

4/F DOF Building, Roxas Blvd. Corner Pablo Ocampo St., Manila 1004, Philippines Tel. no.: 525-0487 Email: info@ph-eiti.com

1	PH-EITI	39 th MSG Meeting
2	January 13, 20	017 9:00 AM - 12:00 PM
3	Mayon Function	Room, Century Park Hotel
4		Manila
5		
6		
7	Attendees:	
8		
9	Government	
10	Asst. Sec. Ma. Teresa Habitan	Department of Finance (DOF)
11	Ms. Febe Lim	DOF
12 13	Engr. Romualdo Aguilos	Mines and Geosciences Bureau—Department of
13 14	Dir Ismaal Osamaa	Environment and Natural Resources (MGB-DENR)
15	Dir. Ismael Ocampo Mr. Benjamin Mortos	Department of Energy (DOE) DOE
16	Ms. Marilyn Posada	DOE
17	Dir. Magdalena Ancheta	Bureau of Internal Revenue (BIR)
18	Ms. Analynsia Alarde	BIR
19	Ms. Yolanda Luna	BIR
20	Ms. Ana Martha Galindes	Union of Local Authorities of the Philippines (ULAP)
21	War and Gammaca	
22	Industry	
23	Mr. Gerard Brimo	Nickel Asia Corporation/ Chamber of Mines of the
24		Philippines (COMP)
25	Atty. Ronald Rex Recidoro	COMP
26	Mr. Anthony Ferrer	Petroleum Association of the Philippines (PAP)/ Galoc
27		Production Company
28	Mr. Erwin Rinon	Shell Philippines Exploration B.V.
29	Atty. Francis Ballesteros, Jr.	Philex Mining Corporation
30	Mr. Bradley Norman	OceanaGold
31		
32	Civil Society Organization (CSO)	
33	Ms. Starjoan Villanueva	Alternate Forum for Research in Mindanao (AFRIM)
34	Dr. Merian Mani	Marinduque State College
35	Mr. Chadwick Llanos	United Sibonga Residents for Environmental Protection
36		and Development (USREP-D)
37	Atty. Jay Batongbacal	UP College of Law
38	Engr. Maria Rosario Aynon Gonzales	Palawan State University
39	Atty. Golda Benjamin	Silliman University
40	Mr. Jose Melvin Lamanilao	Independent Consultant
41		1

1	Observer		
2	Marco Angelo Zaplan	Bantay Kita- Publish What You Pay Philippines	
4	PH-EITI Secretariat		
5	Atty. Maria Karla L. Espinosa	Secretariat	
6	Ms. Abigail Ocate	Secretariat	
7	Ms. Mary Ann Rodolfo	Secretariat	
8	Ms. Joylin Saquing	Secretariat	
9	Ms. Roselyn Salagan	Secretariat	
10	Mr. Ryan Justin Dael	Secretariat	
11	Ms. Rhea Mae Bagacay	Secretariat	
12	Mr. Jaime Miguel	Secretariat	
13	Mr. Ricardo Evora	Secretariat	
14	Ms. Rhoda Aranco	Secretariat	
15	Ms. Ma. Rowena Raymundo	External Documenter	
16			
17			
18	AGENDA:		
19	 Minutes of the 38th MSG meeting 		
20	 Matters arising from previous MSG meetings 		
21	Main Business		
22	 Post-Report Assessment 		
23	 EITI International Funding 	Request	
24	 Updates on Validation 		
25	o 2017 Workplan		
26	 Other Matters 		
27	 Updates on EGPS (Extractives Global Programmatic Support) grant 		
28	 Setting of next MSG meeting 	ng	
29			
30	1. Call to Order		
31			
32	The 39 th PH-EITI MSG meeting was called to order at 9:28 AM. DOF Assistant Secretary Ma. Teres		
33	Habitan chaired and facilitated the meeting.		
34			
35	Before proceeding with the agenda, the (Chairperson welcomed the new MSG full members from	

Before proceeding with the agenda, the Chairperson welcomed the new MSG full members from the industry: Dr. Jose Leviste, Jr. of OceanaGold Philippines and Engr. Eulalio Austin, Jr. (both not present) of Philex Mining, replacing Engr. Artemio Disini of the Chamber of Mines of the Philippines (COMP) and Adrian Ramos of Atlas Consolidated Mining and Development Corporation. Mr. Bradley Norman, country director of OceanaGold, represented Dr. Leviste in the meeting.

The Chair then proceeded to ask for comments on and approval of the agenda.

36

37

38

39

The body approved the agenda.

2. Minutes of the 38th MSG Meeting

The Chair asked members of the MSG for comments on the minutes of the last meeting. The Secretariat noted that the draft minutes was sent Wednesday or two days prior to the MSG meeting, which they admitted fell short of the one week lead time for distribution as originally agreed upon.

The Chair said that the Secretariat can wait for a week later to accept comments on the minutes. An MSG member requested if the minutes can be sent earlier for the succeeding meetings, the Secretariat committed to observe the one-week lead time in the distribution of minutes and other meeting documents, but requested for leeway should the next MSG meeting be scheduled less than a month from the present meeting, because of the shorter preparation time.

3. Matters arising from previous MSG meetings

The body agreed that the Secretariat report only on the items in the Matters Arising that have significant developments.

Draft EITI Bill

The Secretariat informed that there are pending EITI bills both in the Senate and House of Representatives, and they are just waiting for a request for comments or position paper. In the past MSG meetings, there was instruction from MSG to draft a position paper incorporating MSG's comments and suggestions on the filed EITI bills, and the Secretariat is already doing it.

• Selection Process for MSG Members

The Secretariat apprised that there is no official approval of the selection process for government representatives yet, as DOE has not yet approved. Secretariat received word from DOE that the matter is still pending with the Office of the DOE Secretary.

Engagement of Autonomous Region in Muslim Mindanao (ARMM)

The Secretariat reported that during the last MSG meeting, Ms. Villanueva presented the results of the scoping study on governance of extractives in ARMM. The scoping study was included as an annex in the 3rd Country Report.

• Letters for the engagement of Government

 Letters have been sent both by the International Secretariat and PH-EITI in the form of letters of request for messages to the 3rd Country Report. DOF, DOE, and DENR all gave messages. A letter to the President requesting the Office to provide the foreword to the 3rd Country Report was likewise sent, but the request is still pending in Malacanan.

Comments:

A comment was raised on the representation of IPs in the MSG. It was recalled that in previous meetings, there were no objections to the CSO motion to give 2 slots to IPs to be part of the MSG.

The Chair asked about how CSOs plan to engage the IPs and who would the representatives be, in case the body agrees to give seats to IPs.

According to one CSO representative, for the Mindanao IPs, they have identified their representative already. He proposed that there must also be an IP representative from Luzon (to come from either Benguet or Palawan). He noted that they will make the proposal formal.

Each stakeholder group/constituency in the MSG has its own selection process. The Chair asked if giving slots for IPs would effectively amend the selection process of CSOs. She reminded the body to proceed with care.

An industry representative asked/suggested if it would be more appropriate that NCIP instead represent the IPs as member of the MSG, considering it is the agency that represents the IPs?

A CSO representative commented that if NCIP will be granted the slot, it will be counted as another representative from government. It would be more appropriate if IPs are represented by IPs themselves. He shared that in the process of identifying IP representatives, at least for the Mindanao area, there has been a series of three conferences/meetings already, where all IPs were convened. There is already CSO consensus on who the representatives will be, subject to acceptance by the MSG. This was part of the action point agreed upon in the national conference held in 2015. He noted that the same process as done in Mindanao will be followed in deciding which IP communities will represent the Luzon area.

The Chair commented that MSG action in this regard would just be to ensure that the selection process is accepted by the group they are supposed to represent, as the MSG would not want a situation where decisions made by the MSG with those representatives present will be questioned by the sector. She reiterated for the body to be more cautious and careful.

An industry representative asked if he can be given an opportunity to verify if the IP community they host in Taganito (Surigao del Norte) has been represented in the CSO Mindanao meetings and selection

process mentioned earlier. The CSO representative agreed and assured that the Taganito IPs have been represented.

With no other item in the Matters Arising bearing significant updates for reporting, the Chair proceeded to the main business.

4. Post Report Assessment

The Secretariat informed the body that they have submitted the 3rd Country Report before 11pm of 31 December 2016, and it was duly acknowledged and officially accepted by the International Secretariat on 3 January 2017. She expressed gratitude to those who supported efforts to meet the deadline. She thanked the MSG members for their assistance in terms of obtaining information and data that had to be included in the report.

It was noted that the Secretariat is working on the Executive Summary and Key Findings of the Report for presentation to the MSG, as these would need approval as well.

The Secretariat also reported a pending matter related to the treatment of the two (2) companies, SR Metals and Adnama, who submitted their templates belatedly. These two companies were not included in the reconciliation. But the Secretariat noted that there is possibility that the IA can still do so in an addendum, subject to the approval of the MSG.

The Secretariat solicited from the body comments on the report production with a view to improving the process.

An open discussion on how to make things better for the next report followed.

• The Chair expressed that she would want to avoid the rush towards the yearend, as it coincides with so many other events. It was noted that for the 3rd straight year, the Secretariat missed their holiday break.

• There was a suggestion to translate the primer to Tagalog and other local languages, particularly in areas where there are many IPs and EI operations. The Secretariat responded that this is part of the work plan. The Chair added that translators were in fact hired to translate into Tagalog, Ilocano, and Cebuano the executive summary and key findings of the first two reports.

• There was an observation that a similar conversation, i.e. on preventing/avoiding the crunch towards the last quarter of the year, was already had two years back. However, what happened in 2016 is understandable, considering the transition in government. But for 2017, since the departments are already settled in, things like procurement can already be fast-tracked.

• In terms of report content, the repeated request for copies of the auxiliary rights of mining companies was flagged.

• A CSO representative suggested that for specific items in the work plan, there can be advanced schedule to avoid the crunch. For the 4th report, identify parts of the report that can be written in advance. It was proposed that some parts from the previous report can be transformed into simpler tables or charts, for example, and data/numbers can just be entered and the information will be automatically computed and generated. This hopefully will help shorten the report production time.

• An industry representative commented that there is already a template, and there is no need to reinvent the wheel. What is needed is to just stick to the template and the timeline.

• The Secretariat pointed out that the MSG requested for extension of deadline for submission of the report, because, early on, there was already an acknowledgement that the schedule for 2016 would be really tight, such that there was high likelihood of not meeting the deadline. But given the 2016 learning experience and looking at 2017 as a possibly lighter year with the forthcoming funding from the World Bank, the Secretariat said that getting work started early seems realistic. The Secretariat mentioned that the draft work plan to be presented later includes early commencement of the report production process; for instance, the TOR of the IA is targeted to be discussed as early as February.

• The Chair informed that DOF is also setting up a separate procurement office, so this will hopefully help facilitate the process. She expressed hope that for 2017 there will no longer be request for extension, as she would not want to do such twice, and she wants to maintain the credibility of the institution.

5. EITI International Funding Request

Included in the meeting kit was a copy of the letter from the International Secretariat addressed to the Secretary of Finance regarding funding international management of EITI. The letter was supposed to be forwarded to the DOF Sectary, but as adviced by the Chair, the matter has to be discussed by the MSG first.

To give a background, the Secretariat related that the issue of funding (or payment of compulsory fees from implementing countries) was brought up as early as 2nd quarter of 2016, and MSG's views and comments were solicited before. There have been teleconferences with the International Secretariat about the subject, some of which were participated in by the (national) Secretariat, although not many countries participated. The Secretariat said that the national coordinator conveyed the MSG's comments during these consultations, expressing no agreement to the funding model being proposed, as none had been given by the MSG at the time. Nonetheless, in December 2016 apparently, there was

a Board resolution that implementing countries be requested to pay USD 10,000 annually as management fee for the International Secretariat.

The Chair opined that this approach of the International Secretariat, even attaching an invoice to the letter, appears presumptuous, as it assumes that the Philippine government already concurred when in fact it has not.

Some of the questions posed: From a bureaucratic perspective, what kind of an entity is EITI? Is it a corporate entity? If PH-EITI will contribute, will it be in the form of a payment or donation? Is that allowed? What would be the justification for such kind of contribution?

The Chair said that the letter has to be transmitted to the DOF Secretary, but there should already be a recommendation from the MSG on how to respond to the letter. She noted that this is the first time that an international multi-sectoral organization, with government, private companies, and CSOs as members, is making such a request for payment.

A CSO representative asked if there is conflict of interest, considering that the International Secretariat is the one effectively validating implementing countries' compliance, yet they are asking for funding/payment. The Chair responded that there may not be much problem/conflict in that the International Secretariat just does the first step then they hire independent validators to conduct validation based on their output. What is of more concern is how was the approval process for the USD 10,000 funding request done. She wanted to know how other countries are reacting to this action from the International Secretariat.

According to the Chair, if the government has to pay this, it is too late for it to be taken from the 2017 budget. If it would be from the 2018 budget, it has to come from the fund for international commitments. Then again, it may still be late, since there are no initial discussions on it within the government yet. Further, there are issues that still need to be addressed.

After substantial discussion, the body agreed to respond to the letter by raising the comments made earlier and requesting clarification on the following, among others: (i) What was the process by which they arrived at the conclusion/agreement that countries will pay USD 10,000 USD?; (ii) What if our status is only a candidate country, are we supposed to pay already?; (iii) What if we are taken out of the compliant list, can we ask for refund?

The Secretariat was instructed to draft and prepare the reply letter within the day for quick review and approval of the MSG via email. The reply letter will be signed by the MSG and submitted to the DOF Secretary for his transmittal to the International Secretariat as his office's response.

6. Updates on Validation

The Secretariat reminded the body of the MSG agreement to withdraw the request for extension of schedule of validation. The International Secretariat has duly acknowledged this request, and they have reverted with a proposed schedule for validation in the week of 20 February 2017.

The Secretariat presented, as a background, the general steps involved in the validation process.

The procedure essentially has three steps based on the revised validation process which was approved by the Board in February 2016. These are: (i) data collection and stakeholder consultation undertaken by the International Secretariat; (ii) validation by an independent validator to be engaged by the International Secretariat and who reports directly to the EITI Board; and (iii) Board review.

The proposed period, week of 20 February 2017, is for the stakeholder consultation. The International Secretariat will conduct a mission and come over to the Philippines to do the consultations, which they project to last for about a week.

The following are the concerns requiring action/decision from the MSG:

Proposed validation schedule: week of 20 February 2017

Additional documentation that MSG would want to submit to the International Secretariat.
 It was noted that on December 16, a list of all the documents from the desk review of the International Secretariat was emailed to the MSG. The body was asked if they had additional documents for inclusion in the list; if so, this has to be communicated to the International Secretariat.

Aspects of EITI implementation to highlight. The Secretariat consulted with the body if there are
certain aspects of the PH-EITI implementation that the body would want to be highlighted or
focused on, such as for instance matters or actions that went beyond the requirements that
would boost the Philippines during validation. These can be communicated to the International
Secretariat as well.

• Initial list of stakeholders for consultation. It will be submitted to the International Secretariat, after which they will revert with their suggested additional stakeholders to be consulted with, then both will come up with an agreed final list.

MSG Actions/Decisions:

• The body agreed to schedule the validation mission in the week of 20 February 2017, as proposed by the International Secretariat.

A CSO representative asked if this will coincide with the launch of the 3rd Country Report /National Conference. The Secretariat responded that in anticipation of the validation, they have thought of holding the National Conference in March 2017, since there is no fixed date to conduct the said activities. The CSOs agreed to the adjustment.

1 2

What is the duration of the mission? The Secretariat said that as per the International Secretariat, the mission is projected to last for a week, but it also depends on the number of stakeholders to be consulted with and the logistics. It was noted that the national secretariat will do the coordination works for the International Secretariat.

Will the International Secretariat go to different places, or will all the stakeholders for consultation be brought to one place? The Chair commented that it will be better to bring the stakeholders in one venue.

What is the level of detail that will be asked of the stakeholders during the consultations? The Secretariat said that they will forward the answer to this query once they receive response from the International Secretariat. The Chair noted that the kind and level of detail that the International Secretariat requires would determine the list of stakeholders that will be identified and included for the consultations.

The Secretariat said that the International Secretariat will send a program for the guidance of the stakeholders. The Secretariat will also relay the MSG's questions and comments to the International Secretariat and request for more details regarding the consultations.

• Which aspects of the PH EITI implementation should be highlighted?

The Chair asked the body on the good points about the implementation process that should be highlighted.

There was a remark that PH-EITI PR materials can be reviewed, particularly those on the awards received.

Through EITI, there is bridge-building between and among sectors; murky aspects of resource accounting are clarified; and there is information exchange between and among sectors. These facilitate understanding.

For CSOs, the publication of country reports opened the demand for information on the ground. This helps a lot in backing up subnational implementation.

There has been more systematic understanding of the industries. Also, the country reports themselves helped make information available for the first time.

Communicate the message that Philippines had a good start, but while there were gains, there are still a lot of challenges to face, and PH-EITI is still a work in progress. The group is addressing the challenges and looking for ways for EITI to be more relevant, particularly in those communities hosting EI.

An industry member raised the concern on how to answer ticklish issues like the non-participation of Semirara. He suggested that MSG have a "cheat sheet" for these issues: NCIP, small-scale mining, non-metallic mining, Semirara, ARMM.

Another member suggested that the body can acknowledge that there are still difficulties, not due to lack of efforts on the part of the MSG, but more due to resistance in these areas. Semirara is a case of resistance; small-scale mining involves local political resistance; non-metallic mining is so spread out and not as regulated; NCIP as an institution is still not as developed; ARMM is scary and a totally different entity.

Another member believed that the body need not shy away from the "problem" areas, as identifying these problem areas enables determining how to deal them, and is already an accomplishment by itself.

Another MSG member commented that at some point the MSG may be asked, "what are the things MSG would want to do differently from what were done in the past 3 years?"

fast track procurement process

deal with Semirara

PH-EITI to be a catalyst for change

• On the initial list of stakeholders to be proposed by PH EITI:

The Secretariat solicited initial ideas as to, for instance, which sectors to be included, the LGU officials, NGOs, which agencies of government, who to include, who not to include.

It was agreed that the respective sectors will come up with their respective initial lists.

The Secretariat said that they will follow up the response of the International Secretariat as to the level of detail required for the consultations and send their response to the MSG forthwith to guide them in coming up with the list of stakeholders.

7. **2017** Work Plan

A draft 2017 work plan was presented to the MSG for its approval.

The content of the draft work plan is based on the five objectives already agreed upon by the MSG, as well as activities that have been previously identified and were included in the budget submitted to the

World Bank in line with the application for the EGPS grant. It was noted that none of the items are new; they were just compiled, and many are routinary activities.

What were added are activities that are part of the Beneficial Ownership Roadmap.

Since 2017 is a new year, and there are new circumstances, and MSG may have new ideas for the direction of EITI implementation, the work plan is being presented for comments, possible modification, and approval.

The Secretariat then proceeded with the presentation of details of the proposed 2017 work plan. The major activities including sub-activities under each objective with corresponding indicative target periods of accomplishment were presented and provided with explanations.

After the presentation, the Chair solicited from the MSG their thoughts and comments on the work plan. Below are highlights of the discussion:

BIR asked if the schedule for submission of waivers can be set earlier so that their agency will not have a difficult time. They also wanted to clarify if the next country report will cover 2015 and 2016 data/information.

The Secretariat answered that the request for waiver can be done already. The request need only be signed by the Focal Person.

As to coverage of the next report, the Chair responded that it will cover both FY 2015 and FY 2016.

As regards the drafting of TOR of the IA, one member commented that as far as CSOs are concerned, all companies are material regardless of the production volume or income. The proposal is to remove the materiality clause in the TOR, such that everything that EITI captures should be included. It was claimed that the Philippines pays a relatively high fee to the IA given its small coverage.

The Chair clarified that it was not just the IA, but also the MSG who decided to include the materiality provision. But if the sentiment now is to do away with this provision, then this can be included for discussion in the next MSG meeting.

It was agreed that the TOR for the IA will be drafted by the Secretariat for discussion in the next MSG meeting. The Chair noted that this will be circulated ahead of time.

Another member commented that the work plan involves a lot of activities. Can all of them be done, considering and knowing pretty well that report production by itself already requires so much work? Were the key results from the previous years' activities identified? This can help and provide guidance in streamlining the 2017 and even succeeding years' activities.

The member suggested that Key Result Areas (KRAs) be identified for each of the 5 specific objectives as presented.

There was also a suggestion that the work plan be focused more on the results rather than on activities. An "Activity/Output/Outcome" format can be considered. This can be a good way of tracking performance, too.

An industry representative asked for details on one of the proposed activities in the work plan: FGD in oil and gas (under the 5th objective). The Secretariat replied that there are no details for the activity yet. It was mentioned that the MSG can determine the design, and upon its instruction, the Secretariat can come up with a draft. It was noted that this activity was proposed to be done last year, but was not done due to resource constraints.

Another industry representative mentioned a proposal to conduct an industry conference and asked if there is budget for the same.

The Secretariat responded that the industry forum can be classified or considered as an outreach activity to stakeholders, which is part of the work plan. The forum can be accommodated in the budget as long as it is organized by PH-EITI.

In relation to the 3rd objective, on the policies, a CSO representative requested the secretariat to provide a matrix of all the policy measures that have already been done and that are pending in various offices. This will help them come up with more specific contributions in terms of activities that can lead to the attainment of the objectives.

There was a suggestion to include in the plan the strengthening and expansion of subnational initiatives. This is one way to actively engage stakeholders and to have balanced participation in the national and subnational levels.

The Secretariat articulated that all PH-EITI activities and expenses will be guided by the work plan for the year. It is thus necessary that the work plan be carefully reviewed and approved by the body. They noted that a well-hammered plan will facilitate ease of execution and implementation of the activities for the year. Performance will also be measured based on the work plan.

The Chair reminded the body to plan judiciously and efficiently, as the DOF Secretary wants real outputs and real outcomes. He does not want an underutilized nor overutilized budget.

A CSO representative expressed her approval of the work plan, noting that along the way, the group may think of relevant activities for possible inclusion/addition in the plan for as long as budget is available.

Another CSO representative also gave approval of the work plan, subject to the following colatilla: (i) that the work plan will be revised according to an outcome-based and measurable format; and (ii) it will show corresponding budget allocation.

It was agreed that the MSG will send in their comments on the work plan, then the Secretariat will consolidate. Meeting/s with the sectors will be set if needed, to discuss the details of comments. All inputs will be integrated and synthesized into a final work plan for approval by the body.

8. Other Matters

Updates on EGPS

The Secretariat reported that they are expecting a hefty budget for the year 2017 amounting to about PHP 38 million from the EGPS, noting that they are required to utilize the budget based on the budget plan they submitted to the World Bank. In addition, they were also granted PHP 37 million under the GAA. The Secretariat informed that they requested for only PHP 27 million, but for some reason, the budget approved was PHP 10 million more. This brings the total 2017 budget to PHP 75 million.

The next step is to draft a letter to be signed by the Secretary of Finance to request a Special Allotment Release Order (SARO) from DBM.

• Setting of next MSG Meeting

Following the agreed regular schedule of every 1st Friday of month, the 40th MSG meeting was set for 3 February 2016.

For the distribution of materials, the Secretariat was allowed up to three days before the next MSG meeting, considering the volume of preparations and the remaining days left.

With no other matters to be discussed, the 39th MSG meeting was adjourned at 12:15pm.