charge, tonnage dues	PPA
Other fees	MGB

Distribution

- From gross collection: 40% to LGUs
- Based on location of the natural resource

Location of natural resources	Province	City or Municipality	Barangay	Remarks
In the province	20%	45%	35%	
In 2 or more provinces, or in 2 or more component cities or municipalities, or in 2 or more barangays				Shares computed according to population (70%) and land area (30%)
In highly urbanized or independent component city		65%	35%	
In 2 or more cities				Same formula as above

➤ Remittance of share to LGU

- Automatic
- Direct to the provincial, city, municipal or barangay treasurer
- Quarterly within 5 days after end of each quarter
- Not subject to lien or holdback

(Sec. 290-293, LGC)

➤ Allocation of Occupation Fees

- Based on location of mining area
 - 30% - province
 - 70% - municipality
 - 100% - chartered city

(Sec. 88, RA 7942; Sec. 220, IRR)

IV. LIST OF AREAS & COMPANIES WITH LSNM OPERATIONS

LSNM companies and product data

- 44 large-scale non-metallic mining/quarrying companies
 - 28 in Luzon
 - 8 in Visayas
 - 8 in Mindanao
- Product
 - 25 limestone & shale (including marble)
 - 1 dolomite
 - 10 clay (silica, bentonite, zeolite)
 - 6 aggregates
 - 2 sand & gravel
- [Resources\Map of NMMines.pdf](#) (MGB website)

Cement plants data

- 16 cement plants in the country
 - 9 in Luzon, 3 in Visayas, 4 in Mindanao
 - Holcim Philippines (La Union, Bulacan, Misamis Oriental, & Davao)*
 - Northern Cement Corp. (Pangasinan)*
 - Eagle Cement Corp. (Bulacan)
 - Solid Cement Corp. (Rizal) (CEMEX Group)*
 - Apo Cement Corp. (Cebu) (CEMEX Group)*
 - Lafarge Republic, Inc. (Bulacan, Rizal, Batangas, Cebu, Iligan)*
 - Taiheyo Cement Phils. (Cebu)*
 - Goodfound Cement Corp., Phil. (Albay)
 - Pacific Cement Phils. (Surigao del Norte)*
 - [Resources\Map List of Cement Plants.pdf](#) (MGB website)

*CEMAP member

LSNM data (project status)

- [Resources\June 2013 MPSA 2A.pdf](#) (MGB Mining Tenements Management Division), as of June 2013
 - 339 MPSA contracts covering 602,012.2151 has. (large-scale metallic & non-metallic mining/quarrying)
 - 148 MPSA covering 129,975.5220 has. (large-scale non-metallic mining/quarrying)
 - 75 - exploration stage
 - 5 - development stage
 - 53 - commercial operation stage
 - 5 – exploration and commercial operation stage
 - 1 – development and commercial operation stage
 - 1 – partial development/commercial operation & partial exploration
 - 5 - for registration/not yet released/not signed
 - 3 – cancelled (under M/R or appeal)

LSNM data (MPSA areas)

LUZON

Region	Province		Total MPSA	Total area (ha.)
CAR	Abra - 1		1	672.0000
1	Pangasinan - 9 Ilocos Norte - 2	La Union - 3	14	13,562.1843
2	Nueva Ecija – 3	Cagayan 1	4	2,991.4837
3	Bulacan - 12 Bataan - 5	Aurora - 1 Tarlac - 1	19	16,805.5950
4-A	Rizal - 28 Batangas - 4	Quezon - 1 Cavite – 1	34	8,495.6899
4-B	Oriental Mindoro - 1	Palawan – 4	5	15,697.6230
5	Camarines - 5	Albay - 2	7	12,475.1259
Subtotal			84	70,699.7018

LSNM data (MPSA areas)

VISAYAS

Region	Province		Total MPSA	Total area (ha.)
6	Guimaras - 1 Antique - 2	Iloilo - 1 Negros Occ. - 1	5	4,550.5765
7	Cebu – 30 Negros Or. - 1	Siquijor - 1 Bohol - 1	33	21,146.3202
8	Northern Samar - 3	Leyte – 5	8	16,780.0588
Subtotal			46	42,476.9555

LSNM data (MPSA areas)

MINDANAO

Region	Province		Total MPSA	Total area (ha.)
9	Zamboanga del Norte – 1	Zamboanga del Sur - 2	3	6,075.0000
10	Lanao del Norte - 3	Misamis Oriental - 4	7	2,311.8648
11	Davao Oriental - 5	Davao del Norte - 1	6	7,316.3473
12	N.A.			
13	Surigao del Norte - 2		2	1,095.6529
Subtotal			18	16,798.8650
TOTAL			148	129,975.522

LSNM data (MPSA areas)

LUZON

Region	Explo	Dev't	CO	E/D/CO	Cancel	For Reg.
CAR			672.0000			
1	10,263.3423		2,537.0100	761.8320		
2	2,864.0856	63.8789		63.5192		
3	14,016.0211		2,789.5739			
4-A	4,920.3499		2,005.7410	829.4110	740.1880	
4-B	15,613.0866	84.5364				
5	10,995.8481		1,479.2778			
Sub total	58,672.7336	148.4153	9,483.6027	1,654.7622	740.1880	

LSNM data (MPSA areas)

VISAYAS

Region	Explo	Dev't	CO	E/D/CO	Cancel	For Reg.
6	3,782.5765		768.0000			
7	11,613.8360	3,343.4600	3,409.8017	943.5000	769.5000	1,066.2225
8	14,390.5588					2,389.5000
Sub total	29,786.9713	3,343.4600	4,177.8017	943.5000	769.5000	3,455.7225

LSNM data (MPSA areas)

MINDANAO

Region	Explo	Dev't	CO	E/D/CO	Cancel	For Reg.
9	2,268.0000					3,807.0000
10	915.5220		1,396.3428			
11	6,344.5628		971.7845			
12	NA					
13			1,095.6529			
Sub total	9,528.0848		3,463.7802			3,807.0000
TOTAL	97,987.7897	3,491.8753	17,125.1846	2,598.2622	1,509.6880	7,262.7225

List of Companies & Individuals with MPSA for LSNM/Quarrying

CAR

- Abra Mining & Industrial Corp.

REGION 1

- Holcim Phils. (5)
- Marble Mining Explo. Corp.
- Northern Cement Corp.
- GML Corp.
- Cunickel Mining & Industrial Corp.
- Gulf Estate Mining Corp.
- Oregon Mining & Dev't Corp.

- Heirs of Elias E. Olegario
- Heirs of Fernando P. Dancel
- Napoleon R. Navato

REGION 2

- Magnetic Construction & Dev't Corp.
- Anamel Builder Corp.
- Long Fong Corp.
- Marbleland Mining & Development Corp.

REGION 3

- Eagle Cement Corp. (2)
- Holcim Phils. (3)
- Industries Dev't Corp.
- Robust Rock Resources, Inc.
- Continental Cement Corp.
- Rockmix, Inc.
- Rock & Ore Industries, Inc.
- Solid North Mineral Corp.
- Diamante Cement & Mining Corp.
- Spar Development Co. Inc.
- TMC International Corp.
- Lafarge Republic, Inc
- Talibayog Mining Corp.
- Orient Aggregates & Structural Concept Developers, Inc.
- Mariveles Aggregates & Base Dev't Corp.
- Rolando B. Gimeno/La Concepcion Construction & Dev. Corp.
- Teresa Marble Corp.

REGION 4-A

- Rapid City Realty & Dev't. Corp. (9)
- Teresa Marble (3)
- Lafarge Rep. (3)
- Concrete Aggregates Corp. (2)
- Sulu Resources Dev't Corp.
- Golden Ore, Inc.
- Quarry Rock Group, Inc.
- Island Quarry & Aggregates Corp.
- San Rafael Dev't Corp.
- Quimson Limestone, Inc.
- Hard Rock Aggregates, Inc.
- Landtech Mining Resources, Inc.
- Montalban Millex Aggregates Corp.
- Gozon Devt. Corp.
- Limpain Dev't Corp.
- Asensio Pinzon Agg. Corp.
- Asturias Chemical Ind.
- Vulcan Materials Corp.
- Roxanna S. Go
- Atty. Romulo B. Reyes

REGION 4-B

- Phil. Sunrise Marble, Inc.
- Central Palawan Mining & Industrial Corp.
- Palawan Star Mining Ventures Inc.
- Pyramid Hill Mining & Industrial Corp.
- Rio Tuba Nickel Mining Corp.

REGION 5

- UP Mines, Inc.
- Ibalong Resources & Dev't Corp.
- UBS Marketing Corp.
- East Environ Corp.
- Orophil Stonecraft, Inc.

- Vivencio F. Abano, Jose F. Abano, Jr., Luis F. Abano, Ofelia Abano-Tamayo
- Maria Cruz del Gallego

REGION 6

- Dorilag Cement Corp.
- Tudor Mineral Explo. Corp.
- Silicon Dev't Corp.
- I.C. Bertumen & Co. Inc.
- Far East Cement Corp.

REGION 7

- Apo Land & Quarry Corp. (8)
- Solid Earth Dev't Corp. (6)
- Lafarge Republic (2)
- South Western Cement Corp. (2)
- APC Group, Inc. (2)
- Kimhee Realty Corp. (2)
- Taiheyo Cement Phils. Inc.
- JLR Construction & Aggregates Inc.
- Dolomite Mining Corp.
- Oriental Hyundai Quarry & Development Corp.
- Lazi Bay Resources Dev't.
- Ibalong Resources & Dev't Corp.
- Bohol Limestone Corp.
- Citadel Mining Corp.
- Quarry Ventures Phil. Inc.
- Peblea Q. Alfaro
- Jose R. Soberano

REGION 8

- Panapino Mining, Inc.
 - Alcorn Gold Resources
 - Canaan Agricultural Dev't Corp.
 - Monark Constructors Corp.
 - Alumina Mining Phil., Inc.
 - Bauxite Resources, Inc.
-
- Jorge P. Tan Jr.
 - Deprosa Perez

REGION 9

- Emaco, Inc.
- A. Dynasty Multi-purpose Cooperative
- Glicerio Pescador Jr.

REGION 10

- Holcim Phils. (3)
- Iligan Cement
- Mindanao Portland Cement Corp.
- Maria Cristina Chemical Industries (MCCI)
- Epetacio Du. Beltran

REGION 11

- Holcim Phils. (6)

REGION 13

- Pacific Cement Co. (2)

- Federation of Non-Metallic Association of the Philippines
 - Rolando T. Angeles - President
- Cement Manufacturers' Association of the Philippines (CEMAP)
 - Dr. Ernesto Ordonez - President

III. CASE STUDIES

Criteria for selection

Approach

Province of Cebu

30 MPSAs

- Revenue Code of 2008
- Resolution No. 1483-2012/Ord. No. 2012-13
(Environmental Code)

Province of Rizal

28 MPSAs

➤ Resolution No. 223,s2013

- Moratorium on new applications for all forms of permits on quarrying & mining activities in the province
- Urged DENR to declare a moratorium on large-scale mining activities & operations in the province

➤ Resolution No. 243,s2013

- Moratorium on the renewal of previously issued permits
- Strongly requested DENR to declare a moratorium on the renewal of large-scale mining activities & operations

Province of Bulacan

- 12 MPSAs
- Resolution No. 186-2011/Ord. No. C-005 (Revised Environmental Code)

END OF PRESENTATION

Elevating Transparency

PH - Extractive Industries
Transparency Initiative

MSG Meeting

November 2015

*Isla Lipana & Co/
PwC*



Contents



- 1** Progress update - Reporting templates
- 2** Progress update - Contextual information
- 3** Next steps

*As at 11 November 2015, we have received reporting templates from **36** participating entities, of 38 total confirmed participants.*

Reporting templates

- Representation of these entities to total sales revenue of selected participants is presented as follows:

	In scope (in P'000s)	% of material entities to total	% of entities with templates to total in-scope
Mining			
Sales revenue (32 entities)	85,164,811	95%	94%
OG			
Sales revenue (6 entities)	61,868,507	97%	100%

- In the overall, total reporting templates received account for at least 97% of total sales revenue.

Non-participating entities

Industry	Entities	Sales revenue (‘000s)	% to total sales revenue of selected participants
Mining	16	4,068,366	5%
OG	6	1,657,508	3%
Coal	1	16,677,421	100%

Reporting templates per government agency

Agency	Status	Action points
BIR	For non-LTAD, awaiting 10 waivers.	Continue to chase information related to RDOs of non-LTAD participating entities.
BOC	Completed with on-going reconciliation from entities/agency.	None.
DOE	Completed with on-going reconciliation from entities/agency.	None.
MGB	Outstanding reporting template in excel format. Already for approval of the director.	For follow up with MGB.

Reporting templates per government agency

Agency	Status	Action points
LGUs	Outstanding templates from LGUs Large scale – 16 out of 72 Coal – 14 out of 34 Small scale metallic – 2 out of 2	For follow up with identified LGUs.
NCIP	No reporting template in excel format as of to date. Relied on the information provided by the regional directors during the workshop.	
DBM	Ongoing reconciliation of share in national wealth. Outstanding reconciliation between budget allocation and amount that should be distributed.	

Mining receipts

- More material variances were noted on the payments made to MGB and BIR, which include, among others, the following:

in Philippine Peso	Mining receipts
Variance (%)	612 million (11%)
Government	5.107 billion
Entities	5.718 billion

Entity	Type	Amount (in '000s)	Remarks
Carrascal Nickel Corporation	(BIR) Excise tax on minerals	88 million	
Carrascal Nickel Corporation	(BIR) Withholding tax - Foreign shareholder dividends	139 million	Awaiting information from entity/agency
Philex Mining Corporation	(BIR) Corporate income tax	(189 million)	

in Philippine Peso	OG receipts
Variance (%)	267.112 million (0.73%)
Government	36,301 million
Entities	36,511 million

OG receipts

- Common theme of variances currently being resolved pertains to difference in timing of recording by the entity and agency. The most significant variances are as follows:

Entity	Type	Amount (in '000s)	Remarks
Shell Philippines Exploration B.V.	Corporate Income Tax	500,146	Timing differences; BIR reports on a cash basis
Nido Production Galoc	Government share from oil and gas production	104,000	Awaiting information from entity/agency
Chevron Malampaya LLC	Withholding tax - Profit remittance to principal	(281,937)	Timing differences; BIR reports on a cash basis

Contextual information

Areas	Status	Action points
Malampaya Fund	<p>Confirmed that DBM monitors the release of funds both to agencies and LGUs.</p> <p>Projects:</p> <p>2012 – 2 projects with total cost of 1,988,861,066</p> <p>2013 – 2 projects with total cost of 4,835,096,962</p>	For fund balance – need to coordinate with Bureau of Treasury
Licenses	Obtained initial information from MGB and DOE	To clarify with Secretariat the final requirement
SOE	<p>Carmen Copper Corp. – confirmed with loan from Landbank</p> <p>Awaiting confirmation from other 4 entities</p>	To chase

Next steps



Questions?



Appendices

In-scoped revenue streams - Mining

Revenue	Amount	Variance [Post-recon]
Corporate income tax	1,556,012,894	245,636,673
Excise tax on minerals	283,320,262	232,920,262
Local business tax	1,477,978,692	803,802,533
Royalty for IPs	261,968,984	174,934,895
Royalty in mineral reservation	153,794,189	105,429,952
VAT on imported materials and equipment	781,590,159	612,959,658
Withholding tax - foreign shareholder dividends	894,329,656	303,932,601
Withholding tax - royalties to claim owners	178,755,604	178,755,604
Custom duties	130,712,617	130,712,617
Coverage	100%	
Materiality	140,484,463	

In-scoped revenue streams - OG

Revenue	Amount ('000s)	Variance ('000s) [Post recon]
Corporate income tax	10,537,734	72,644
Withholding tax – profit remittance to principal	3,139,363	-
Government share from oil and gas production	22,817,839	569,855
Coverage	99.96%	
Materiality	730,226	

Entities without 2013 operations

Industry	Entity
Mining	<i>TVI (Agata)</i>
Mining	<i>Atro Mining Vitali Inc.</i>
Mining	<i>Libjo Mining Corporation*</i>
OG	<i>Forum Pacific Inc.</i>

**pertains to rental income only*

Entities who declined to participate - Mining

Entity	Revenue (‘000s)
SR Languyan	1,239,321
Shenzhou Mining Group Corporation	294,944
Century Peak	69,118
Strong Built (Mining) Development	35,460
Mt. Sinai Mining Exploration and Development Corp.	22,862
TOTAL	1,661,705

Entities who declined to participate - OG

Entity	Revenue ('000s)
The Philodrill Corporation	725,541
Oriental Petroleum & Minerals Corp.	671,725
Forum Energy Philippines Corp.	181,641
TransAsia Oil & Energy Devt. Corp.	75,902
Alcorn Gold Resources Corp.	2,699
TOTAL	1,657,508

Entities with outstanding reporting templates

Entity	Revenue ('000s)
CTP Construction and Mining Corporation	2,070,323
Citinickel Mines and Development Corporation	1,623,658
Berong Nickel Corporation	859,633
Wellex Mining Corporation	471,227
Oriental Synergy Mining Corporation	283,557
Zambales Diversified Metals Corporation	267,846
Ore Asia Mining and Development Corporation	251,117
Cambayas Mining Corporation	163,888
Investwell Resources Incorporated	64,612
Norweah Metals and Minerals Co.	44,632
TOTAL	6,100,495

UPDATES FROM THE EITI BOARD MEETING IN BERNE, SWITZERLAND

SUMMARY OF AGREEMENTS:

1. Malawi was accepted as a candidate country
2. A working group will be established to work on the following proposals to revise the validation procedure:

SUMMARY OF AGREEMENTS:

- There would be no changes to what is required to achieve compliance with the current requirements.
- Validation should assess compliance with requirements as per the current TORs for validators.
- Validation should recognize efforts to go beyond the requirements and direction of progress, but would not have implications for a country's compliance.
- A narrative report with Validation findings would be compiled. The results would be expressed in an assessment card.
- Some changes to the time required to achieve compliance could be considered.
- The need to address the cost of Validations and who should validate.

- There would be a testing of Validation procedures. It was agreed that the five Validations scheduled for 2015 (Ghana, Mongolia, Sao Tome & Principe, Solomon Islands and Timor-Leste) would commence immediately as pilots by combining secretariat reviews and quality assurance by an independent validator

- Data collection and stakeholder consultations would be undertaken by the Secretariat applying the current Terms of Reference for validators, with the findings to be reviewed by an external third party (validator) reporting to the Board via Validation Committee.
- The results would be presented for consideration by the Board in Kiev but would not have implications for the countries' status. Formal Validations for these five countries would commence on 1 January 2016.

- For the formal Validations scheduled to commence on 1 January 2016 (Kyrgyzstan, Liberia, Niger, Nigeria, Norway, Tajikistan + the five pilot countries) two possible options were discussed:
- Apply the procedure as outlined above (a combination of secretariat reviews + verification by external validators).
- Procure an external third party validator according to World Bank procurement rules and the requirement of the EITI Standard that these be procured through a competitive bidding process.

- Subject to immediate Board approval, Validations under either approach would commence on 1 January 2016. In the event that the Board agrees a revised Validation methodology in Kiev, this could also be applied to the Validations commencing on 1 January.

Implications for the Philippines

- We await the final decision of the Board on revisions to the validation procedure
- We await final decision on refinements to the Standard
- It is safe to assume, however, that the current standards won't be revised; only the approach to validation will be changed, e.g. scoring system, flexibility as to time.
- Compliance of ALL material companies is still a must

Election of country representatives (from government)

Timetable:

Nov 20: submission of inputs to the Secretariat regarding selection procedure

Nov 27: Adoption of selection procedure

Dec 18: Deadline for submission of names of nominees

January 23: Deadline for voting