

PH-EITI 30th MSG MEETING
9:00 AM- 12:00 PM | February 9, 2016
Embassy Ballroom B, Hotel Jen
Roxas Boulevard, Manila

Attendees:

| | | |
|----|---------------------------------------|---|
| 9 | Asst. Sec. Ma. Teresa S. Habitan | Department of Finance (DOF) |
| 10 | Febe J. Lim | DOF |
| 11 | Atty. Karla Espinosa | DOF |
| 12 | Engr. Romualdo Aguilos | Mines and Geosciences Bureau—Department of Environment and Natural Resources (MGB-DENR) |
| 14 | Analynsia C. Alarde | Bureau of Internal Revenue (BIR) |
| 15 | Yolanda Luna | BIR |
| 16 | Peter Indunan | Union of Local Government Authorities of the Philippines (ULAP) |
| 18 | Ronald Allan A. Barnacha | Philippine Rural Reconstruction Movement (PRRM)/ North Luzon |
| 20 | Prof. Maria Aurora Teresita W. Tabada | Visayas State University |
| 21 | Dr. Merian C. Mani | Romblon Ecumenical Forum Against Mining (REFAM)/ Romblon State University |
| 23 | Starjoan Villanueva | Alternate Forum for Research in Mindanao (AFRIM) |
| 24 | Chadwick Llanos | Cebu Alliance for Safe and Sustainable Development (CASSE) |
| 26 | Gerard H. Brimo | Nickel Asia Corporation (NAC)/ Chamber of Mines of the Philippines (COMP) |
| 28 | Nelia Halcon | COMP |
| 29 | Ronald S. Recidoro | COMP |
| 30 | Sebastian Quiniones | Petroleum Association of the Philippines (PAP)/ Shell Exploration BV |
| 32 | Atty. Gay Alessandra V. Ordenes | Secretariat |
| 33 | Abigail D. Ocate | Secretariat |
| 34 | Mary Ann Rodolfo | Secretariat |
| 35 | Joy Saquing | Secretariat |
| 36 | Marikit Soliman | Secretariat |
| 37 | Ryan Dael | Secretariat |
| 38 | Denise Domingo | Secretariat |
| 39 | John Martin Arreola | Secretariat |
| 40 | Rhea Bagacay | Secretariat |

1 RESOURCE PERSONS:

2

3 Pocholo Domondom

Isla Lipana& Co.

4 Corina Molina

Isla Lipana& Co.

5 Alex Gordy

EITI International Secretariat

6

7

8 AGENDA:

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- Minutes 29th MSG meeting
- Matters arising from previous MSG meetings
- 2016 Work Plan
- Presentation on validation
- International Secretariat's comments on the 2nd report
- Discussion on the scope of 2016 report
- PH-EITI Transparency Awards
- Other Matters

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20 **1. Call to Order**

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22 1.1. The Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (MSG)
23 meeting was called to order at 9:10 AM.

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25 1.2. The proposed agenda was presented and subsequently approved by the body.

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27 **2. Minutes of the 29th MSG meeting**

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29 2.1. The Secretariat noted that the minutes of the 29th MSG meeting was circulated to the members of
30 the MSG and no comments were received.

31

32 2.2. The Chair noted that the minutes is deemed approved.

33

34 **3. Matters Arising**

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36 3.1. *Establishment and management of a revenue-linked database:* The Secretariat mentioned that this
37 is still ongoing. Currently, the website is being updated to include all the templates submitted by
38 companies and government agencies in open format.

39

1 3.2. *Offer of Timor Leste to conduct a training for the PH-EITI MSG on the Petroleum Fund process:* The
2 Secretariat reported that this item is still for implementation, and it is already included in the work plan,
3 as part of the trainings in revenue management.

4 3.3. *Secretariat Institutionalization:* The Secretariat shared that this matter is still pending, and needs to
5 be followed up with the director in charge in the Department of Finance (DOF).

6 3.4. *Draft EITI bill:* The Secretariat mentioned that the matter is included in the work plan. The same
7 representative mentioned that the MSG agreed that a consultant will be hired specifically to draft the
8 EITI bill.

9 3.5. *Selection process for MSG members:* The Secretariat shared that government sector is ready to hand
10 in their selection process, which can be discussed later.

11

12 3.6. *Board of Investments (BOI) and Bureau of Internal Revenue (BIR) incentives:* The Secretariat
13 mentioned that they are still trying to obtain the information from the Congressional Ways and Means
14 Committee. The same representative shared that a DOF representative recommended that this topic be
15 discussed when the implementing rules and regulations are drafted for the Tax Incentives Management
16 and Transparency Act (TIMTA) bill.

17

18 3.7. *Proposed amendment to the Local Government Code (LGC):* The Secretariat shared that this matter
19 is also in the work plan as part of the activities for the year, particularly the hiring of a consultant for this
20 purpose.

21

22 3.8. *Mines and Geosciences Bureau (MGB) regional directors should be convened:* The Secretariat
23 referred to the MGB representative regarding this matter.

24

25 3.9. The MGB mentioned that a Middle Management Conference and an expanded meeting was
26 recently concluded in Manila on February 3-5, 2016. The same representative shared that the next
27 Management Conference to be attended by Regional Directors might take place sometime in March
28 2016.

29

30 3.10. A Civil Society Organization (CSO) representative asked if this includes Autonomous Region of
31 Muslim Mindanao (ARMM).

32

33 3.11. The MGB representative shared that in Mindanao, ARMM is not included in the scope of
34 monitoring but only Regions IX to XIII.

35

36 3.12. An industry representative inquired how the body can engage ARMM.

37

38 3.13. The Secretariat shared that the sector has already been engaged, but the concerned entities did
39 not respond to the request for data for the second report. The Secretariat also shared that there was an

1 effort to actually go to Cotabato before, to ask them if they are willing to participate, however for the
2 second report it was difficult to obtain data from them.
3
4 3.14. A CSO representative shared that according to their sources there are large scale mining
5 companies operating in the area even if they only have a permit to explore.
6
7 3.15. Another CSO representative agreed that it might be time to really work with ARMM, although,
8 they have their own MGB and Department of Environment and Natural Resources (DENR).
9
10 3.16. Another CSO member suggested to again engage the current ARMM Governor. It was also
11 suggested to ask Union of Local Government Authorities in the Philippines (ULAP) to assist in this matter
12 since it was them who previously helped engage ARMM.
13
14 3.17. The representative of ULAP mentioned he will take note of this suggestion and will get back to the
15 MSG.
16
17 3.18. Another CSO representative mentioned that if the body is planning to work with ARMM the
18 autonomy of the counterpart government in the region needs to be recognized. The same
19 representative mentioned that they have an informal invitation with the Governor to contact him in
20 case there is any problem.
21
22 3.19. An industry representative asked if ARMM has established their own DENR-MGB.
23
24 3.20. The MGB representative confirmed that they have their own DENR and they issue their own
25 mining permits.
26
27 3.21. A CSO representative mentioned that at the moment they do not have an environmental code, it
28 might be an opportunity for discussion with them.
29
30 3.22. *Engage the Non-metallic mining associations:* The Secretariat shared that this is still ongoing, an
31 invitation was sent to the group for them to attend the National Conference.
32
33 3.23. *Data for non-metallic mining:* The Secretariat shared that MGB is asked to provide an overview of
34 non-metallic mining companies, which will be discussed during the meeting.
35
36 3.24. *Local Government Unit (LGU) roadshows:* The Secretariat mentioned that they were tasked to
37 present actions or reforms that should be undertaken as a result of the LGU roadshows conducted last
38 year. The Secretariat shared that the documentation of the road shows is included in the second report
39 and it can be used in future meetings when the topic is part of the agenda. The Secretariat also
40 mentioned that there can be specific action plans made that can be reported for the next round of
41 roadshows in June or July.

1 3.25. *Updates on the process of downloading of LGU shares:* The Secretariat shared that last meeting a
2 suggestion was made for Department of Budget and Management (DBM) to give updates on the
3 implementation of their action plan for downloading LGU shares. The Secretariat noted that since this is
4 for implementation this year it will be followed up.
5

6 3.26. The Chair suggested to establish contact with the person who replaced Director Delantar of DBM.
7

8 3.27. The Secretariat shared that they already had a meeting with the new Director who took over Dir.
9 Delantar's position.
10

11 3.28. *2014 data of companies:* The Secretariat shared that there was a discussion last meeting if it is
12 possible to produce a double report for this year, if data can be included for 2014 and 2015. The
13 Secretariat stated that the IA will be asked to report which companies provided data for 2014 and then
14 the body can decide if doing a double report is possible.
15

16 3.29. The IA reported that BIR, MGB, National Commission on Indigenous Peoples (NCIP), and
17 Department of Energy (DOE) submitted data for 2014. The IA mentioned that the PPA and BOC did not
18 provide data for 2014. The IA reported that among the entities, only Shell Exploration (SPEX) and Nickel
19 Asia Corporation (NAC) provided their 2014 data; all the rest gave data only for 2013.
20

21 3.30. The Secretariat suggested to discuss this matter further when the scope of the next report is
22 deliberated.
23

24 3.31. *Changes in LGUs' local chief executives:* The Secretariat mentioned that with the change in
25 administration, there might be a need to engage the new Local Chief Executives (LCEs). In this regard,
26 the Secretariat shared that ULAP was requested to provide an update on how the change of LCEs will
27 affect their participation in EITI. Likewise, in a discussion with one of ULAP's consultants, it was
28 mentioned that the current executive director of ULAP will be the designated person to sit in the MSG
29 meetings.
30

31 3.32. The ULAP representative added that the national executive board will change in 2017, hence there
32 will definitely be changes in ULAP.
33

34 3.33. *Revenue management at the local level:* The Secretariat shared that there was a suggestion to give
35 a training on revenue management at the local level, which was already included in the work plan that is
36 to be discussed in the meeting.
37

38 3.34. *Online reporting tool:* The Secretariat shared that there was a suggestion to have an online
39 reporting tool for companies, which is also included in the work plan.
40

41 3.35. *Reporting analysis for the second report:* The Secretariat shared that this is for implementation as
42 well, which can be done after launching the second report.

1 3.36. *Communications training*: The Secretariat shared that it was discussed that a training should be
2 conducted for MSG members and the Secretariat on communicating the EITI report, which is also
3 included in the work plan.

4
5 3.37. *EITI trainings for media*: The Secretariat shared that this matter is also included in the work plan.

6
7 3.38. *Measuring public's awareness of EITI*: The Secretariat shared that this is also for implementation
8 and included in the work plan.

9
10 3.39. *Uploading of documents in the website*: The Secretariat mentioned that this matter is also for
11 implementation and is included in the work plan.

12
13 3.40. *Tax incentives*: The Secretariat mentioned that a DOF representative suggested that this matter be
14 included in the discussion on the Implementing Rules and Regulation of the TIMTA. The Secretariat
15 shared that this is already included in the work plan as well.

16
17 3.41. *EITI impact on business*: The Secretariat mentioned that it was discussed in previous meetings to
18 come up with indicators of the change in investment before and after the implementation of EITI.
19 According to the Secretariat, the hiring of a consultant to conduct this study was included in the work
20 plan.

21
22 The Chair moved the discussion to the main business of the meeting.

23 24 **4. 2016 Work Plan**

25
26 4.1. The Chair asked the body to look at the work plan document included in the kits.

27
28 4.2. The Secretariat reported that all the comments from the previous discussion on the work plan were
29 already incorporated. The same representative also mentioned that the work plan follows the same
30 framework and objective of the previous work plan. However, no final decision was made on whether
31 the final objectives should be revised. The Secretariat also shared that there will be a workshop on
32 February 16 where the stakeholders will be giving their own inputs to the work plan, after which, the
33 Secretariat mentioned, the MSG can discuss if the objectives need further revisions. In the meantime,
34 the work plan will reflect the same objectives and activities discussed earlier in the meeting.

35
36 4.3. The Secretariat also reminded the body that the work plan needs to be submitted to the EITI
37 International Secretariat. The body can approve the workplan in this meeting, or after the broader body
38 of stakeholders have given their inputs.

39
40 4.4. The Chair inquired when the workplan is due for submission to the International Secretariat.

41

1 4.5. The Secretariat stated that there is no fixed deadline for submission of the work plan to the
2 International Secretariat, although, ideally it should be submitted within the first quarter of the year.
3 The Secretariat also noted that after the consultation on February 16, the inputs can already be included
4 in the MSG meeting in March.
5

6 4.6. A CSO representative suggested that the approval of the work plan should incorporate inputs from
7 stakeholders already, hence this should be done in the next MSG meeting.
8

9 4.7. The Chair noted that the work plan in the kits contained the activities done before, with additional
10 activities which are results from previous meetings. The Chair inquired if there are additional comments
11 to be included or perhaps the finalization can wait until after the national conference.
12

13 4.8. An industry representative inquired if the work plan will be presented in the national conference.
14
15 The Secretariat confirmed that the work plan will be presented in the national conference.
16

17 4.9. The industry representative commented that the second objective in the work plan, “determination
18 of the appropriate fiscal regime for the industry”, is beyond the scope and responsibility of the MSG.
19

20 4.10. The Secretariat clarified that the objective provides the context for the current challenges, as
21 recommended by the International Secretariat. However, the Secretariat also mentioned that it is not
22 necessarily what the MSG should address.
23

24 4.11. The Chair recalled that the work plan has always included the discussion on fiscal regime. The Chair
25 acknowledged that it is beyond the MSG, but it is something that the body has to be cognizant about.
26 The Chair mentioned that it goes hand and hand with the institutionalization of the EITI. It provides the
27 rationale for the activities outlined in the work plan.
28

29 4.12. An industry representative further commented that the problem with the fiscal regime is the fees
30 that are required by national law governing the industry but not properly imposed. The industry
31 representative stated that the wording has to be changed to proper imposition of certain fees.
32

33 4.13. Another industry representative asked particularly the CSO sector regarding their opinion on the
34 progress of EITI implementation after two years. The industry representative shared that he wanted to
35 ask if the body thinks the PH-EITI is implementing the right activities, and is going in the right direction.
36

37 4.14. A representative from the industry also shared what he thought about the relationship and trust
38 that has been formed in the process of implementation and added further that this is a topic that should
39 really be discussed.
40

41 4.15. Another industry representative mentioned that if the body thinks there is something not being
42 achieved by the PH-EITI, then it should be added in the work plan.

1 4.16. The Chair pointed out that the industry sector asked an important question, and would like an
2 honest assessment from the CSO representatives.

3
4 4.17. A CSO representative responded that Mindanao CSOs have reservations in relation to mining in
5 their area. She furthers that their participation in EITI hinged on the fact that there is no other platform
6 to engage with the industry regarding the issues on the ground. The representative also mentioned that
7 NGO's are usually considered anti-mining organizations, which is something that should change
8 considering that the framework they use is the conflict transformation framework. The representative
9 also added that for the past two years, the MSG has been successful in establishing a common language,
10 but in terms of disclosure, there are still big gaps in government commitment. There are also other
11 issues raised such as bureaucratic processes that impinge on the timelines of implementing activities.
12 However, the representative acknowledged that this is a good starting point, and there are a lot of
13 improvements since 2013. She also pointed that it is a good sign that the group is still together. The
14 representative reiterated that for her the EITI implementation is working.

15
16 4.18. An industry representative commented that since we want to understand the issues in Mindanao,
17 and there has already been an MSG meeting in Southern Palawan, he inquired if the MSG would want to
18 have a meeting in the mining site in Surigao. The representative stated that logistics would be more
19 challenging and the mine site of Taganito is right in the center of the mineral reservation of Surigao.

20
21 4.19. A CSO representative agreed and shared that the subnational implementation does not have
22 industry presence yet, so it would be good to partner with industry groups on the ground. However, the
23 representative stated that the challenge would be that some CSOs would resist working with the
24 industry sector. The same representative also stated that civil society is divided in its views on this issue.

25
26 4.20. Another CSO representative shared why he joined EITI. He shared that for people working in the
27 grassroots level, there is always a tendency for the CSOs to look at the mining industry as the big guys
28 who bully the little guys. The representative shared that he realized that this was not the complete truth
29 when he started to work with EITI, and seeing the reports, there was a realization that it was an
30 opportunity to look into another world different from what they are used to, and learn to understand if
31 there is something common with the values of the different sectors. The representative mentioned that
32 there is a common desire for transparency, to learn the role of the different sectors. The representative
33 ended by stating he thinks the two years EITI has been implemented did deliver something in terms of
34 having a venue where different sectors can be heard, and validated of the values they hold.

35
36 4.21. Another CSO representative shared that she started with an NGO that is anti-mining. She shared
37 that it was difficult to convince her peers to agree that she will be part of the MSG. But when they finally
38 agreed, after two years, she stated that she learned so much. It was mentioned that although she is still
39 an anti-mining advocate, she has mellowed down. The representative shared her experience working
40 with the community of Caluya, when they organized a province-wide EITI implementation. The
41 representative shared that she was questioned if she is anti-mining or pro-mining. Her response was: in
42 places where mining is already in place, the benefits for local communities need to be maximized. In the

1 end, the representative shared that they were able to organize the technical working group, and start an
2 EITI subnational implementation in Antique. The representative shared that there is a move to form an
3 MSG in the local level, however it was agreed that the voting for the members will be done after the
4 2016 election. The same representative also stated that she thinks there is trust built among the MSG,
5 because they would not last for two years if there weren't any. She stated that the body grows in
6 sharing opinions and ideas.

7
8 4.22. Another CSO representative stated that he has been with anti-mining groups, however he also
9 realized that there were other venues to go about things. Currently their province has conducted three
10 multi stakeholder forums, the first one initiated by CSO, the second one initiated by Oceana Gold, the
11 third by the government. The same representative states that he thinks EITI is on the right track. He said
12 that recently the governor called for an emergency meeting because the province wanted to make the
13 implementing rules and regulation of EITI. The representative states that his only request is that the
14 representatives from the industry in their locality should come from top management so they have the
15 capacity to make decisions. However, he reiterated that he thinks the sectors are working together. He
16 mentioned that community members are hoping that progress would come faster, because the
17 barangays have yet to receive their share from national wealth, but at any rate people are still working
18 together.

19
20 4.23. Another CSO representative shared that she was asked earlier how the CSOs felt about the
21 industry. Her response was that there have been changes because of the good relationships established
22 among the MSG members. More than that, the group sees the bigger picture. The same representative
23 also mentioned that she came from an anti-mining perspective as well because she saw the irrigated
24 rice fields of Leyte mined for magnetite that was delivered to China. Moreover, the representative
25 comes from an agriculture university that puts a premium on food security. The representative stated
26 that when she worked with EITI, she saw it as a platform where an understanding can be formed from
27 different scenarios and members can try to come up with a middle ground. This is a venue where the
28 communities can voice out how they will benefit, and how the country can benefit as a whole. The
29 representative also stated that she sees this as an opportunity for the academe to influence policy in the
30 right direction. It was mentioned that challenges were hurdled, but there is still a lot to improve, for
31 instance, using the EITI report as a basis for discussion. There are also points that need to be improved
32 in the process, because issues would not be raised by the International Secretariat if the process was
33 followed. The representative stated that even if the Philippine report is good, improvements are needed
34 to avoid backsliding. In the end the representative opined that the EITI implementation should continue
35 and keep the relationships that were already established.

36
37 4.24. The Chair thanked the present CSO representatives for their responses.

38
39 4.25. An industry representative commented that there is the process part the different sectors need to
40 comply with as per EITI global standard, which is the easy portion. The representative stated that only
41 strong leadership is required, and people at the right levels to decide accordingly. The same

1 representative also mentioned that there is institutional inertia in trying to apply these processes, but it
2 can happen, as seen in the numbers, the process part can be achieved.

3
4 4.26. The same industry representative asked what lies beyond the process part, saying that looking at
5 governance-related challenges and fiscal regimes is beyond the capacity of the MSG. The representative
6 shared that for some of their partners there is an en banc resolution in the Supreme Court stating that
7 their contracts are unconstitutional. The decision is saying that it's only Malampaya that is constitutional
8 based on the ruling that they have; in effect, there will be no more upstream operations. The
9 representative pointed out that these things are causing the industry to suffer but are beyond the scope
10 of the MSG. The industry representative pointed out that there are issues that make their shareholders
11 question why they are operating in the Philippines.

12
13 4.27. He pointed out that the oil and gas industry has demonstrated support for the EITI process, as may
14 be seen in the fact that there is hardly any discrepancy for the sector. However, he stressed the question
15 "what is done beyond that?". The sector is particularly asking government what is being done in terms
16 of policy: is the Philippines going to become an energy importing country, or is it going to invest in the
17 country's natural resources. The representative stated that this decision is not done in an EITI forum.
18 The representative shared that for mining, the next step is to address subnational issues, and EITI really
19 helped in that aspect. He mentioned that it's good that people are talking, but discussions should have
20 results. The question the representative was asking is: are we just here to satisfy process, what are the
21 long-term goals that we have, to move forward?

22
23 4.28. An industry representative added that there is one matter that can be taken out from matters
24 arising, which is EITI's impact on business. The representative stated that there is none. He mentioned it
25 has nothing to do with EITI, but everything to do with government processes.

26
27 4.29. The Chair thanked the members for expressing their opinions and asked that the discussion be
28 published because it shows how EITI works in the Philippines. The Chair pointed out that it's high time to
29 question how to go forward, because EITI needs to make a dent in policy, and should not only be report-
30 driven all the time. The Chair stated that her problem with being government in the room is that she is
31 only one third of government, which is mostly for implementing the policy. There was also mention of
32 the upcoming election and the process of electing new representatives to EITI given a new
33 administration. The Chair raised that the body might want to consider a member of Congress to be
34 included in the discussion, but who in Congress is the question. They would have to be equally informed
35 as the members of EITI.

36
37 4.30. The Chair noted she would like to see them equally committed to this process. The challenge is
38 getting the interest of the legislators and getting them to really understand. The Chair pointed out the
39 sharing that happened this day needs to be done in a more public forum because it helps people
40 understand the different sides of the sectors. She pointed out that if anti-mining advocates can see the
41 importance of EITI then it should be brought to the public arena.

1 4.31. The Chair stated that the body really needs to communicate the agreements that were made in
2 MSG meetings that cannot be done anywhere else. The intelligent open discussion needs to be brought
3 outside the MSG, and that each one of the MSG should be able to do that. The Chair stated that
4 government is really hard to change, but the fact that there are already some changes made because of
5 EITI needs to be acknowledged. Moreover, people in the regional offices also need to know why the
6 report is important, because after submitting, they just move on to other matters. It needs to be
7 explained that the statistics they are submitting is creating a picture of how government is operating, so
8 that EITI can really make a positive difference. The Chair also noted the need to get Semirara on board,
9 because if Semirara does not participate there will be no real impact.

10
11 4.32. A CSO representative mentioned that perhaps an action plan can be done to see the policy gaps
12 being discussed in the meeting. The representative stated she empathizes with the oil and gas sector
13 especially now that everybody is going into renewable energy. She furthered that policy debates are
14 always welcome. It was stated that one way to address the concern raised by the industry
15 representative is to have some constituency building. This can start with a policy forum so all the issues
16 can be discussed.

17
18 4.33. The industry representative replied that the objective should then be changed to going beyond
19 strengthening business environment, that getting policymakers to listen should be one of the objectives
20 of the EITI. The representative furthered that it should be stated in the work plan that members of
21 Congress and the Supreme Court and other constitutional bodies should be engaged, such as having a
22 feedback session every quarter. The same representative noted that even in the executive branch, while
23 the DOF representative may have heard the concerns, higher officials should also pay attention.

24
25 4.34. A CSO representative agreed and mentioned that this goes for all executive offices, including
26 DENR. The representative pointed out that Director Jasareno, being the full representative, has not
27 attended any MSG meeting, which can be interpreted to mean that EITI is not important to MGB. The
28 representative emphasized that institutions need to change and the decision makers need to be at the
29 table for that process to start.

30
31 4.35. A CSO representative asked if there are any ideas from the industry sector on how the MSG can
32 help.

33
34 4.36. An industry representative responded that objectives such as strengthening business environment
35 is not something the MSG can do; however, the meeting of policy makers is something that can be done,
36 ensuring to incorporate the things EITI is doing. The policy makers need to think in the long term. The
37 representative repeated the previous example of whether the Philippines wants to be an energy-
38 importing country in the future.

39
40 4.37. The representative shared that the contracts of oil and gas companies were deemed
41 unconstitutional because the President of the Philippines did not sign the contracts, and according to

1 law it must be signed by the President. The representative reiterated that the legislators need to be
2 informed about the report and form a strategic plan for the extractive industries of the Philippines.

3
4 4.38. The Chair thanked the body for sharing their thoughts and opinions, and reminded the Secretariat
5 about changing the wording of the fifth objective, taking into consideration the concerns of the industry
6 sector.

7
8 4.39. The Chair moved the discussion to the presentation on validation.

9 10 **5. Presentation on Validation**

11
12 5.1. The International Secretariat gave a brief overview of the Validation process under the EITI Standard
13 including the recent changes that were agreed upon by the Validation Committee (the presentation
14 material is attached as Annex A).

15
16 5.2. According to International Secretariat, Validation has the following purpose:

- 17 - Assess performance and promote dialogue and learning at the country level;
- 18 - Identify opportunities to increase the impact of EITI implementation, including identifying areas
19 where natural resource governance can be improved and how the EITI can contribute;
- 20 - Identify opportunities for mainstreaming EITI implementation in government systems; and
- 21 - Safeguard the integrity of the EITI by holding all EITI implementing countries to the same global
22 Standard.

23
24 5.3. It was shared that the Terms of Reference (TOR) for the Validator is posted on the EITI website.

25
26 5.4. The resource speaker explained that the TOR provides the set of questions that the Validator will be
27 assessing during the Validation process as well as the types of evidence that will be requested during the
28 Validation assessment.

29
30 5.5. With regard to Validation assessment, the MSG members were informed that there are three broad
31 areas for the assessment. The first is the MSG oversight which covers MSG governance, its oversight of
32 the EITI process, development of the work plan and engagement of different stakeholders.

33
34 5.6. The second area of assessment is EITI reporting wherein the Validator examines the latest EITI
35 report submitted by the country. In the case of the Philippines, the International Secretariat noted that
36 this will be the 2013 EITI report that was published in December 2015.

37
38 5.7. According to the resource speaker, another broad area of assessment is on the impact and
39 outcomes of the EITI process. It was explained that the Validator will look at the impact of the EITI in
40 promoting public debate, the lessons learned from EITI implementation as well as follow-up actions on
41 MSG recommendations.

1 5.8. For the information of the body, the resource speaker enumerated the responsibilities of the MSG
2 and the International Secretariat during Validation.
3

4 5.9. It was noted that the first responsibility of the MSG is to review and approve the TOR of the
5 Validator that will be proposed by the International Secretariat. The MSG can then suggest particular
6 areas that the Validator should focus on during the validation process.
7

8 5.10. Once the MSG members submitted their feedback on the draft TOR, the International Secretariat
9 will send the details of the chosen Validator to the MSG. The MSG would then have to review and
10 approve the proposed Validator procured by the International Secretariat.
11

12 5.11. The resource speaker pointed out that it is the MSG's responsibility to compile all documents
13 necessary for the Validator's desk review.
14

15 5.12. According to the International Secretariat, the types of evidence that the Validator would look into
16 might include minutes of MSG meeting, key government documents, documentation on dissemination
17 of the report, outreach activities and other supporting documents.
18

19 5.13. It was mentioned that the Validator would need 4 to 5 weeks in order to complete the desk
20 review. After which, the Validator will conduct field visits.
21

22 5.14. The resource speaker explained that it is the responsibility of the MSG to schedule the meetings of
23 the Validator with different stakeholders during field visits. In addition, the MSG will have to respond to
24 inquiries of the Validator including request for additional documents.
25

26 5.15. After the field visits, the report of the Validator will be finalized and submitted to the Validation
27 Committee of the EITI Board. At this point, it was mentioned that the International Secretariat will
28 circulate the draft Validation report to the MSG.
29

30 5.16. The members of the MSG were informed that they have an opportunity to review and comment
31 on the draft report. Afterwards, the Validation Committee will consider the report for recommendation
32 to the EITI Board.
33

34 5.17. According to the International Secretariat, after the EITI Board has finalized the Validation report,
35 it is still possible for the MSG to provide comments on the report.
36

37 5.18. The resource speaker shared that the International Secretariat has the following responsibilities
38 during the Validation process:
39

- 40 - Draft TOR for Validation based on the standard TOR approved by the EITI Board.
- 41 - Procure the Validator from the list of accredited validators. This will be done through a
42 competitive bidding process which usually takes 1 to 2 months.

- 1 - Provide guidance to the Validator and MSG during the Validation process.
- 2 - Support the Validation Committee and the EITI Board in reviewing the draft and final
- 3 Validation report.

4
5 5.19. With regard to reforms on the Validation process, the challenges with the current Validation model
6 and the issues that were considered during the revision of the Validation process were discussed.

7
8 5.20. It was shared that the EITI Board met in October 2015 in Berne, Switzerland to discuss the
9 proposed revisions to the Validation system. Although the Board did not reach final agreement on the
10 revisions, the members agreed to continue the discussion in the Board meeting in December.

11
12 5.21. During the said meeting, the resource speaker stated that the Board also asked the International
13 Secretariat to annotate pilot Validation reports on Ghana, Mongolia, Sao Tome & Principe, Solomon
14 Islands and Timor-Leste.

15
16 The pilot Validation was conducted in November and the reports were submitted to the Board in
17 December 2015.

18
19 5.22. The International Secretariat explained that the pilot Validation had no consequences for the
20 compliance of the five countries involved. The Validation reports were annotated to inform the
21 deliberation of the EITI board regarding reforms on the Validation system.

22
23 5.23. It was shared that during the meeting in Kiev, the Board still did not reach final agreement on the
24 revisions. However, the members agreed to discuss the recommendations in the next Board meeting
25 which will be held in Lima.

26
27 5.24. According to the International Secretariat, the following are the potential key features of the new
28 Validation model:

- 29 - There will be no change to what is required to become an EITI compliant country. The bar will
- 30 remain the same in terms of compliance to the EITI Standard.
- 31 - However, the assessment will become more disaggregated.
- 32 - Efforts to go beyond the EITI requirements will be recognized.
- 33 - The direction of travel will also be recognized. The Validator will assess whether reforms have
- 34 been implemented or if there are certain or limited progress in the EITI implementation.
- 35 - There will also be reforms on who will undertake Validation. There is now an agreement that
- 36 the International Secretariat will only collect data and conduct stakeholder consultations but
- 37 will not actually provide assessments on meeting the requirements. It is the role of the
- 38 Validator to provide quality assurance and to submit Validation report to the Validation
- 39 Committee.
- 40 - The consequences of non-compliance will depend on the level of progress achieved.

- 1 - The timeframe for achieving compliance will depend on local circumstances and challenges. If
2 a country is deemed to be non-complaint with many of the requirements, it will be given 3 to
3 18 months to undertake corrective actions.
4
- 5 5.25. It was noted that the revisions presented are still to be confirmed during the Board meeting in
6 Lima.
7
- 8 5.26. The resource speaker also shared that subject to final agreement by the Board, the revised
9 Validation process will include an assessment of progress against each EITI Requirement as well as an
10 overall assessment of compliance with the EITI standard.
11
- 12 5.27. It was reiterated that the Validator will note efforts to go beyond the EITI requirements. However,
13 the resource speaker clarified that this will not be used in assessing compliance with the EITI Standard.
14
- 15 5.28. Going back to the assessment of progress against each requirement, it was explained that the
16 assessment will not be simply met or unmet. The progress in complying with each EITI requirement will
17 be assessed using one of the following four designations:
18
- 19 - **Satisfactory progress:** all aspects of the requirement have been implemented and the broader
20 objective of the requirement has been fulfilled.
 - 21 - **Meaningful progress:** significant aspects of the requirement have been implemented and the
22 broader objective of the requirement is being fulfilled.
 - 23 - **Inadequate progress:** significant aspects of the requirement have not been implemented and
24 that the broader objective of the requirement is far from fulfilled.
 - 25 - **No progress:** all or nearly all aspects of the requirement remain outstanding and the broader
26 objective of the requirement is not fulfilled.
27
- 28 5.29. As for the overall assessment, the body was informed that this will be formulated by the EITI Board
29 with recommendations from the Validation Committee, and not by the International Secretariat or the
30 independent Validator.
31
- 32 5.30. The resource speaker clarified that the same four designations (satisfactory, meaningful,
33 inadequate and no progress) will be used in the overall assessment.
34
- 35 5.31. However, it was pointed out that a country must achieve satisfactory progress on the following
36 four requirements to be deemed complaint:
37
- 38 - Government engagement (Req #1.1)
 - 39 - Company engagement (Req #1.2)
 - 40 - Civil society engagement (Req #1.3)
 - Timely EITI reporting (Req #4.8)

1 5.32. In addition, the International Secretariat explained that if less than meaningful progress is achieved
2 on data quality (Req #4.9) and data comprehensiveness (Req #4.1), the MSG will be required to disclose
3 a time-bound plan of action for addressing weaknesses in these areas.
4

5 5.33. Progress in implementing the action plans for these two areas will then be taken into account in
6 future Validations.
7

8 5.34. In formulating overall assessments, the resource speaker shared that the Board will also take
9 account of the following:

- 10 - Results of assessment of individual requirements: do the results taken together clearly point to
11 an overall assessment?
- 12 - Advice and recommendations of Validator and Validation Committee
- 13 - Nature of outstanding requirements and how far they are from being met. For example, in
14 license registry, if all the required information were met except for date of application, the
15 Board may consider that this is not a major gap especially if actions are being undertaken to
16 get this information.
- 17 - Magnitude and complexity of the extractive sector
- 18 - Other barriers to meeting requirements (such as but not limited to state fragility,
19 recent/ongoing political change) and extent to which MSG has undertaken actions to resolve
20 barriers encountered.
- 21 - MSG's good faith in complying with requirements
- 22 - Reasons and justifications provided for non-compliance

23
24 5.35. According to the International Secretariat, a country will be suspended if it does not achieve the
25 minimum thresholds for the four requirements that were previously enumerated and if it does not have
26 an action plan to address gaps on data quality and data comprehensiveness, if ever meaningful progress
27 was not achieved on these areas.
28

29 5.36. For other requirements, it was explained that the consequences of non-compliance will depend on
30 the Board's assessment of progress. If the Board deemed that there has been no progress, the country
31 will be delisted.
32

33 5.37. On the other hand, if the Board deemed that there is inadequate progress on a number of
34 requirements which will lead to an overall assessment of inadequate progress, the country will be
35 suspended. However, the country will be given a set of corrective actions to be undertaken before the
36 next Validation.
37

38 5.38. In case the Board deemed that the country made meaningful progress, the International
39 Secretariat noted that the EITI candidate status of the country will be extended. If the country is EITI
40 compliant, then it will be downgraded to EITI candidate status. With this assessment, the country will
41 also be given a series of corrective actions to be undertaken before the next Validation.

1 5.39. The resource speaker explained that the progress in complying with the requirements and in
2 implementing corrective actions will be assessed in the next Validation.

3

4 5.40. It was shared that EITI candidate countries will have to undergo Validation within 2.5 years from
5 being declared as EITI candidate. After the first Validation, EITI Compliant countries have to undergo re-
6 Validation every 3 years.

7

8 5.41. The body was informed that a country can request for early Validation.

9

10 5.42. For countries that have not achieved EITI compliance, the resource speaker stated that the Board
11 will establish corrective actions to be undertaken. It was reiterated that the timeframe for undertaking
12 corrective actions will vary from 3 to 18 months depending on the nature of the corrective actions that
13 are being recommended.

14

15 5.43. According to the International Secretariat, the Philippines' Validation is scheduled to commence on
16 July 1, 2016. It was noted, however, that this is still subject to discussion and confirmation by the
17 incoming Board following the 7th EITI Global Conference.

18

19 5.44. The International Secretariat recommended that the MSG start the preparations for the Validation
20 and undertake consultations with stakeholders to discuss areas that the MSG would like the Validator to
21 focus on in addition to the basic requirements of the EITI standard.

22

23 5.45. It was also suggested that the MSG consider the results of their regular self-assessment and
24 discuss the type of remedial actions that may be required ahead of Validation.

25

26 5.46. The International Secretariat was asked to clarify how the EITI Board will take into account the
27 efforts of the MSG to go beyond the EITI requirements.

28

29 5.47. The resource speaker clarified that going beyond EITI requirements will not be taken into account
30 during the assessment of country compliance. This means that if a country fails to meet the four basic
31 requirements, regardless of the work that the MSG has done above and beyond the requirements, the
32 country will still be suspended.

33

34 5.48. However, it was explained that if the MSG has gone above and beyond on many of the
35 requirements but there is only one small gap on one of the requirements (for example, date of license
36 applications), then the EITI Board may offset the gap.

37

38 **6. International Secretariat's comments on the 2nd report**

39

40 6.1. The body was informed that the International Secretariat already sent their comments on the 2nd
41 PH-EITI report.

1 6.2. According to the Secretariat, they prepared a matrix of the comments indicating what remedial
2 actions can be undertaken and who are the responsible agencies (the matrix is attached as Annex B).

3
4 6.3. The Secretariat noted that all the comments have to be addressed before Validation which will
5 commence in July.

6
7 6.4. The IA and the Secretariat then discussed how to address each comment.

- 8
9 • *It is stated on page 159 that “The materiality threshold was calculated using 2% applied to the*
10 *total revenues collected from the participating entities per industry.” Does it mean that any*
11 *revenue stream that was larger than 2% of total government revenues per sector (oil and gas,*
12 *mining, coal) was considered material?*

13
14 6.5. The IA stated that the MSG agreed to adopt the 2% materiality concept in determining revenue
15 streams that should be reconciled. According to the IA, the same percentage is being used by the
16 Securities and Exchange Commission (SEC) in assessing material compliance with respect to all the
17 Financial Statements (FS) of companies.

18
19 6.6. It was noted that anything equivalent to at least 2% of the total revenues collected were considered
20 material and those were the revenue streams that were reconciled for both mining and oil and gas
21 sectors.

22
23 6.7. The Secretariat asked the IA to reword the materiality discussion in the report to clearly state the
24 process of determining the materiality threshold. The same representative stated that the MSG has had
25 sufficient discussion on materiality during MSG meetings.

- 26
27 • *It is not clear what percentage of total government revenues was captured by using the 2%*
28 *materiality threshold.*

29
30 6.8. The IA recalled that during one of the MSG meetings, they provided certain percentages of coverage
31 to aid in assessing whether the selected revenue streams will be sufficient to cover the total payments
32 made by companies. During the said meeting, the IA noted that they used 2012 data submitted by the
33 government agencies.

34
35 6.9. Applying the 2% threshold, the IA stated that 94% of total payments was covered for mining while
36 there was a 99% coverage for the oil and gas sector.

37
38 6.10. According to the IA, based on their initial calculation using 2013 data about 95% was covered for
39 the mining sector which is more or less the same with the percentage covered using data in 2012.

40
41 6.11. As for the oil and gas sector, the IA mentioned that they do not expect much difference on the
42 percentage covered considering that there were no new projects in 2013.

- 1 • On page 153, it is noted that “Material companies were defined as the entities with net sales of
2 PHP 1 billion and above from their 2013 operations. As a result, 28 companies were selected for
3 the second PH-EITI Report.” It is not clear why a threshold based on sales was used and what
4 percentage of total government revenues do the material companies represent.
5

6 6.12. The IA explained that they initially used net sales for determining material entities because most of
7 the taxes and fees are actually based on net revenue reported by companies. It was noted that
8 corporate income tax will be based on profit but this will still be primarily driven by sales, especially for
9 oil and gas and mining wherein corporate income tax is dependent of commodity prices in the market.
10

11 6.13. The IA added that because they have not yet received the templates at the time when the MSG
12 was identifying material companies, the information on revenues was not available. This is another
13 reason why the IA initially used the net sales as the primary criteria for determining companies that are
14 material.
15

16 6.14. According to the IA, based on the data that they received, the identified material companies
17 indeed paid higher taxes and fees in 2013.
18

19 6.15. The Secretariat stated that the action point for the IA is to get the total revenues from the 57
20 companies that were targeted and then deduce the percentages covered by the 4 non-participating
21 material companies and the 29 non-material companies.
22

23 6.16. It was noted however, that there is data limitation with regard to companies that did not submit
24 their BIR waivers. The IA may get income tax data from the FS of these companies but, they explained
25 that the excise tax and all other fees paid to BIR are not necessarily required to be reported in the FS
26 under the accounting standard.
27

28 6.17. For Semirara Mining and Power Corporation, the IA shared that they looked into the company’s FS
29 in order to determine the government share as well as corporate income tax.
30

31 6.18. The Secretariat shared that they already asked Asst. Commissioner Valeroso whether BIR can
32 disclose the aggregate revenue from material mining companies that do not have waivers. It was shared
33 that according to Asst. Commissioner Valeroso, they will look at the possibility of disclosing the
34 aggregate amount without necessarily identifying the companies.
35

36 6.19. The BIR representative stated that they might be able to provide the aggregate data but they will
37 consult their legal division first. The same representative mentioned that they will wait for the formal
38 request from the IA.
39

40 6.20. In connection with this, the IA was asked to provide the BIR with a list of all non-participating
41 companies without waivers.

1 6.21. Aside from the BIR data, the Secretariat pointed out that the IA should also include payments of
2 non-participating material companies as well as non-material companies to other government agencies.

3
4 6.22. The Secretariat asked if the IA can confirm that the templates submitted by all government
5 agencies, aside from BIR, contain all material and non-material payments of the covered entities
6 regardless whether the companies are material or non-material.

7
8 The IA responded in the affirmative.

- 9
10 • *On page 81, it is unclear whether revenues of Galoc and Greenstone were fully disclosed but not*
11 *reconciled.*

12
13 6.23. According to the IA, the step undertaken was just to disclose all of the information provided by
14 Galoc and Greenstone. Since these two companies submitted their templates after December 9, the IA
15 stated that there was not enough time to proceed with the reconciliation.

16
17 6.24. The Secretariat stated that an action point would be to reword the statement in the report to
18 clarify how Galoc and Greenstone data were handled.

- 19 • *We were not able to find the section that provides full unilateral government disclosures for all*
20 *revenue streams, which can be aggregated for all companies but must be disaggregated by*
21 *revenue streams, for all material revenue streams received by the government irrespective of the*
22 *companies' materiality.*

23
24 6.25. To elaborate, the Secretariat stated that unilateral government disclosure of non-material revenue
25 streams was provided in the 2nd report, both on a per revenue stream and on an aggregate basis.

26
27 6.26. According to the Secretariat, the non-material revenue streams and the corresponding amount
28 collected by the government from all companies that submitted their templates were presented in Table
29 74.

30
31 6.27. However, the interpretation of the International Secretariat to EITI requirement 4.2.b was that it
32 refers to material revenue streams of non-material companies. Therefore, the IA should also provide the
33 said information.

34
35 6.28. The IA explained that they would have to again look at the templates submitted by government
36 agencies to extract the data of non-material companies that did not submit their template.

37
38 6.29. In total, it was mentioned that the IA would need to get the data of 21 companies from the
39 templates of the government agencies.

- *Comments on data quality*

6.30. According to the Secretariat, comments relating to data quality can be addressed by making categorical statements in the report. For example, the IA should clarify that all the companies had their FS audited for the year covered by the report.

- *On the issue of accrual accounting basis, we note that both companies and government entities reported on an accrual basis, implementing one of the recommendations of the first PH-EITI Report. We would like to ask whether government and companies have adopted the same procedures for recognizing expenses and revenues, or whether the lack of common procedures may have led to discrepancies. It would be helpful to understand how the IA has handled this. Also, it would be helpful to understand how confident the IA is that the EITI report covers revenues received in 2013 given that it is based on accrual accounting.*

6.31. The IA explained that the issue on accrual basis is only limited to BIR disclosure, specifically on corporate income taxes. For all other agencies including the LGUs, MGB and NCIP, the IA explained that most of the taxes and fees are being collected on the same year that these will be assessed and in the same period where these payments should be covered.

6.32. Even if BIR payments for the 4th quarter will be collected in the following year, the IA stated that they still included this information as part of the reconciliation procedure to capture BIR data.

6.33. It was noted that the IA provided a statement that the reporting on an accrual basis of certain government agencies led to reduction in discrepancy. The International Secretariat then inquired whether this statement only refers to BIR accrual accounting.

The IA responded in the affirmative.

6.34. According to the IA, the accounting framework of BIR and companies had to be aligned in order to avoid having continuing variances and differences when comparing the templates of companies as well as the templates disclosed by BIR. It was mentioned that the revenue streams attributable to BIR actually covers about 50 to 60 percent of the total revenue streams.

6.35. The International Secretariat asked the IA if they think there are instances wherein corporate income tax payments have been booked in 2012 but were actually transferred in 2013.

6.36. The IA responded that the BIR and the companies used specific forms so as not to have mixed revenue streams attributable to 2012 and 2013. The IA stated that they are confident that the payments disclosed in the 2nd report are all those relating to 2013.

6.37. The IA clarified that the switch to accrual accounting of BIR was only for EITI reporting. BIR will still be implementing its own system with respect to government reporting.

- 1 • *While Section 2 of Chapter 1 provides an overview of extractive industries' contribution to the*
2 *economy, it does not include a figure for Gross Value Added in the coal sector, noting that no*
3 *data was available. Has the MSG considered explaining the reasons why this data was not*
4 *available? The MSG may also wish to explore ways with the Department of Energy of*
5 *extrapolating the GVA for coal based on available statistics.*
6

7 6.38. The DOE stated that they do not have the GVA for the coal sector. The Secretariat shared that the
8 IA even provided the agency with a formula on how to compute for the GVA.
9

10 6.39. Moving forward, it was suggested that the MSG require DOE to start completing the said
11 information.
12

13 6.40. The IA was asked to explain if it is possible to extrapolate the GVA from the figures of Semirara
14 Mining and Power Corporation.
15

16 6.41. According to the IA, they can provide the list of information needed from DOE in order to
17 extrapolate the GVA for coal and they can ask their economist to calculate for DOE. However, the IA
18 noted that the data for coal will be a bit inconsistent since the GVA for all other sectors were from
19 government agencies.
20

21 6.42. The Secretariat shared that the data on coal from PSA is lumped with data on non-metallic mining.
22

23 6.43. The Chair suggested that the IA request PSA to disclose the disaggregated worksheet for GVA on
24 coal.
25

- 26 • *In terms of production data, the inclusion of the GVA and production value for coal would be*
27 *required to comply with Requirement 3.5.a. If this data is not available, as indicated above, and*
28 *the MSG is not able to calculate the figure based on extrapolations from Semirara figures, the*
29 *MSG may wish to clarify the reasons why the data is not available.*
30

31 6.44. For the information of the body, the IA stated that the current reporting system of DOE would only
32 provide data on the production volume but not on the production value for coal. In addition, it was
33 mentioned that this data is not available from PSA since production value will be based on the
34 submissions made by companies.
35

36 6.45. The IA mentioned that they can extrapolate the production value for coal based on FS data and
37 annual reports of companies like Semirara. The Chair agreed on the suggested approach.
38

39 6.46. The Secretariat proposed to add the GVA and production value generation in the MSG's
40 recommendations to DOE.

- 1 • *Section 6 of Chapter 1 provides significant information on license registers and provides all of the*
2 *information required under 3.9, except for the date of application for all licenses. Has the MSG*
3 *considered including the dates of application at least for those licenses held by companies*
4 *included in the scope of reconciliation, in line with Requirement 3.9.b?*
5

6 6.47. Out of the 31 mining companies that were covered in the report, the MGB representative shared
7 that they have already provided the date of application for the 23 companies. The same representative
8 stated that they requested for the application document of the remaining 8 companies from the
9 regional offices.

10
11 6.48. As for the two service contracts, the IA shared that DOE has no information on the date of
12 application because the applications were made in 1970s and 1980s.

13
14 6.49. The Secretariat suggested to directly get the information on the date of application from the
15 service contractors.

16
17 6.50. For the oil and gas sector, the International Secretariat clarified that the EITI requirement refers to
18 the date when the bid was filed.

19
20 6.51. However, the industry representative explained that there was no bidding conducted at the time
21 when the two service contracts were awarded.

22
23 6.52. The Secretariat asked if the IA can state that the requirement is not applicable since there was no
24 date of application given that there were no bidding rounds and that the companies made direct
25 negotiations with DOE.

26
27 6.53. The International Secretariat stated that they will get back to the MSG on this.

28
29 6.54. Other comments of the International Secretariat are shown in Annex B.

30 **7. Discussion on the scope of 2016 report**

31
32
33 7.1. The Secretariat mentioned that the MSG would have to decide if they would want to cover two
34 reporting years, given that only five companies have submitted their 2014 data.

35
36 7.2. Another matter that the Secretariat raised is whether Small Scale Mining (SSM) and Large Scale
37 Non-Metallic Mining will be included in the next report. The representative mentioned that the findings
38 and recommendations of the two scoping studies will be presented.

39
40 7.3. The Secretariat reported that a consultant was commissioned to do the study on SSM. According to
41 the representative the findings were presented last November to the MSG but the final output was
42 circulated to the MSG last week for further comments. The Secretariat noted that the more important

1 part that will be discussed this morning is regarding the recommendations and what are the
2 considerations for inclusion of SSM in the next report.

3
4 7.4. The MGB representative stated that currently there are only three legal Minahang Bayan and two
5 newly approved ones, but the study centered only in T'boli and South Cotabato. The representative also
6 mentioned there are a lot of SSMs in Surigao and Compostela Valley.

7
8 7.5. A CSO representative also shared that there are many SSM operations in Nueva Viscaya. He also
9 mentioned that the primary concern is the small scale mining areas within the FTAA operations. In effect
10 the Provincial Mining Regulatory Board (PMRB) or the LGUs cannot regulate or issue legal documents to
11 the SSM because it is under the FTAA area of a large-scale mining operation.

12
13 7.6. The same representative stated that they have already asked the regional MGB what they can do
14 with the large-scale mining to help organize a dialogue with the SSM. It was shared that there were
15 20,000 individuals involved in SSM in their area;

16
17 7.7. A CSO representative suggested to make a distinction between the illegal and legal SSM. She stated
18 that as far as South Cotabato and other SSM operations are regulated by the LGUs, they are considered
19 legal in that locality and the government can generate income from it.

20
21 7.8. The Chair inquired what happened to the Implementing Rules and Regulations for the SSM.

22
23 7.9. The MGB representative stated the IRR was approved last year, and it's now being implemented. He
24 shared that the two Minahang Bayan that were declared two weeks ago were a product of the IRR.

25
26 7.10. An industry representative suggested that the best the MSG can do is to highlight in the contextual
27 information the issues and problems in SSM, identify the legal ones, and provide recommendations.

28
29 7.11. The Chair agreed and stated the recommendation is to provide more details on the small-scale
30 mining industry in the contextual information of the next report.

31
32 7.12. The Secretariat also suggested to draw information from the scoping study on SSM and include a
33 summary in the second report. More information can be gathered for the next report, and the same
34 goes for the large-scale non-metallic sector. The Secretariat noted that the group can build on the
35 information and progress on these two sectors every year. If data on revenue streams for SSM for 2016
36 becomes available, assuming it would be easier to monitor because systems for approving Minahang
37 Bayan are already in place, that would be the time that the SSM can be included in the report.

38
39 7.13. The body agreed.

40
41 7.14. A CSO representative suggested to draft a provisional template since the end goal is to be able to
42 incorporate SSM in future EITI reports.

1 7.15. The Chair agreed and mentioned it should be added in the TOR of the IA.
2

3 7.16. The Secretariat pointed out if the scope of the 2016 report would include a chapter on SSM, the
4 scope of the SSM discussion needs to be clear. It was mentioned that it will not include any
5 reconciliation, only contextual information building on the scoping study that was done in the 2015
6 report including policy issues, challenges, and recommendations.
7

8 7.17. The body agreed.
9

10 • Large-scale non-metallic mining presentation
11

12 7.18. The MGB representative presented an overview of the Philippine non-metallic minerals (the
13 presentation material is attached as Annex C).
14

15 7.19. The report started with categories and coverage of the non-metallic mineral products. The
16 representative reported with regard to size, the non-metallic mining group consists of fifty-four (54)
17 large scale non-metallic mines and a thousand plus quarry and commercial sand & gravel Permit
18 Holders/Operators.
19

20 7.20. The reporting requirements of Contractors/Permit Holders/Operators were also discussed. The
21 MGB representative shared that the non-metallic mining and quarrying group has been an active
22 component of the local mining industry in the country. In 2014, it contributed about 32% or PhP66
23 billion of the total production value of the mining industry. The major commodities are sand and gravel,
24 coal and cement.
25

26 7.21. The different taxes and fees paid by non-metallic mining companies were also reported. The
27 representative stated that it is the same with the large-scale metallic mines. They pay the same taxes
28 and fees to national government agencies as well as local taxes and fees. The representative reported
29 that the estimated taxes and fees paid/ withheld from non-metallic mining operations was from 6 billion
30 pesos in 2011 to 14 billion pesos in 2014.
31

32 7.22. The Chair commented that apparently there is data from MGB, so there is a need to engage the
33 companies. The Chair recalled when EITI started with the first report, it took one and a half years to
34 engage metallic companies. In planning to include the large scale non-metallic there is also a need for
35 lead time. The Chair suggested that perhaps it can start with the legal framework and the engagement
36 of companies this year.
37

38 7.23. The MGB representative noted that there are about 54 large-scale non-metallic mines in the
39 Philippines.
40

41 7.24. The Chair asked what was the pleasure of the MSG members.
42

1 7.25. The industry representative suggested to start with the scoping study so it can be determined if
2 there are enough associations involved that can be engaged.

3
4 7.26. A CSO representative suggested if the scoping study had enough material then maybe the report
5 can include only material companies.

6
7 7.27. The Secretariat shared that the final report of the scoping study for the large scale non-metallic
8 sector was just submitted. It was also suggested that based on the findings it can be decided if the
9 sector will be included in the report.

10
11 7.28. The Secretariat mentioned that the study will be sent to the MSG members so the body can decide
12 by next meeting on how to include this in the report, taking into consideration the amount of time
13 necessary to engage the companies.

14 15 **8. PH-EITI Transparency Awards**

16
17 8.1. The Secretariat mentioned that the list of nominees can be found in the kits. The representative
18 discussed that the categories are based on the approved citations from the previous MSG meeting.

19
20 8.2. The Secretariat reported a total of six citations will be given. The first is a citation given to
21 companies and LGUs that were able to submit quality reporting templates, as measured by timeliness,
22 comprehensiveness, and completeness of data. PWC provided a list of companies that submitted their
23 templates with these qualifiers.

24
25 8.3. The Secretariat mentioned for timeliness of template submission, PWC identified Carmen Copper
26 and Philsaga (for mining), Chevron Malampaya (for oil and gas), DOE (for government). PWC also gave a
27 list for completeness of information in the templates: Carmen Copper and Philsaga (for mining), Chevron
28 Malampaya (for oil and gas), and BIR (for government). The Secretariat stated since this is factual, the
29 awards will be given to all the organizations listed by PWC, unless there are objections.

30
31 8.4. The Chair stated that there were none because these are factual citations.

32
33 8.5. The Secretariat continued on to the citation of government agencies that contributed to the
34 meaningful progress of EITI implementation in the country through introduction of reforms based on
35 EITIs recommendations. The nominees mentioned were: Bureau of Local Government Finance (BLGF) for
36 the online portal they created for LGU reporting, DBM for adopting reforms to expedite disbursement
37 shares in national wealth, and MGB for improvement of their disclosure practices. The Secretariat
38 mentioned that ideally the board of judges should have discussed this, but some of the nominations
39 came in late, hence the decision can be done in the current meeting, which will be the basis of the
40 awards to be given. The Secretariat suggested to vote by consensus.

41
42 8.6. The Chair agreed and asked what was the criteria for this award.

1 8.7. The Secretariat responded that the criteria should include impact and actual
2 delivery/implementation. The Secretariat cited as an example that while there is a policy for DBM to
3 expedite disbursement, there is no implementation yet. On the other hand, BLGF's online reporting
4 system is already in place and a training has been conducted. The Secretariat then recommended BLGF
5 for the award.
6

7 8.8. The body agreed to give the special citation to BLGF.
8

9 8.9. The Secretariat proceeded to the citation given to agencies that fully support EITI disclosure
10 requirements. It was noted that this will be given to government agencies that promote full disclosure
11 for EITI, even going beyond the standard. The citation was recommended to be given to MGB.
12

13 8.10. A CSO representative commented that she wants to contest it but she will go with the consensus
14 of the group.
15

16 8.11. The Secretariat asked the group again if MGB will be awarded the citation.
17

18 8.12. The body agreed.
19

20 8.13. The Secretariat moved on to the next citation which will be given to LGUs, companies, and
21 agencies with the least discrepancy. The Secretariat mentioned that the nominees are: Cagdianao
22 Mining Corp (for mining), Shell Exploration BV (for oil and gas), and BOC (for government). The
23 Secretariat noted that this award is being given because having minimal discrepancy indicates alignment
24 with government systems.
25

26 8.14. The next citation discussed is for LGUs in recognition of their extraordinary practices to promote
27 transparency in the extractive sector and their localities. The Secretariat mentioned that here the
28 criteria will be the local ordinances, programs and projects to promote transparency. The Secretariat
29 read the nominees that ULAP recommended, which are: Compostela Valley for adopting EITI at the
30 subnational level and publishing an EITI transparency handbook; South Cotobato for activation of its
31 PMRBs and monitoring the mining operations; and Surigao Del Norte, because, according to ULAP, the
32 Governor makes sure their SDMP plans are aligned with government plans.
33

34 8.15. A CSO representative mentioned that South Cotobato is a 2015 Galing Pook Awardee for its
35 Minahang Bayanihan: Small-scale Mining Program. The same representative stated that Compostela
36 Valley has a lot of issues, which need to be considered.
37

38 8.16. The Secretariat asked the body again if they agree to give the citation to Compostela Valley.
39

40 8.17. A CSO representative agreed and mentioned they did trail blaze their program.

1 8.18. The Secretariat moved to the last citation which will be given to the CSO and local chief executives
2 that champion EITI in local communities. The Secretariat continued that there has been no nominations
3 from the CSOs but Hon. Agustin Blanco, Jr. was nominated.

4
5 8.19. The CSO representatives agreed to this.

6
7 8.20. The Secretariat asked the CSO sector again if they have nominees, of any organization in their area.

8
9 8.21. The CSO representatives mentioned there were none yet.

10
11 8.22. The Secretariat took note of it and mentioned that these awards will be presented during the
12 National Conference in the afternoon. The nominees will be informed that they have been nominated.

13
14 8.23. A CSO representative asked if those nominated but did not win will have a certificate.

15
16 8.24. The Secretariat responded that only the winners will be mentioned, and not the nominees.

17 18 **9. Other Matters**

19
20 9.1. The Chair introduced incoming national coordinator Atty. Karla Espinosa.

21
22 9.2. The incoming national coordinator thanked the Chair and body for the welcome.

23
24 9.3. The Chair mentioned that the MSG is looking forward to working with the new national coordinator.
25 The Chair then moved on to other matters.

26 27 **Global Conference**

28
29 9.4. The Secretariat shared that there are sixteen delegates from the Philippines. A list of the delegates
30 was flashed on the screen.

31
32 9.5. The Chair mentioned that the Secretary of Finance will be joining the delegation.

33
34 9.6. The Secretariat ran through the list of the delegates, stating that from industry there are two
35 delegates, from the CSOs there are five delegates, and three from the national Secretariat. It was also
36 mentioned that Ryan Dael from the national Secretariat and Marco Zaplan from Bantay Kita were also
37 invited to a data visualization training. The delegation will be headed by Secretary Purisima. The
38 Secretariat also shared that the International Secretariat gave information that the Philippines will be
39 given an award, but it is still off the record. The Secretariat shared that the Philippines would be given
40 the EITI Chair's Impact Award.

1 9.7. The Secretariat also shared how the booth for the expo will look like; a picture of the booth was
2 flashed on the screen. The Secretariat mentioned the booth will showcase what was highlighted in the
3 impact story, including IP exposures, contracts portal, and the road shows. The Secretariat mentioned
4 that the expo will be right outside the conference venue so everyone can visit and participate. It was
5 also mentioned that it will be manned by Ms. Ocate and Ms. Soliman for two days.

6
7 9.8. The Secretariat showed a sample of the giveaways for the conference.

8
9 9.9. The Secretariat shared the final program of the 7th EITI Global Conference on February 24-25, 2016.
10 The Secretariat asked the body to take note that they will be asked to participate in the members'
11 meeting on the 23rd. On the 24th, the president of Peru will open the plenary, and the awards will be
12 given during the 11am-12nn session. The Secretariat shared the different parallel sessions for the two
13 conference days.

14
15 9.10. The Chair asked which of the delegates will be funded by the EGPS.

16
17 9.11. The Secretariat shared that all will be funded by the GOP, and the agreement was to realign some
18 of the activities charged to EGPS.

19
20 **National Conference**

21
22 9.12. The Chair moved the discussion to the national conference.

23
24 9.13. The Secretariat mentioned that the program was shared last meeting, and there were just minor
25 changes. It was mentioned that some of the speakers, such as DENR and DILG representatives, are still
26 to be confirmed. It was mentioned that Usec. Moya will represent the DBM. The development agencies,
27 on the other hand, will be giving their talk in the morning.

28
29 9.14. The Chair mentioned that it would be out of place to have the development partners speak in the
30 morning and suggested to move them to the afternoon session.

31
32 9.15. The body agreed to move all the talks of the development partners in the afternoon.

33
34 9.16. The Secretariat mentioned that there is a planned press conference during lunch and a workshop
35 on the roadmap for reforms in the afternoon. The workshop will have several topics from which
36 participants can choose to attend. There will be a presentation of workshop outputs thereafter, and the
37 feedback from stakeholders will be incorporated in the work plan.

38
39 9.17. The presentation of EITI awards will happen in the afternoon.

1 **Inclusion of the BLGF in the MSG**

2

3 9.18. The Secretariat shared that BLGF requested that they be included in the MSG because LGU data
4 come from them through their online reporting tool, and also because they are the ones coordinating
5 with local government units.

6

7 9.19. A CSO representative suggested if BLGF can be an alternate of the government.

8

9 9.20. The Chair deferred the discussion to a later meeting.

10

11 **BIR reply to Palawan LGU**

12

13 9.21. The Secretariat stated this is only for the group's information, to know the response of BIR to the
14 Palawan government.

15

16 9.22. The Secretariat shared that a copy of the BIR's letter was included in the meeting kits.

17

18 **Approval of scoping studies**

19

20 9.23. The Secretariat also asked about the approval of the scoping studies. It was mentioned that there
21 were admittedly difficult findings that the MSG would want to comment on. The Secretariat suggested
22 to indicate in the published work, that the study was commissioned by the MSG but that it does not
23 reflect the position of the MSG. It was also suggested that the consultants be paid if they have fulfilled
24 their TORs.

25

26 9.24. The Chair stated it is a fair arrangement.

27

28 The body agreed.

29

30 **ADJOURNMENT**

31

32 There being no other matters to discuss, the meeting was adjourned at 1:20 PM.

EITI VALIDATION

Update on the Validation process

Meeting of the PH-EITI Multi-Stakeholder Group

9 February 2016, Manila

OUTLINE

1. Validation under the EITI Standard
2. Reform of Validation
3. Outlook and process for the Philippines



PH-EITI has impressive achievements in its three years of implementation...

...the Validation process is a quality assurance mechanism, but it is also meant to reinforce this positive momentum and make recommendations for future directions of work.

OUTLINE

1. Validation under the EITI Standard
2. Reason of Validation
3. Outlook and process for the Philippines



The purpose of Validation

- Assess performance and promote dialogue and learning at the country level.
- Identify opportunities to increase the impact of EITI implementation, including identifying areas where natural resource governance can be improved and how the EITI can contribute.
- Identify opportunities for mainstreaming EITI implementation in government systems.
- Safeguard the integrity of the EITI by holding all EITI implementing countries to the same global Standard.

Study the validator's terms of reference



STANDARD TERMS OF REFERENCE FOR VALIDATORS

Approved by the EITI Board on 1 January 2015.

The ToR provide the set of questions considered and types of evidence sought in the Validation assessment. There are three broad areas of assessment:

- MSG oversight
- EITI reporting
- Impact and outcomes

<https://eiti.org/files/Standard TOR for validators final.pdf>

Meeting of the PH-EITI Multi-Stakeholder Group
9 February 2016, Manila

Terms of Reference

Validation of [country]

4.3 Part III: Outcomes and impact of EITI implementation

Summary

This document contains the Standard, endorsed by the Board.

The TOR sets out the validation process for an accredited EITI validator. The contract to be attached to this TOR¹.

| Outcomes and impact | |
|--|---|
| EITI provisions | Guidance to validators |
| Public debate EITI provision 6.1 | The validator is expected to document and evaluate whether the EITI disclosures, including the EITI Report, are comprehensible, have been actively promoted, are publicly accessible and have |

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Standard terms of reference for validators
EITI International Secretariat, January 2015

| | |
|---|--|
| | contributed to public debate (6.1). This should include publication of the EITI report virtually and in hard copies; availability in appropriate languages; and the accessibility of dissemination activities. |
| Data accessibility EITI provision 6.2 | The validator is expected to comment on any efforts by the MSG to make EITI Reports machine readable, and to code or tag EITI Reports and data files so as to enable EITI data to be compared with other publicly available data (6.2). This could for example include cases where the MSG has decided to reference national revenue classification systems, and international standards such as the IMF Government Finance Statistics Manual; produced summary reports or other types of analysis aimed at improving public understanding of the data and information from the reports; or enabled automated EITI disclosures. Such efforts are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard. |
| Lessons learned and follow up on recommendations EITI provision 7.1 | The validator is expected to document the government and MSG's progress in taking steps to act upon lessons learned, identifying, investigating and addressing the causes of any discrepancies in EITI |

Responsibilities of the MSG during Validation

1. Review and approve the Terms of Reference for Validation proposed by the International Secretariat. **Suggest areas for particular focus.**
2. Review and approve the proposed validator, procured by the International Secretariat.
3. Compile documents for validator's desk review.
4. Schedule meetings with all stakeholders during field visit.
5. Respond to validator's enquiries.
6. Review and comment on draft Validation report.
7. Review and comment on final Validation report.

Responsibilities of the International Secretariat during Validation

1. Draft Terms of Reference (TOR) for Validation based on the standard TOR approved by the Board.
2. Procure the validator from the list of accredited validators. Competitive bidding process.
3. Provide guidance to the validator and MSG during the Validation process.
4. Support the Validation Committee and the EITI Board in reviewing the draft and final Validation report.

OUTLINE

1. Validation under the EITI Standard
2. Reform of Validation
3. Outlook and process for the Philippines



Reforming Validation

- **Challenges with the current Validation model**
 - Met/unmet too simplistic. Need for more nuanced assessment.
 - Consequences of non-compliance too harsh. Do not take into account progress achieved.
 - Timeframe for achieving compliance does not recognize the diversity in EITI membership.
 - Current validators: expensive and quality concerns
- **Consultations:** <https://eiti.org/consultation-validation>
- **Pilot Validations** (Ghana, Mongolia, Sao Tome & Principe, Solomon Islands, Timor-Leste).
- **New Validation model:** to be decided by the EITI Board in Lima.

Reforming Validation

- **Potential key features of the new validation model:**
 - No change to what is required to become compliant. The bar will remain the same.
 - More disaggregated assessment
 - Recognize efforts to go beyond the requirements.
 - Recognize direction of travel.
 - Who undertake validation – secretariat collects data and consults stakeholders; validator quality assures and submits validation report.
 - **Consequences of non-compliance** – depend on level of progress achieved.
 - **Timeframe for achieving compliance** – depend on local circumstances and challenges. 3-18 months to address corrective actions.

The revised Validation system

Subject to final agreement by the Board in Lima, the revised Validation process will include:

- Assessment of progress against each EITI Requirement
- Overall assessment
- Efforts beyond the EITI Requirements (not used in assessing compliance with the EITI Standard)

Assessment of progress against each Requirement

Progress in complying with each EITI Requirement will be assessed, using one of four designations:

- ***Satisfactory progress***: all aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
- ***Meaningful progress***: significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
- ***Inadequate progress***: significant aspects of the requirement have not been implemented and that the broader objective of the requirement is far from fulfilled.
- ***No progress***: all or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.

Overall assessment

- Same overall threshold test as for individual requirements.
- A country must achieve *satisfactory progress* on the following four Requirements:
 - **Government engagement** (Req #1.1)
 - **Company engagement** (Req #1.2)
 - **Civil society engagement** (Req #1.3)
 - **Timely EITI reporting** (Req #4.8)
- If less than *meaningful progress* is achieved on **data quality** (Req #4.9) and **data comprehensiveness** (Req #4.1), MSG required to disclose a time-bound action plans for addressing weaknesses in these areas.
Progress in implementing these taken into account in future Validations.

Overall assessment: Board will also take account of

- Results of assessment of individual requirements: do the results taken together clearly point to an overall assessment?
- Advice and recommendations of Validators and VC.
- Nature of outstanding requirements and how far they are from being met.
- Magnitude and complexity of the extractive sector.
- Other barriers to meeting requirements (such as but not limited to state fragility, recent/ongoing political change) and extent to which MSG has undertaken actions to resolve barriers encountered.
- MSG's good faith in complying with requirements
- Reasons and justifications provided for non-compliance

Consequences of non compliance at 1st Validation

- If a country does not achieve the minimum thresholds for the four requirements above, it will be suspended.
- For other Requirements, consequences of non compliance depend on Board's assessment of progress:
 - *No progress*: country delisted.
 - *Inadequate progress*: country suspended, corrective actions to be undertaken before next Validation.
 - *Meaningful progress*: country considered EITI Candidate, with corrective actions before next Validation.

Timeframes for Validation and corrective actions

- EITI Candidates have to undergo Validation within 2.5yrs.
- EITI Compliant countries re-Validate every 3yrs.
- Possibility to request early Validation.
- For countries that have not achieved EITI Compliance, the Board will establish corrective actions.
- The timeframe for undertaking corrective actions will vary from 3 to 18 months depending on the nature of the corrective actions.

Next steps

- Subject to discussion by the incoming Board following the 7th EITI Global Conference, the Philippines' Validation will commence on **1 July 2016**.
- **Get ready!** Consultations with constituencies and other stakeholders.
- Consider results of the MSG's regular self-assessment: remedial actions, responsibilities and timelines?
- Compile evidence and documentation
- Consider whether there are certain objectives or activities that the MSG wishes that the validator pays particular attention to during Validation, e.g. impact?



*Thank
you!*

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Date: **9 February 2016**

Occasion: **Meeting of the PH-EITI Multi-Stakeholder Group**

Manila, the Philippines

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Comments of the 2nd PH-EITI Report

| COMMENT | RESPONSE/HOW TO ADDRESS | IN CHARGE |
|---|---|----------------|
| <p>it is stated on p.159 that “The materiality threshold was calculated using 2% applied to the total revenues collected from the participating entities per industry.” Does it mean that any revenue stream that was larger than 2 % of total government revenues per sector (Oil and gas, mining, coal) was considered material</p> | <p>Yes. Reword the report to clarify</p> | <p>IA</p> |
| <p>it is not clear what the share of coverage of total government revenues was captured by using this materiality threshold</p> | <p>We will provide a clearer explanation of the rationale for adopting an approach based on net sales for the selection of material companies.</p> <p>We will provide the coverage in terms of percentage of total government extractive industry revenues that the material companies account for in terms of revenues.</p> | <p>IA</p> |
| <p>On p.153 it is noted that “Material companies were defined as the entities with net sales of PHP1bn and above from their 2013 operations. As a result, 28 companies were selected for the second PH-EITI Report.” It is not clear why a threshold based on sales was used and what % of total government revenues the companies considered as material represent</p> | <p>The reason for this manner of determining material companies is that as explained by the IA to the MSG, the net sales is the primary driver of payments, such that most companies with net sales of 1B and above are also the large taxpayers. This was confirmed when we compared the list of companies with 1B net sales with the material companies in our 2102 report</p> <p>But since the standard requires net revenues, we should get the ff:</p> <ol style="list-style-type: none"> 1. aggregate revenues from non-participating material companies (CTP, Citinickel. SR languyan. Semirara). Note that the IA could not get this date without a waiver but BIR should provide this in the aggregate 2. aggregate revenues from non-material companies (participating and non-participating) | <p>IA, BIR</p> |

Comments of the 2nd PH-EITI Report

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|---|---|----------------|
| <p>It would also be helpful to clarify why the disclosures of an additional 11 companies below the threshold were included.</p> | <p>The reason for this is that we sent the templates to all 57 companies, and out of the non-material companies, 11 responded and 19 did not. But since they were not material anyway, this shouldn't be an issue because the Standard only requires material companies to undergo reconciliation. The only reason why we sent the templates to all was because we want all companies to participate despite the materiality threshold we set.</p> <p>Provide explanation in the report</p> | <p>IA</p> |
| <p>The MSG may also wish to include the share of total government extractive industry revenues the companies in the scope accounted for. You may ask the BIR to disclose aggregate corporate income tax information for all material companies as well as for all extractive industry companies. If this information is only available for large-scale metallic mining, the MSG may wish to clarify that only these figures are available, if this is the case.</p> | <p>BIR should disclose aggregate figures for all 57 companies targeted.</p> | <p>IA, BIR</p> |
| <p>While p.80 provides an assessment of the materiality of the four non-participating companies, the EITI Report does not seem to state what share of total government revenues these four companies represent</p> | <p>There's a discussion on their share but also in terms of sales, to be consistent.</p> <p>Analysis should be computed based on revenues once BIR provides this data.</p> | <p>IA, BIR</p> |
| <p>It is stated on p.80 that Semirara represents 24% of total reconciled mining revenue and 3.6% of "the entire extractive sector", but it is not clear what "the entire extractive sector" refers to</p> | <p>The phrase "entire extractive sector" pertains to oil, gas, mining, and coal.</p> | |
| <p>The MSG should provide information on the materiality of non-reporting companies for all revenue streams for which this information is available (our understanding is that this</p> | <p>BIR should disclose this information on an aggregate basis and without identifying the individual companies</p> | <p>IA, BIR</p> |

Comments of the 2nd PH-EITI Report

| | | |
|--|--|-----------------------------------|
| <p>information would be available for all revenue streams aside from corporate income tax</p> | | |
| <p>It is also stated on p.81 that “reconciliation for Galoc and Greenstone was done on revenue streams other than those attributed to BIR as their respective waivers were only received after cutoff date. Likewise, other participating companies and government agencies also provided their templates or supporting schedules after cutoff date of 9 December 2015, and, consequently, were no longer subjected to reconciliation procedures. Nonetheless, their disclosures and potential impact to the overall results were included and discussed under Section XIII, Additional Information.” It is unclear to us whether this means that the revenues were fully disclosed but not reconciled</p> | <p>All templates after Dec 9 were no longer subjected to reconciliation.</p> <p>Reword for clarity.</p> | <p>IA</p> |
| <p>We were not able to find the section that provides full unilateral government disclosures for all revenue streams, which can be aggregated for all companies but must be disaggregated by revenue streams, for all material revenue streams received by the government irrespective of the companies’ materiality.</p> | <p>We provided unilateral government disclosure for non-material revenue streams on a per revenue stream and aggregate basis (Table 74). What’s missing though is government disclosure of material revenue streams for non-material companies. This confusion stems from the interpretation of EITI requirement 4.2.b which appears to refer only to non-material revenue streams, not non-material companies</p> <p>The material revenue streams of non material companies should be presented in a separate table.</p> <p>If government templates do not fully provide information on these companies, the IA should get the information from all government agencies</p> | <p>IA, all reporting agencies</p> |

Comments of the 2nd PH-EITI Report

| | | |
|---|---|-----------|
| <p>Also, we were not able to find Section XIII (Additional Information) in the EITI Report.</p> | <p>This is a typo error. It should be Section 9 and Annex AD</p> <p>Revise</p> | <p>IA</p> |
| <p>Section 5 of Chapter 2 provides an overview of quality assurance procedures. However, we were not able to find information on whether all companies and all government entities complied with the quality assurance procedures or whether there were any gaps.</p> | <p>There's a discussion but should be reworded for clarity</p> | <p>IA</p> |
| <p>There also does not appear to be an assessment of whether all companies and government entities included in EITI reporting had their financial statements audited for 2013.</p> | <p>There's a statement to this effect i.e. All AFS of companies and government were used during reconciliation. This is a confirmation that their financial statements are audited. See page. 182.</p> <p>Reword for clarity.</p> | <p>IA</p> |
| <p>The MSG may wish for the Independent Administrator to include a clear statement of its assessment of the reliability and comprehensives of EITI disclosures, to ensure that the assessment on p.166 is clear and categorical. While we understand the Independent Administrator had included a statement on p.166 related to the reliability and comprehensives of EITI disclosures, we would encourage the MSG to include a clearer and more comprehensive statement to clarify the statement on p.166.</p> | <p>Reword</p> | <p>IA</p> |
| <p>On the issue of the accrual accounting basis, we note that both companies and government entities reported on an accrual basis, implementing one of the recommendations of the first PH-EITI Report. Indeed the Independent Administrator states that the switch to accrual reporting by government agencies was one of the causes for the lower</p> | <p>IA should explain this in the report</p> | <p>IA</p> |

Comments of the 2nd PH-EITI Report

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|---|--|----------------|
| <p>discrepancies in 2013 compared to 2012, on p.84. We would like to ask whether government and companies have adopted the same procedures for recognizing expenses and revenues, or whether the lack of common procedures may have led to discrepancies. It would be helpful to understand how the Independent Administrator has handled this. Also, it would be helpful to understand how confident the Independent Administrator is that the EITI Report covers revenues received in 2013 given that it is based on accrual accounting.</p> | | |
| <p>While Chapter 1 provides an overview of the extractive industries, we were not able to find an overview of significant exploration activities for either mining, oil and gas or coal. While the Annexes provide details of the exploration licenses in mining, coal, oil and gas, has the MSG considered including a brief narrative overview of exploration activities the MSG judges to be significant, in line with Requirement 3.3? Following our conversations, we understand the MSG would be able to include this in an addendum</p> | <p>What’s actually missing is a narrative, not the information on the exploration activities per se which we have in the annexes</p> <p>Provide a narrative.</p> | <p>IA</p> |
| <p>While Section 2 of Chapter 1 provides an overview of extractive industries’ contribution to the economy, it does not include a figure for Gross Value Added in the coal sector, noting that no data was available. Has the MSG considered explaining the reasons why this data was not available? The MSG may also wish to explore ways with the Department of Energy of extrapolating the GVA for coal based on available statistics</p> | <p>DOE should provide GVA for coal</p> | <p>IA, DOE</p> |
| <p>Table 13 (p.32) provides the value of extractive industries in absolute terms, but only provides an average for the period</p> | <p>IA can compute this based on figures presented</p> | <p>IA</p> |

Comments of the 2nd PH-EITI Report

| | | |
|---|--|---------------------|
| <p>2009-2014 in terms of the share of extractive industry exports out of total exports. Has the MSG considered including the relative share of extractive industry exports in total exports for 2013 specifically? We understand from our conversations that this information is available specifically for 2013.</p> | | |
| <p>In terms of production data, the inclusion of the GVA and production value for coal would be required to comply with Requirement 3.5.a. If this data is not available, as indicated above, and the MSG is not able to calculate the figure based on extrapolations from Semirara figures, the MSG may wish to clarify the reasons why the data is not available</p> | <p>DOE should provide information of production value of coal</p> | <p>DOE, IA</p> |
| <p>the Report does not include a clear categorical statement that no natural gas was exported in 2013</p> | <p>IA should categorically state that there's no export for natural gas</p> | <p>IA</p> |
| <p>In addition, while Table 13 provides an average share of exports for each commodity for the period 2009-2014, it does not provide this share for 2013 in particular. Has the MSG considered including these additional pieces of information, in line with Requirement 3.5.a-b?</p> | <p>IA can compute based on information provided</p> | <p>IA</p> |
| <p>Related to state participation, Section 3 of Chapter 1 provides extensive information on the two state-owned enterprises. However, the EITI Report did not seem to provide full details of PMDC's level of ownership in its various ventures and subsidiaries, nor does it seem to include PNOC's level of ownership in the six coal projects it participates in.</p> | <p>PMDC and PNOC have 100% level of ownership. This will be stated in the report</p> | <p>IA</p> |
| <p>Section 6 of Chapter 1 provides significant information on license registers and provides all of the information required under 3.9, except for the date of application for all licenses. Has the MSG considered including the dates of</p> | <p>DOE and MGB should provide information on dates of application</p> | <p>IA, DOE, MGB</p> |

Comments of the 2nd PH-EITI Report

| | | |
|---|--|-----------|
| <p>application at least for those licenses held by companies included in the scope of reconciliation, in line with Requirement 3.9.b?</p> | | |
| <p>On the issue of license applications, covered in sections 6 and 7 of Chapter 1, the EITI Report does not seem to clearly state whether any new mining or coal licenses (including EPs, MPSAs, FTAAs or SCs) were awarded in 2013. While the Annexes M and O and pp.68-69 provide dates of award for mining, coal and oil and gas licenses respectively, the MSG may wish to include a clear statement of whether any new licenses were awarded in 2013, which we understand would be possible in an addendum. If no new licenses were awarded in this timespan then most of Requirement 3.10 would not be applicable.</p> | <p>The information is actually in the tables in the annexes. It will be included in the narrative.</p> | <p>IA</p> |



Philippine Non-Metallic Minerals



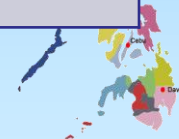


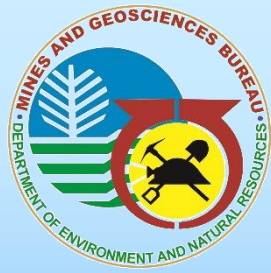
I. PRODUCT COVERAGE

The Philippine non-metallic minerals industry produces a variety of minerals which comes from three (3) general categories, namely: fertilizer minerals; industrial minerals; gemstone and decorative minerals.

Table 1 – General Categories and Coverage of the Non-Metallic Mineral Products

| CATEGORIES | MINERALS COVERED | MINERALS CURRENTLY MINED |
|-------------------------------------|---|--|
| 1. Fertilizer Minerals | Phosphate Rock, Guano, Magnesite and Sulfur | Phosphate Rock, Guano |
| 2. Industrial Minerals | Asbestos, Barite, Clay, Bentonite, Dolomite, Diatomite, Feldspar, Gypsum, Limestone, Marble, Perlite, Pyrite, Rock Aggregates, Silica, Sand and Gravel and Salt | Clay, Bentonite, Dolomite, Feldspar, Limestone, Marble, Perlite, Rock Aggregates, Silica, Sand and Gravel and Salt |
| 3. Gemstone and Decorative Minerals | Jade, Quartz, Rhodonite, Tektite, Opal, Obsidian, Agate and Serpentinite and Diorite | Diorite |





Due to various economic and other factors, only a selection of the non-metallic minerals is currently being mined.

There is a wide variation of product classification in the non-metallic minerals group. Their products are directly dependent on the market needs. For example blocks, slabs, tiles, chips and powder are used for marbles; S1 and S2 for sand; G1, G2 and G3 for gravel or rock aggregates. Some non-metallic minerals, such as limestone or rock phosphate, are classified based on the grade analysis of the most relevant chemical compounds they possess. This analysis is largely dictated by specifications sought in the market.





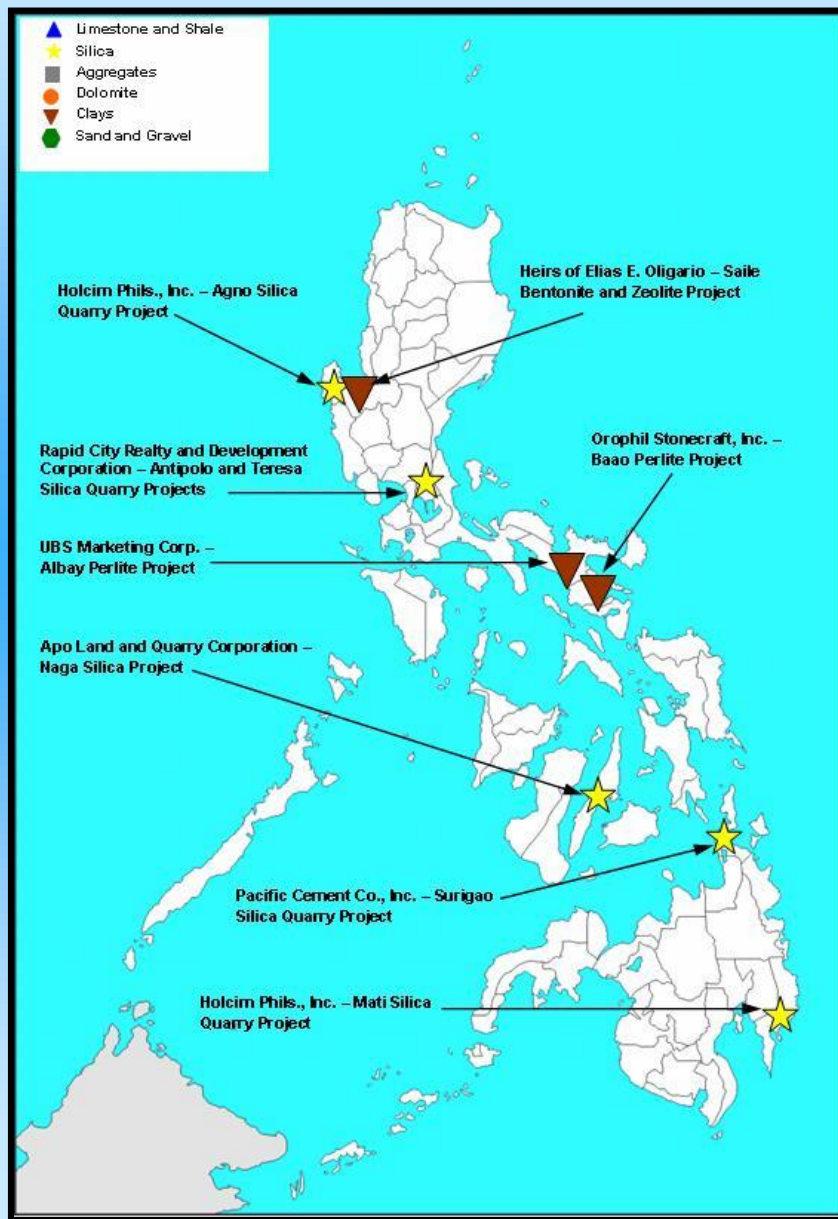
II. SIZE AND STRUCTURE

The non-metallic mining group consists of fifty-four (54) large scale non-metallic mines and a thousand plus number of quarry and commercial sand & gravel Permit Holders/Operators issued by the Local Government Units.



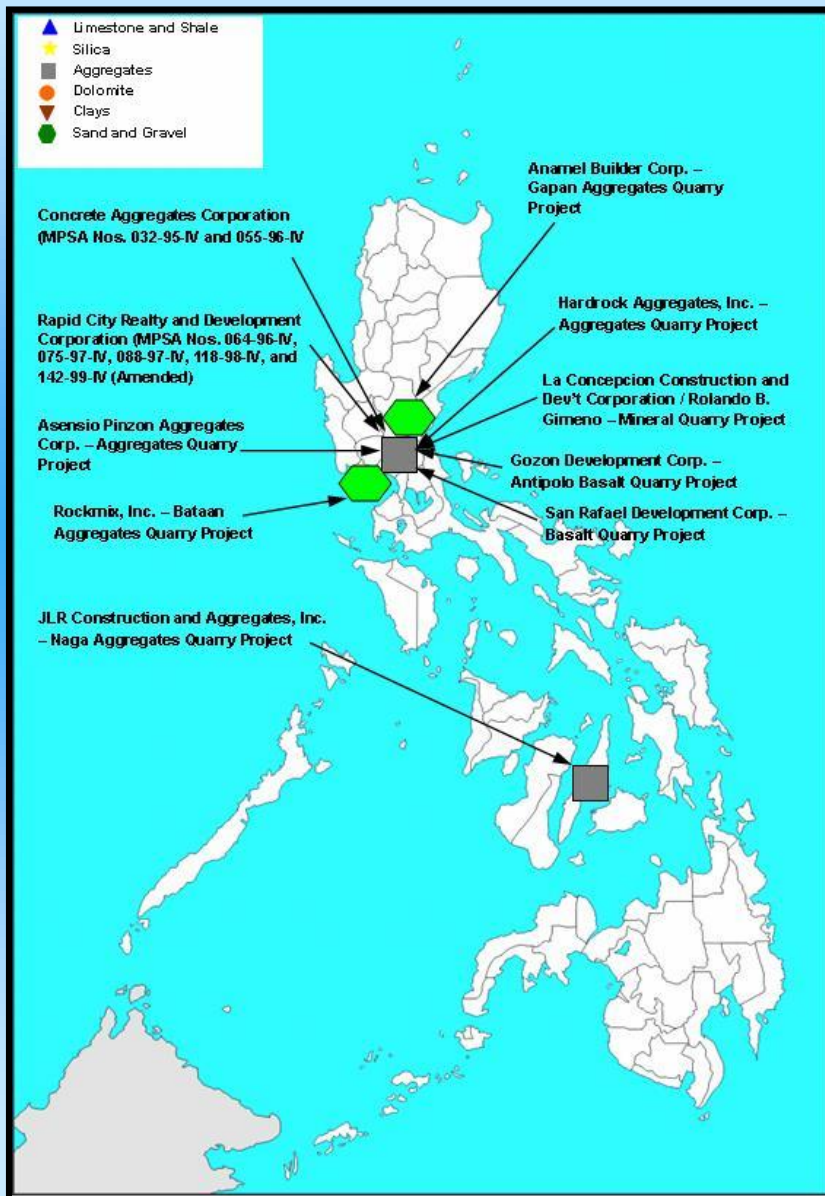


LOCATION MAP OF PHILIPPINE LARGE SCALE NON-METALLIC MINERALS





LOCATION MAP OF PHILIPPINE LARGE SCALE NON-METALLIC MINERALS





MINES AND GEOSCIENCES BUREAU DATA GENERATION OF NON-METALLIC MINERALS





REPORTING REQUIREMENTS under Chapter XXIX, Section 270 of DENR Administrative Order 2010-21

Reports submitted by Contractors/Permit Holders/Operators

| What to Submit | Where to Submit | When to Submit |
|---|------------------------------------|--|
| a. Monthly Report on Production, Sales, Inventory of Non-Metallic Minerals and Employment (MGB Form No. 29-10) | Regional Director concerned | Within 15 working days after the end of each calendar month |





REPORTING REQUIREMENTS under Chapter XXIX, Section 270 of DENR Administrative Order 2010-21

Reports submitted by Contractors/Permit Holders/Operators

| What to Submit | Where to Submit | When to Submit |
|--|--|--|
| b. Quarterly Report on Production, Sales and Inventory of Quarry Resources (Except Sand & Gravel) and Employment (MGB Form No. 29-11) | Provincial Governor/City Mayors Office, copy furnished the Director and Regional Director concerned | Within 15 working days after the end of each calendar quarter |





REPORTING REQUIREMENTS under Chapter XXIX, Section 270 of DENR Administrative Order 2010-21

Reports submitted by Contractors/Permit Holders/Operators

| What to Submit | Where to Submit | When to Submit |
|---|--|---|
| <p>c. Monthly Report on Production, Sales and Inventory of Industrial Sand & Gravel and Employment (MGB Form No. 29- 12)</p> | <ul style="list-style-type: none"> ➤ The Director copy furnished Regional Director concerned (for <i>MGB issued ISAG permits</i>) ➤ Provincial Governor/City Mayors Office, copy furnished the Director and Regional Director concerned (for <i>LGU issued ISAG permits</i>) | <p>Within 15 working days after the end of each calendar month</p> |





REPORTING REQUIREMENTS under Chapter XXIX, Section 270 of DENR Administrative Order 2010-21

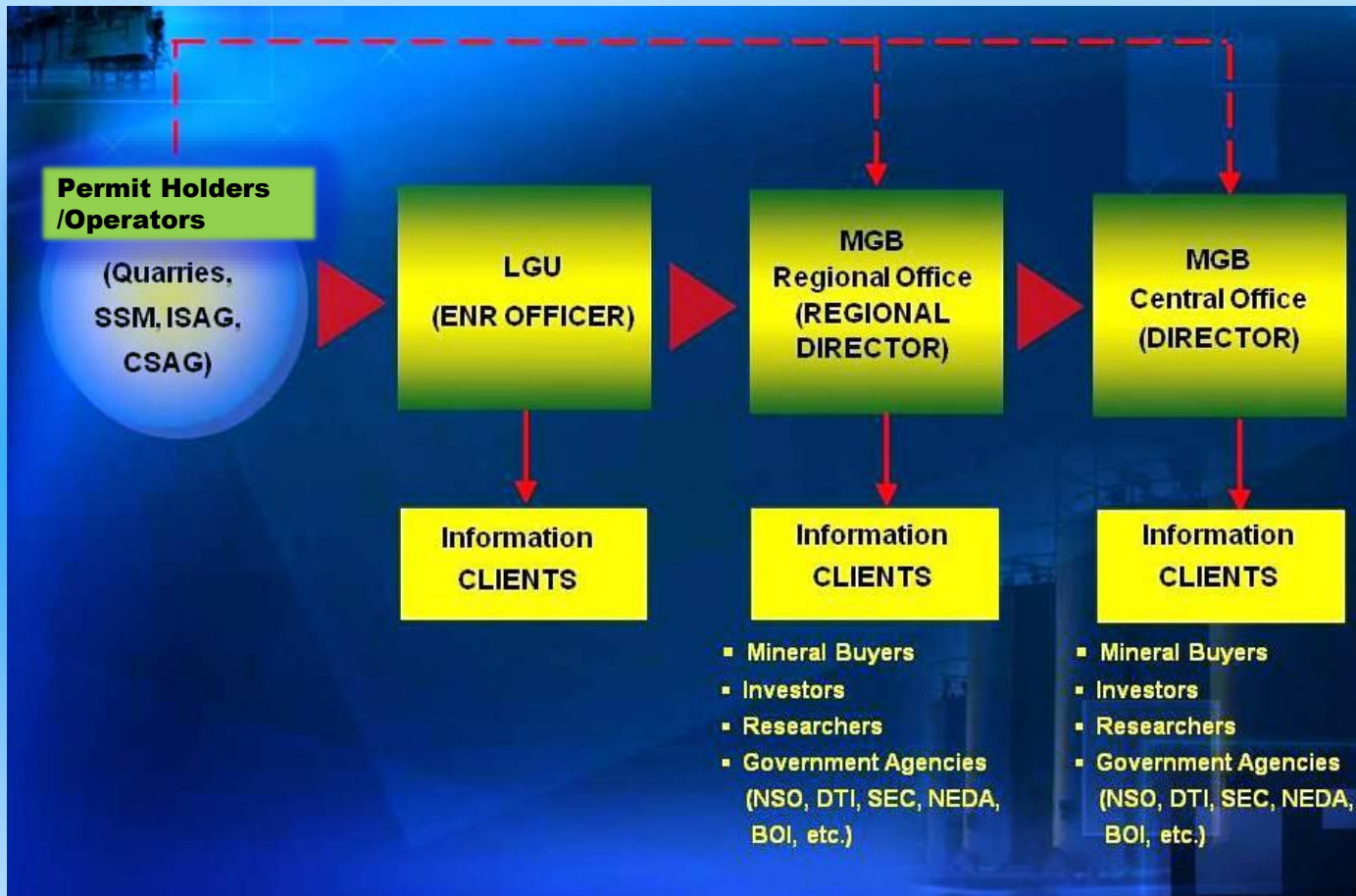
Reports submitted by Contractors/Permit Holders/Operators

| What to Submit | Where to Submit | When to Submit |
|--|--|---|
| d. Monthly Report on Production and Sales of Commercial Sand and Gravel and Employment (MGB Form No. 29- 13) | Provincial Governor/City Mayors, copy furnished the Director and Regional Director concerned | Within 15 working days after the end of each calendar month |



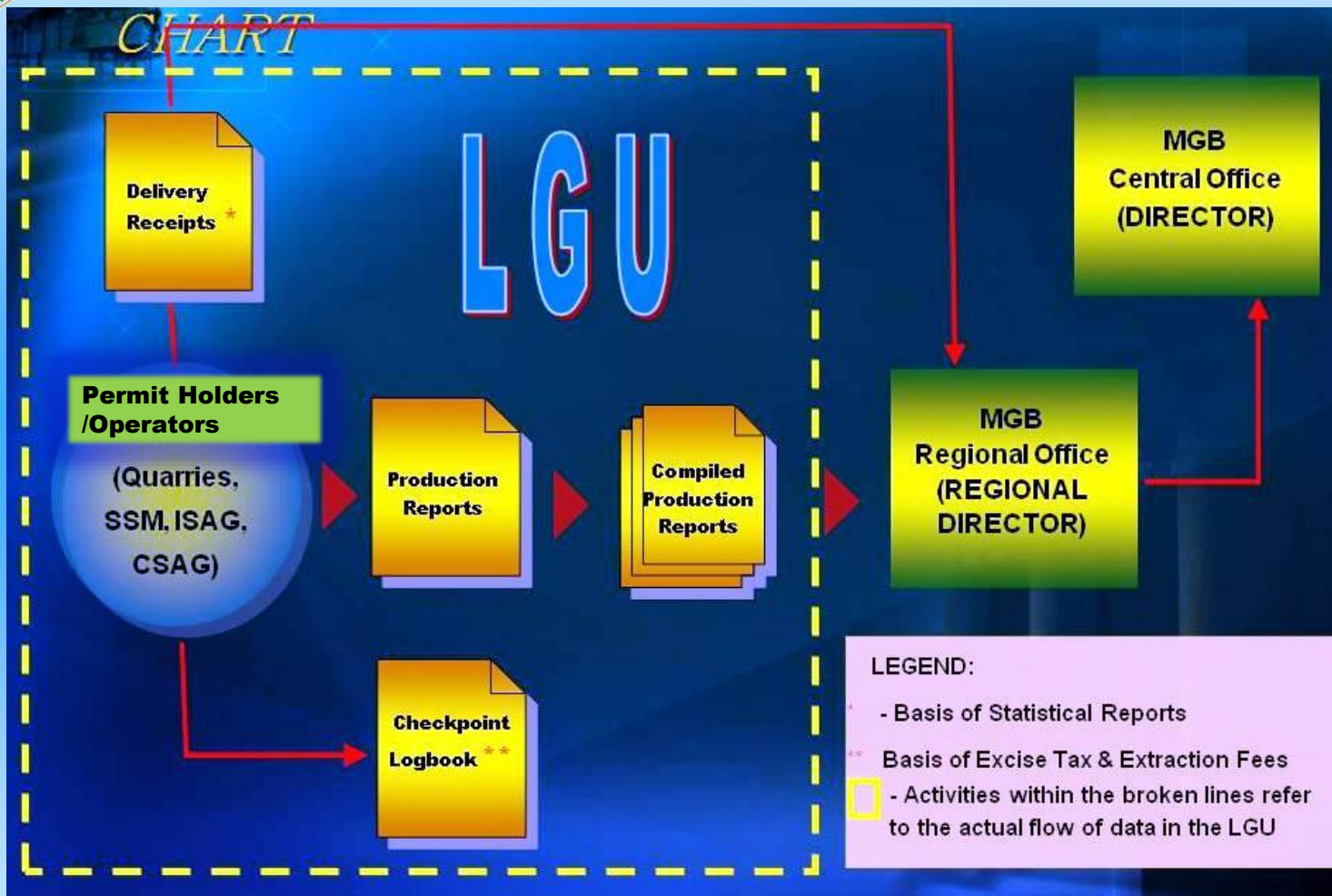


STATISTICAL DATA FLOW CHART





ACTUAL LGU STATISTICAL DATA FLOW CHART





III. PRODUCTION

The non-metallic mining and quarrying group has been an active component of the local mining industry in the country. In 2014, it contributed about 32% or PhP66 billion of the total production value of the mining industry. The major commodities are sand and gravel, coal and cement.

Percent Distribution of Minerals to the Production Value
2014

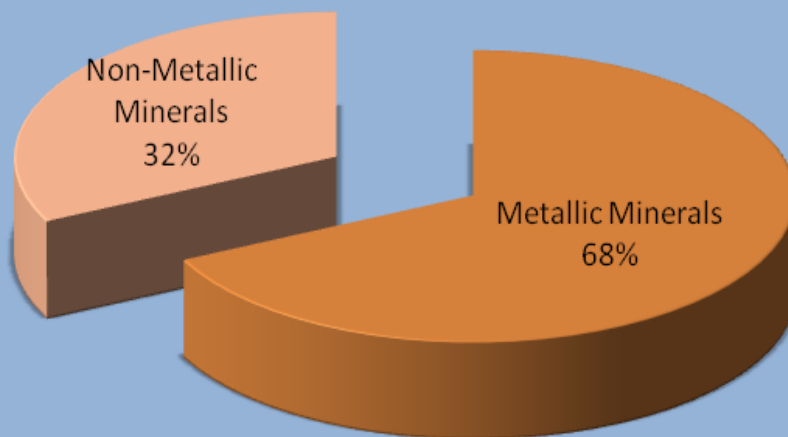




Table 2 - ESTIMATED GROSS PRODUCTION VALUE IN MINING AND QUARRYING

2011-2014

(As of 13 January 2016)

Value : In Billion PhP

| Gross Production Value in Mining & Quarrying | 2011 | 2012 | 2013 | 2014 |
|--|-------------|-------------|-------------|-------------|
| Metallic Mining | 123.1 | 99.2 | 99.3 | 138.6 |
| Non-Metallic Mining & Quarrying | 41.1 | 45.6 | 57.8 | 66.1 |
| Total | 164.2 | 144.8 | 157.1 | 204.7 |

Source: Mines and Geosciences Bureau





IV. TAXES, FEES AND ROYALTIES PAID AND WITHHELD

TAXES AND FEES PAID

National Taxes and Fees

- Income Tax
- Excise Tax on Minerals
- Customs Duties/Fees
- Value Added Tax
- Capital Gains Tax
- Documentary Stamp Tax
- Other National Taxes and Fees





IV. TAXES AND FEES GENERATED FROM NON-METALLIC

TAXES AND FEES PAID

Local Taxes and Fees

- Local Business Tax
- Real Property Tax
- Occupation Fees
- Community Tax
- Registration Fees
- Permit Fees
- Wharfage Fees
- Sand & Gravel Tax
- Extraction Fees
- Other Local Taxes and Fees:



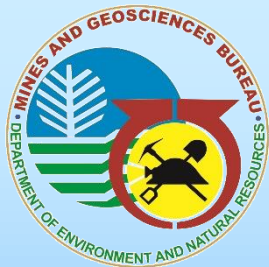


IV. TAXES AND FEES GENERATED FROM NON-METALLIC

WITHHELD TAXES

- **Withheld tax on Payroll**
- **Withheld tax on Royalty to Claimowner/Surface Owner**
- **Withheld tax on Dividends**
- **Withheld tax on Profit Remittance to Mother Company**
- **Withheld tax on Interest Income**
- **Withheld tax on Interest Payments**
- **Withheld tax on Royalty For Transfer of Technology**
- **Other Withheld Taxes**





**Table 3 – ESTIMATED TAXES AND FEES PAID/WITHHELD
FROM NON-METALLIC MINERALS
2011-2014**

| YEAR | ESTIMATED TAXES AND FEES PAID/WITHHELD (In Pesos) |
|-------------|--|
| 2011 | 6,152,585,461 |
| 2012 | 8,213,687,771 |
| 2013 | 12,463,567,243 |
| 2014 | 14,071,829,750 |

Source: Mines and Geosciences Bureau





V. MINING RIGHTS GRANTED UNDER DEPARTMENT ADMINISTRATIVE ORDER No. 2010-21

Providing for a Consolidated Department of Environment and Natural Resources Administrative Order for Implementing Rules and Regulations of Republic Act No. 7942, otherwise known as the "Philippine Mining Act of 1995"

Forms Of Agreements, Contracts And Permits

Exploration Permit (EP) – a permit that grants the holder the right to conduct exploration work for all minerals within a specified are.

Mineral Production Sharing Agreement (MPSA) – an agreement where the Government grants the Contractor the exclusive right to conduct mining operations within a specified contract area and shares in the gross output.

Co-Production Sharing Agreement (CPA) – an agreement between the Government and the contractor, wherein the Government shall provide inputs to the mining operations other than the mineral resource.

Joint Venture Agreement (JVA) – an agreement where a joint venture company is organized by the Government and the Contractor with both parties having equity share. Aside from the earnings in equity, the Government shall be entitled to a share in the gross output.





Financial Or Technical Assistance Agreement (FTAA) – a contract involving financial or technical assistance for large-scale exploration, development, and utilization of mineral resources.

Quarry Permit (QP) – a mining permit for the extraction of quarry resources on privately-owned lands and/or public lands for building and construction materials.

Sand And Gravel (SAG) Permits – a mining permit for the extraction and removal of sand and gravel or other loose or unconsolidated materials.

Commercial SAG Permit – For SAG materials in their natural state, without undergoing processing, from an area of not more than 5 has. and in such quantities as maybe specified in the permit.

Industrial SAG Permit – For SAG materials that necessitate the use of mechanical processing (i.e., mechanical classifiers and crushers).





Exclusive SAG Permit – For the extraction of SAG materials from public lands exclusively for personal use, without commercial disposition. Limitations: Not more than one (1) hectare; for not more than sixty (60) days; maximum of fifty (50) cubic meters.

Government Gratuitous Permit – For SAG materials in the construction of building and /or infrastructure for public use or other purposes over an area of not more than two (2) hectares, and for period co-terminus with said construction.

Private Gratuitous Permit – For SAG materials extracted by the private owner from his own land, and for personal use only.

Guano Permit – Permission to extract and utilize loose unconsolidated guano and other organic fertilizer materials from specific caves.

Gemstone Gathering Permit – For non-exclusive permit to gather loose stones useful as gemstone, in rivers and other locations.





Other Permits:

Mineral Processing Permit – permit granted for the milling, beneficiation, leaching, smelting, cyanidation, calcination or upgrading of ores, minerals, rocks, mill tailings, mine waste and/or other metallurgical by-products or by similar means to convert the same into marketable products. The term of an MPP is for a period of 5 years and renewable for like period.

Ore Transport Permit – a requirement necessary for the transport of ores and minerals, specifying their origin and quantity.





**“The business of mining
is the business of
nation-building”**

Thank You!

