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1 2	PH-EITI 41 <sup>st</sup> MSG Meeting April 7, 2017   9:00 AM -12:00 PM	
3	•	dor Sala, Hotel Jen
4		Manila
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7	Attendees:	
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9	Government	
10	Ms. Febe Lim	Department of Finance (DOF)
11	Syurian Castro	Department of Finance (DOF)
12	May Grace EstacioJurado	Department of Finance (DOF)
13	Engr. RomualdoAguilos	Mines and Geosciences Bureau—Department of
14		Environment and Natural Resources (MGB-DENR)
15	Mr. Ismael Ocampo	Department of Energy (DOE)
16	Mr. Reginald Lazaro	Department of Energy (DOE)
17	Rosauro B. Chiva	Department of Energy (DOE)
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19	Industry	
20	Mr. Gerard Brimo (waived quorum)	Nickel Asia Corporation
21	Mr. Anthony Ferrer	Galoc Production Company
22	Ms. Mary Joy Josue (waived quorum)	OceanaGold Philippines, Inc.
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24	Civil Society Organization (CSO)	
25	Atty. Jay Batongbacal	University of the Philippines (UP)
26	Edralin F. Gamboa	University of the Philippines (UP)
27	Dr. Merian Mani	Marinduque State College
28	Mr. Chadwick Llanos	United Sibonga Residents for Environmental Protection
29		and Development (USREP-D)
30	Mr. Buenaventura Maata, Jr.	PhilGrassroots- Engagement in Rural Development
31		Foundation, Inc. (ERDF)
32	Rhizzalyn A. Bautista	DILG-PPEI
33	Ms. Rose Ann Paragas	Bantay Kita
34	Mr. Rolly Maestro	MSC
35	Ms. Roberta Luna	MSC
36		
37	PH-EITI Secretariat	
38	Atty. Maria Karla Espinosa	Secretariat
39	Ms. Abigail Ocate	Secretariat
40	Ms. Mary Ann Rodolfo	Secretariat

1	Ms. Joy Saquing	Secretariat
2	Ms. Roselyn Salagan	Secretariat
3	Mr. Ryan Justin Dael	Secretariat
4	Ms. Rhea Mae Bagacay	Secretariat
5	Ms. Lea Ivy Manzanero	Secretariat
6	Johna Paula Mansano	Secretariat
7	Ms. Rhoda Aranco	Secretariat
8	Mr. Jaime Miguel	Secretariat
9	Mr. Ricardo Evora	Secretariat
10	Ms. Angelina Alba	Secretariat
11	Ma. Rowena Raymundo	External Documenter

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AGENDA:

- Minutes of the 40<sup>th</sup> MSG meeting
- Matters arising from previous MSG meetings
  - Main Business
    - Updates on PH Validation
    - Approval of:
      - Terms of Reference of Independent Administrator for 4<sup>th</sup> Country Report
      - Terms of Reference of Writer for Contextual Information for 4<sup>th</sup> Country Report
      - Terms of Reference for Scoping Study on Beneficial Ownership
    - Updates on Report Production, 2017 National Conference and other upcoming activities
    - o Approval of program and materials for the National Conference
  - Other Matters
    - Updates on EGPS
    - Setting of next MSG meeting

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### 1. Call to Order

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The 41<sup>st</sup>Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (MSG) meeting was called to order at 9:24 AM. Engr. Romualdo Aguilos, MSG member from the Mines and Geosciences Bureau (MGB) chaired and facilitated the meeting.

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The Chair asked if there were other matters for inclusion in the agenda; there being none, a motion to approve the agenda was made and duly seconded.

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# 2. Minutes of the 40<sup>th</sup> MSG Meeting

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The Secretariat noted that the MSG was furnished a copy of the minutes in the morning of April 3, Monday. Upon query of the Chair, the Secretariat reported that they did not receive any comments.

The Chair moved for the approval of the minutes of the meeting of the 40<sup>th</sup> MSG meeting. However, some MSG members admitted that they have not yet read the minutes, hence it was agreed that a period of one week from that day be set, within which members can send in comments. If there are no comments received within the week, the minutes will be deemed approved.

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# 3. Matters arising from previous MSG meetings

The secretariat noted that the Matters Arising has been reduced to a single page, as some of the items have been parked and some have already been resolved or acted upon.

#### • Draft EITI Bill

According to the Secretariat, the last instruction from the MSG was to draft a position paper on the two bills (on creating the PH EITI) pending in Congress, i.e., SB1125 and HB4116. The Secretariat committed to circulate the position paper based on comments given by the MSG during the last meeting, which is for the document to contain the general principles that the MSG has agreed upon. The Secretariat reported that they have not yet circulated the draft, as they are in the process of getting more information and a better feel of the situation to increase the chances of the position paper being agreed upon by the body while being substantial enough for submission to Congress for consideration. The Secretariat shared that the institutionalization of PH-EITI is part of the Medium Term Development Plan of the Philippines (MTDP) 2017-2020, being included in the legislative agenda for the fiscal sector. This fact can then be cited in the position paper to support passage of the bill.

The Secretariat also noted that they have not received from any MSG member any opposition to the two bills, so they are going to proceed with the general position that PH-EITI is supportive of the bills. Congress will resume on May 3 and the position paper should be ready by then.

Secretariat further reported that there are plans to do some lobbying for the bills. They said that in the course of the consultation meetings (in line with the validation), they heard suggestions to conduct a learning session/meeting with Congressional representatives, to be spearheaded by the CSOs.

A CSO representative inquired as to who will sponsor the bills. The Secretariat replied that the bill is being sponsored by Senator Villanueva in the Senate and by Congressman Rocamora in the House of Representatives. PH-EITI then reported that the Chair of the House Committee on Natural Resources, where the House bill was assigned, has been replaced, but the Secretariat does not know yet who the new Chair will be.

# • Selection process for MSG members

In the last MSG meeting, the DOE, through Director Soluta, already approved the selection process for the government sector, so the government selection process is now duly published, as required.

#### • Representation of IPs in the MSG

The Secretariat recalled that in the last MSG meeting, some CSO representatives reported that they have consulted with IPs regarding this matter, but an industry representative (Mr. Brimo) asked for more time to check if the IPs that their company is engaged with have been included in the CSO consultation. There is no feedback on this yet, as Mr. Brimo cannot attend the present meeting. However, Mr. Brimo has asked that he be counted for quorum purposes despite his absence.

# • Engagement of non-metallic mining associations

The Secretariat recalled that the MSG has agreed to include the large-scale non-metallic (LSNM) mining sector in the 4<sup>th</sup>Country Report. This has been included in the TOR for the independent administrator (IA). The Secretariat has also initiated communication with the Cement Manufacturers' Association of the Philippines (CEMAP) in line with engaging large companies in the sector. They have also started talks with the IA about scoping and with the MGB for the list of operating LSNM mining companies.

A CSO representative asked if there is already a shortlist of companies.

The Chair recalled that as of the last MSG meeting, it was proposed that only the top 80% contributor/s would be included. The Chair noted that the data given to the Secretariat was for 2015 only. The Secretariat confirmed this and added that the list will still be subject to the IA's proposal as to scoping. From the list, it is estimated that only four (4) companies, representing the top 80% in terms of total non-metallic production, would be included.

A CSO representative asked, 'why not include the top 10 or biggest 10 non-metallic mining companies?'The Chair remarked that there was agreement over the top 80% proposal during the last MSG meeting.

The Secretariat showed the list of non-metallic mining companies, noting that those highlighted represent the top 80%. This includes only the following: (i) Northern Cement Corporation; (ii) Holcim; (iii) Republic Cement and Building Materials; and (iv) Teresa Marble Corp.

Another CSO representative gave the same opinion that it might be better to include the top 10 companies. He asked if the top 80% companies are representative of those Luzon, Visayas, and Mindanao. He noted that geographical location could be a factor to consider, as it could help see the regional economic impact of the mining operations.

There was a question as to the total number of non-metallic companies included in the list presented. The Chair responded that the list comprises the entire large-scale non-metallic mining sector, which is composed of 68 companies. He clarified that it shows not the top 80% of the population, but the top 80% in terms of production.

A CSO representative asked if an analysis or study can be done, and if CEMAP can be consulted as to the top 10 cement companies. The Secretariat reiterated that that they have already requested for a meeting with CEMAP, and they can bring this up during the meeting which may happen a week after the Holy Week.

The same CSO representative noted that there was a scoping study done specifically on cement, pointing out that this is so because it was the understanding, as discussed in an MSG meeting, that LSNM will first be focused on the cement industry and not yet the whole non-metallic sector. He also commented that if the whole non-metallic would be included in the report, there is a question as to how entities not as organized as CEMAP would be represented.

The Secretariat said that they will check the records to verify.

According to the Chair, there might be a problem with cement since it falls under manufacturing and is different from mining. He said that what could be done is to talk to the IA regarding the type of data which can be included.

The Chair informed that manufacturing companies also secure a mineral processing permit which is dependent on the operations. There are companies with integrated mining and cement manufacturing with integrated operations. However, Holcim, for instance, has separate operations; there is Holcim Philippines Inc. which is different from Holcim Mining Development.

The Chair acknowledged the point raised by one CSO representative earlier on the geographical location, as what was done in the scoping study on non-metallic, which covered Luzon, Visayas, and Mindanao.

The CSO representative pointed out that for instance, in Region VII, the only large-scale metallic company is Carmen Copper. The bigger impact to the (regional) economy is from areas like Dumaguete and Bohol, which have operating quarries and cement. In Cebu, there are Eagle Cement, Apo Cement, Lafarge, and Mabuhay. Cement is a big industry for Region VII.

The Chair observed that the companies in the list presented are mostly in Luzon.

A CSO representative asked as to where to get information on the manufacturing side of cement. The Chair suggested that a certain consultant on non-metallic, Mr. Cabalda, may be invited to give an overview of the sector. From the government side, DTI can also be invited. The Secretariat noted that that they will include this in the agenda for the meeting with CEMAP.

### 4. Updates on PH EITI Validation

The Secretariat thanked the MSG for their cooperation and support for PH-EITI validation, especially during the week of February 20 and February 27- 28, when the two-member mission team from the

International Secretariat came to the country for consultations with various stakeholders. It was reported that for the seven days, the mission team was able to hold 25 meetings and consult with about 80 persons in all. The Secretariat shared that they received a lot of good feedback from the mission team, which inspires optimism with regard to the results of the country's validation.

The Secretariat also informed the body that the initial report on the validation, supposed to be sent in March for the MSG's comments, had not yet happened; because, according to the International Secretariat, they needed more time. The EITI Board is expected to decide on the Philippines' validation in their next meeting set on May 23 and 24, but they just might make their decision via circular. The Secretariat said that the result may nevertheless still come out in June.

A Powerpoint presentation of the photos taken of the various consultative meetings conducted by the mission team was shown to the body.

The Secretariat shared that Semirara surprisingly agreed to participate in the consultations, sending their Chief Financial Officer to the meeting with DOE. It appears that there was some misunderstanding as to the reason for Semirara's non-participation in PH-EITI. Semirara's initial objection had to do with executing a BIR waiver, not necessarily with accomplishing the PH-EITI reporting template. Hence, it was clarified to them that if they are willing to submit a certified/signed reporting template even if there is no signed waiver, they can still participate. With such clarification, there is now a possibility that Semirara will be participating in the next Report.

The Secretariat further related that according to DOE Dir. Abad, Semirara has, albeit belatedly, submitted data for the 3<sup>rd</sup>Report. The Secretariat is still waiting for it and exploring if the IA can still process it for an addendum.

# 5. Approval of TORs for the 4<sup>th</sup> Country Report : (i) Independent Administrator and (ii) Writer for Contextual Information

The Secretariat noted that the TORs for the IA and for the Contextual Information Writer had been circulated earlier and that the MSG has discussed them during the last meeting. The comments received from the members then have been duly noted and integrated in the present version of the TOR, copy of which is provided in the meeting kit. The Secretariat noted that they did not receive any comments since Monday (April 3). They also informed the body that the present version of the TORs have already been used for a pre-procurement conference with the DOF BAC TWG.

Upon inquiry of the Chair, the Secretariat confirmed that they have started procurement, heeding the MSG's instruction to accelerate/fast-track the process.

It was reiterated that the present TORs are based primarily on the previous ones, which are based on the prescribed TOR (for the IA) of EITI International. The new terms have to do with the scope, which will cover two fiscal years, 2015 and 2016, and the inclusion of beneficial ownership (BO) in the TOR for the Contextual Information Writer, consistent with PH-EITI's Beneficial Ownership Roadmap which indicates the conduct of a scoping study as a preliminary activity on which further action will be based.

A new version of the international template for the IA's TOR already includes suggestions for BO disclosure reporting, but PH-EITI cannot adopt them yet, pending the conduct and results of the scoping study.

The Chair inquired about the non-metallic, and the Secretariat confirmed that it is included in the TOR for the IA. The non-metallic is included in the coverage, although the exact scope is to be agreed upon/approved by the MSG after the IA has presented their proposal.

A CSO representative commented that the IA should make sure that all reporting templates must be completely accomplished by a certain time and that regular updates on progress should be provided to the MSG. The Secretariat noted this and mentioned that updating is really part of the IA's job, and that they will see to it that the IA provides periodic reports.

Another CSO representative asked if the subnational portion of the 4<sup>th</sup>Report will be included in the TOR for the IA, or will be a separate TOR. The Secretariat responded that, as previously agreed by the MSG, there will be a separate TOR for subnational, and they will be preparing the draft document for the MSG's approval.

A CSO representative pointed out that the environmental and social documents reported by companies are not yet disaggregated. He asked if the IA can do the disaggregation of data on social and environmental contributions/payments.

The Chair noted that in the template filled out by companies, there are separate portions on how much is for environmental protection and management program and how much is for SDMP.

The Secretariat confirmed that there is provision in the template for this information, but the fields are not being filled out to the level of detail that some MSG members require. As to where the funds were expended, the Chair explained that companies submit SDMP reports semi-annually. From there, one can see where the money was spent, where the companies are in their SDMP at a given year.

As there is no apparent problem with the templates, a CSO representative stressed that the IA should exert extra effort to follow up with the companies who do not fill out the template completely, and exhaust all means to ensure that the template is fully accomplished.

Another CSO representative raised his concern on the need to reconcile data/information from the Provincial Mining Regulatory Board (PMRB) with those of other agencies involved in mining, and for this to be reflected in the Report. He shared the observation that, as to the SDMP, only the promised amount and expenses are reflected. There is no analysis on why the amount promised was not fully spent within the target period. He said that this is an issue in Dinagat Island where companies delay

payment for the SDMP so that they will not be able to fully spend it within the target period. The IA therefore has to make the necessary follow-up, not just with mining companies but also with MGB to validate the information.

The Chair explained that SDMP is not a form of payment but implementation of a project/program. He opined that the seeming delay is not intentional. He also pointed out that what is being reconciled by the IA is only the revenue part, and SDMP is not part of the revenue. The IA only ensures that SDMP data are gathered.

Another concern raised by the same CSO representative is on the presentation of data sets, which are currently given in pdf form. He asked if the raw/Excel file can be provided so that further analysis using the data can be done. The Secretariat said that this is, in fact, included in the TOR for the IA since the 1<sup>st</sup>Report, and the IA does provide the requested format but not to the extent required by the MSG.

The Secretariat reiterated that this is the 3<sup>rd</sup> revision of the TORs, and asked for their official approval by the MSG.

The Chair asked the body if they needed more time to review the TORs.

There was a question if contextual information reporting will be delayed because of the need to implement the scoping study on BO. The Secretariat responded that the timeframe for the BO will be alongside or earlier than the contextual information, which is why they have already prepared the draft TOR for the scoping study on BO. The TOR is based on previous materials and EITI international requirements. The consultant should be able to provide substantial materials for the MSG to decide on how to proceed with BO reporting.

The draft TOR for BO is a three-page document included in the materials/kit. The Secretariat asked if the MSG members have comments on the draft. It was noted that the consultant should be on board at the soonest so that by July, the final study can already be submitted for review and approval by the MSG.

The Chair asked the body if they would like more time to review the TOR for BO, as well as the two TORs earlier discussed. There was a proposal to have a week to review the documents. The Secretariat nonetheless noted that there are no major objections to the TOR and that the TOR has a general provision to accommodate refinements to it.

The Chair expressed concern that with additional inputs to the TORs, the ABC (approved budget for the contract) may not be sufficient. The Secretariat reported that the ABC has been significantly increased from the previous P3.5M to P8.5M on account of the two-year scope of and inclusion of non-metallic in the 4<sup>th</sup> Report.

The deadline for submission of comments was extended to after the Holy Week/Easter to give more time for MSG members' review of the documents. The Chair noted that this should not cause delay in

the procurement process. The Secretariat said that they can post 'provisional' TORs, considering that the TORs have already been discussed at least twice by the MSG and initial comments have already been incorporated.

The Secretariat was asked if they already have somebody in mind for the works, and they responded in the negative. They noted, though, that PwC has been invited to join the bid.

For the BO study, the Secretariat said that they are looking at the UP Law Center, but a meeting with representatives of the institute has yet to be set. For the subnational study, the secretariat is considering inviting Atty. Alett Nunez who did the scoping study for small-scale mining and subnational framework before.

The Secretariat asked the MSG if they have other people in mind so that they can get in touch with them.

A CSO representative inquired about the possibility of uploading the TORs in the NRGI website to invite people to submit bids. The Secretariat responded that posting is the function of PhilGEPS. If MSG members have any persons in mind, the Secretariat can alert/invite them to check the PhilGEPS website.

The CSO representative noted, however, that PhilGEPS is limited only to those who are registered, and not everybody who is knowledgeable in BO in relation to the extractive industries may be registered. The Secretariat explained that since this is government procurement, they must follow the requirements of the law, which include PhilGEPS posting and ensuring that only PhilGEPS-registered companies will bid. The Chair suggested that the TORs be posted in the PH-EITI website.

#### 6. Updates on Report Production, 2017 National Conference and other upcoming activities

The Secretariat reported that the update on report production is on the status of submission of BIR waivers. So far, they have received waivers from 13 metallic mining companies:

- Greenstone Resources Corporation (Perpetual)
- LNL Archipelago Minerals Incorporated (Perpetual)
- Ore Asia Mining and Development Corporation (Perpetual)
- Oriental Synergy Mining Corporation (Perpetual)
- Rio Tuba Nickel Mining (2016)
- Taganito Mining Corporation (2016)
- Cagdianao Mining Corporation (2016)
- Hinatuan Mining Corporation (2016)
- Carrascal Nickel Corporation (2015 and 2016)
  - Johson Gold Mining Corporation (2016)
  - Oceana Gold (Philippines), Inc. (2016)
    - Philex Mining Corporation (2016)
  - Philsaga Mining Corporation (2016)

The Secretariat received replies from 3 companies with BIR waivers in progress:

- Pacific Nickel Phils., Inc. (2016)
- Philippine Mining Development Corporation (2016)
- Sinosteel Phils. H.Y. Mining Corporation (2015)

Secretariat reported that Krominco Inc. had indicated that they will no longer participate because of the current situation of the mining industry. Secretariat said that they will continue exerting efforts to encourage Krominco to participate.

In Oil and Gas, the Secretariat reported that they have received the waivers from PNOC EC (2015 and 2016) and Forum Energy Philippines Corporation. The waivers of Galoc Production Company and Nido Production are in progress. An industry representative mentioned that there is already a waiver from Galoc. The Secretariat acknowledged this and noted that they just have to receive the original document.

In Coal, waiver from Semirara is in progress.

The Chair asked the Secretariat to send the (monitoring) status of the companies who have not given a waiver yet.

On the 2017 National Conference (NATCON), the Secretariat apprised that the date identified for the event is May 11 (Thursday) and the tentative venue is The Manila Hotel. The theme for the event is "Extracting Value in Transparency: Towards Sustained Disclosure and Dialogue for Development (3Ds)", adopted from the title of the 3<sup>rd</sup> Report which will be launched in the event. They plan to invite the DOF Secretary to give the opening remarks. There will be two side events to the NATCON, the CSO conference and an industry forum which is yet to be finalized.

The Secretariat gave an overview of the NATCON and presented the parts of the draft program. The general idea is to have meaningful dialogue among stakeholders, provide as much space as possible for them to air their thoughts and views about current issues surrounding the extractive industries (EI).

The Secretariat mentioned that there will be a mini exhibit where each sector (government, industry, CSO) will have a booth, and that the Transparency Awards begun last year will be continued.

Upon query from the Chair, the Secretariat noted that the program is not yet final at this point and can still incorporate comments from the MSG. Nevertheless, the Secretariat said that they have started communicating with the persons who would have speaking roles in the program.

#### 7. Approval of program and materials for the National Conference

The Secretariat said that the NATCON materials include the Report, key findings, and executive summary. However, they reported that there are changes in the Report due to some inadvertent

omission on the part of the IA. While this will not have any bearing on the variances, it will affect the total reconciled amount. On a positive note, the impact will be an increase in the total reconciled amount.

The IA unintentionally left out around P500 million representing the corporate income tax of Philex and withholding taxes on foreign dividends of Carrascal. The IA has been asked to present and explain this to the MSG and to answer whatever questions the MSG may have.

The Secretariat informed that they have been working with the IA to correct and adjust the parts of the Report which are affected by the changes, such that instead of an addendum, which can be cumbersome for the reader to read together with the Report, the Secretariat insisted that the IA already effect the changes in the submitted version of the Report before it gets printed. This accounts for why the materials are not yet ready to be presented for MSG approval at that time.

The Chair asked if the Report has already been uploaded/posted in the EITI website. The Secretariat answered in the affirmative but noted that it will be replaced with the revised Report with footnotes reflecting the corrections that have been made.

#### 8. Other Matters

# • Updates on Extractives Global Programmatic Support (EGPS)

The Secretariat apprised the body of certain administrative issues they are currently ironing out regarding the interpretation of the grant agreement, particularly in qualifying/classifying eligible expenditures. It was noted, though, that this could be fixed between DOF and World Bank. It was reported that the money has already been transferred to the designated account so it can already be obligated. The challenge now is to spend the amount within the timeline, as it has been directed that the budget utilization rate (BUR) should be high. Other challenges faced by the Secretariat include dealing with the bureaucracy and COA, budget and accounting rules.

Expenditure items in the workplan were discussed, and it was recalled that there was a suggestion to have a team building/capacity building activity for the MSG. The Secretariat noted this is included in the workplan and thus has corresponding budget. They are open to suggestions from MSG members as to what specific activity they deem apt. The ideal time period for holding the activity is in June or September 2017.

### Setting of next MSG Meeting

In view of the PH-EITI National Conference set on May 11, the MSG saw the need to hold the 42<sup>nd</sup>MSG meeting in May. While there are no Conference-related issues that have to be decided upon by the body, the next meeting agenda should include the IA's presentation or explanation regarding the omission in the 3<sup>rd</sup> Report as well as other matters particularly pertaining to the 4<sup>th</sup> Report. The next

meeting can be set on the Friday near the National Conference schedule, or on May 12, to maximize the trip of the MSG members from outside Metro Manila who will also be attending the National Conference.

With no other matters discussed, the 41<sup>st</sup> MSG meeting was concluded at 11:28 am.