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2 **44<sup>th</sup> Multi-Stakeholder Group Meeting**  
3 14 July 2017 | 9:00 AM - 12:00 NN  
4 Le Salon I, New World Manila Bay Hotel  
5

6 **Attendees:**  
7

8 **Government**

9 Asst. Sec. Ma. Teresa Habitan	Department of Finance (DOF)
10 Engr. Romualdo Aguilos	Department of Environment and Natural Resources - Mines and Geosciences Bureau (DENR-MGB)
11 Dir. Araceli Soluta	Department of Energy (DOE)
12 Dir. Crystal Eunice dela Cruz	Union of Local Authorities of the Philippines (ULAP)

14  
15 **Industry**

16 Atty. Ronald Recidoro	Chamber of Mines of the Philippines (COMP)
17 Mr. Gerard Brimo	Nickel Asia Corporation
18 Mr. Anthony Ferrer	Petroleum Association of the Philippines (PAP)

19  
20 **Civil Society Organization (CSO)**

21 Ms. Tina Pimentel	Bantay Kita
22 Dr. Merian Mani	Marinduque State College
23 Mr. Chadwick Llanos	United Sibonga Residents for Environmental Protection and Development (USREP-D)
24	
25 Ms. Starjoan Villanueva	Alternate Forum for Research in Mindanao (AFRIM)
26 Mr. Augusto Blanco, Jr.	Indigenous Peoples (IP) Representative, Mandaya Tribe, Compostela Valley
27	
28 Engr. Maria Rosario Aynon Gonzales	Palawan State University
29 Mr. Buenaventura Maata, Jr.	Philippine Grassroots Engagement in Rural Development Foundation, Inc. (PhilGrassroots-ERDF)

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32 **Resource Person**

33 Dr. Joseph Emmanuel L. Angeles	UP Law Center
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- 1 **PH-EITI Secretariat**
- 2 Atty. Maria Karla Espinosa Secretariat
- 3 Ms. Abigail Ocate Secretariat
- 4 Ms. Mary Ann Rodolfo Secretariat
- 5 Ms. Joy Saquing Secretariat
- 6 Ms. Lea Ivy Manzanero Secretariat
- 7 Mr. Ryan Justin Dael Secretariat
- 8 Ms. Roselyn Salagan Secretariat
- 9 Ms. Angelina Alba Secretariat
- 10 Mr. Jaime Miguel Secretariat
- 11 Mr. Ricardo Evora Secretariat
- 12 Ms. Arlene dela Cruz External Documenter
- 13
- 14 **Observers**
- 15 Ms. Rhizzalyn Bautista Department of the Interior and Local Government
- 16 Ms. Lean Dominique Lalu ULAP
- 17 Mr. Bill Warren Gerona ULAP
- 18 Ms. Rose Ann Paragas Bantay Kita
- 19
- 20
- 21 **Agenda:**
- 22
- 23 • Approval of the Minutes of the 43rd MSG Meeting
- 24 • Matters arising from previous MSG Meetings
- 25 • Main Business
- 26 ○ Presentation of Initial Results of Scoping Study on Beneficial Ownership (BO)
- 27 ○ Comments on Draft PH Validation Report
- 28 ○ Pre-approval of Reporting Templates
- 29 ○ Final 4<sup>th</sup> Report Coverage of LSNM Mining
- 30 ○ Approval of Revised Position Paper on EITI Bills
- 31 ○ Approval of Terms of Reference for Subnational Report
- 32 ○ Draft Program for the 2017 Roadshow
- 33 • Other Matters
- 34 ○ Updates on other upcoming activities
- 35 ■ 38th International Board Meeting (Manila)
- 36 ■ EITI Regional Training (Manila)
- 37 ■ EITI BO Conference (Jakarta)
- 38 ■ Meeting with LSNM Mining Sector
- 39 ■ MSG Capacity Building
- 40 ■ Media Training
- 41 ○ Implementation of DAO 2017-07

- 1           ○ Setting of next MSG meeting

2

3 **1. Call to Order**

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5 The 44<sup>th</sup> PH-EITI Multi-Stakeholder Group (MSG) meeting was called to order at 9:15 AM. DOF Assistant  
6 Secretary Ma. Teresa Habitan, Alternate Focal Person of the PH-EITI, chaired and facilitated the meeting.  
7 Towards the middle of the meeting, chairmanship was turned over to Engr. Romualdo Aguilos of DENR-  
8 MGB.

9

10 **2. Approval of the Minutes of the 43<sup>rd</sup> MSG Meeting**

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12 The MSG members were given one week to send to the secretariat comments on the draft minutes of  
13 the 43<sup>rd</sup> MSG Meeting, after which period without comments received, the minutes will be deemed  
14 approved.

15

16 **3. Matters arising from previous MSG meetings**

17

18 • *EITI Bill*

19 A revised position paper with consolidated comments from the MSG has been circulated. This  
20 matter is included in the main agenda of the meeting.

21

22 • *IP representation in the MSG*

23 Mr. Augusto Blanco of the Mandaya Tribe of Compostela Valley is already on board in the MSG as  
24 the interim (CSO) IP representative. He has been attending since the 42<sup>nd</sup> MSG meeting. This  
25 remains a pending item due to the request from an industry representative to check if the IPs that  
26 their company has engaged with had been included in the CSO consultations that led to the  
27 designation of Mr. Blanco.

28

29 • *Presentation of the oil and gas sector*

30 A resource person from the Department of Energy (DOE) has been invited to present an overview of  
31 the oil and gas sector for the benefit of MSG members. The aim is to have the presentation in the  
32 next MSG meeting.

33

34 • *Communicating the changes in the 3<sup>rd</sup> country report*

35 The advisory prepared by the secretariat and the Independent Administrator (IA) to aid the MSG in  
36 communicating to their respective constituencies the changes in the 3<sup>rd</sup> Report is ready for  
37 circulation within the day. It's in the form of an addendum.

38

39 • *Introducing PH-EITI to the new DENR Secretary*

40 The secretariat has sent a letter requesting for a courtesy call with Secretary Roy Cimatu last June  
41 28, 2017.

#### 4. Presentation of Initial Results of Scoping Study on Beneficial Ownership (BO)

The secretariat introduced the presenter/consultant. Pursuant to the Beneficial Ownership (BO) Roadmap of PH-EITI, a consultant was engaged for the conduct of a study on BO, the TOR for which had already been approved by the body. The consultant, Dr. Joseph Emmanuel L. Angeles, was recommended by the University of the Philippines (UP) Law Center. He teaches at the UP College of Law and is also president of the Angeles University Foundation School of Law.

Dr. Angeles proceeded to present the initial results of the scoping study, starting with the outline of the study which includes an introduction, literature review, a survey of domestic and international laws, standards like those of the Financial Action Task Force (FATF) and EU's 4th Anti-Money Laundering Directive (EU4AML), pertinent legal provisions in the United States (US) and the Philippines, proposed standards for defining BO and Politically Exposed Persons (PEP), and possible materiality threshold. It was noted that a preliminary list of beneficial owners could not yet be provided.

##### *Methodology*

The methodology includes a review of related literature from various legal, academic, and public databases (e.g. Lex Libris, Westlaw, Lexis Nexis) in the Philippines, EU, US, and other jurisdictions. SEC reportorial submissions by extractive companies shall be examined to create an initial list of beneficial owners and politically exposed persons. These include SEC General Information Sheet (GIS), SEC Form 17-C (Current Report), SEC Form 18-A (Report of 5% Beneficial Ownership), SEC Form 23-A/B (Statement of Beneficial Ownership). Interviews with key informants will be conducted as necessary.

##### *Limitations*

- While the Securities Regulation Code (SRC) and its Implementing Rules and Regulations (IRR) provide for disclosure of beneficial ownership, these apply only to public and reporting companies which constitute a very small (less than 1%) subset of the total number of companies in the extractive industry.
- SEC requires the annual submission of GIS under Sections 141 and 144 of the Corporation Code. However, the GIS does not provide for a list of beneficial owners, requiring only a listing of the directors, officers, and top twenty stockholders. Tracing information on BO will entail looking at several GIS to see through corporate subscribers and get to the natural persons who own the corporation. Moreover, if it's a foreign corporation, the country where the company is incorporated is not obliged to provide the information to any government agency in the Philippines because of the principle of sovereignty under public international law. The process will require entering into some form of a treaty or an executive agreement akin to a mutual assistance between the Philippines and the country where the foreign corporation is incorporated.
- In addition to issues with data availability, the SEC forms (e.g. GIS) were not in a format that is easily searchable; neither are unique identifiers and other personal data easily obtainable to

1 cross-reference family and business relationships. The SEC forms received by the consultant are  
2 scanned copies that does not allow electronic searching. To be able to ascribe ownership to a  
3 particular individual, a unique identifier is required. The TIN might suffice; however, it is  
4 classified as sensitive personal information under the Data Privacy Act (DPA). Both in the format  
5 of the information and in trying to attribute ownership, these identifiers are either missing or  
6 difficult to obtain for various reasons, based on the DPA or otherwise.  
7

- 8 • As regards PEP and BO, information might be obtained through the Anti-Money Laundering Act  
9 (AMLA) which requires covered institutions to obtain information from corporate and juridical  
10 entities. However, this information is subject to confidentiality clauses under the AMLA.  
11

12 The Executive Order that created PH-EITI does not provide a legal basis or an authority to  
13 circumvent confidentiality and other obligations under the DPA. An Executive Order, by its very  
14 nature, is an administrative rule and an implementation of law. It cannot amend a statute.  
15 Another point which bolsters this interpretation is that the DPA mandates that interpretation of  
16 its provisions must be in favor of the data subject and and in favor of applicability of the law.  
17

18 The consultant cautioned that these are his personal views.  
19

#### 20 *Domestic Laws*

21 A number of domestic laws were surveyed. The consultant highlighted the following salient provisions  
22 relevant to the study:  
23

##### 24 *A. Data Privacy Act of 2012*

- 25 1. Applies to the government and the private sector
- 26 2. Provides for bifurcated treatment depending on whether the data in question is personal or  
27 sensitive personal information. Many of the required information to be publicly exposed is  
28 sensitive personal information which is subject to a higher standard.
- 29 3. Personal information refers to any information whether recorded in a material form or not,  
30 from which the identity of an individual is apparent or can be reasonably and directly  
31 ascertained by the entity holding the information, or when put together with other  
32 information would directly and certainly identify an individual.
- 33 4. Sensitive personal information refers to personal information:
  - 34 a. About an individual's race, ethnic origin, marital status, age, color, and religious,  
35 philosophical or political affiliations;
  - 36 b. About an individual's health, education, genetic or sexual life of a person, or to any  
37 proceeding for any offense committed or alleged to have been committed by such  
38 person, the disposal of such proceedings, or the sentence of any court in such  
39 proceedings;
  - 40 c. Issued by government agencies peculiar to an individual which includes, but not limited  
41 to, social security numbers, previous or current health records, licenses or its denials,  
42 suspension or revocation, and tax returns; and

- 1 d. Specifically established by an executive order or an act of Congress to be kept classified.
- 2 5. Processing of personal information is allowed, unless prohibited by law. For processing to be
- 3 lawful, any of the following conditions must be complied with:
- 4 a. The data subject must have given his or her consent prior to the collection, or as soon as
- 5 practicable and reasonable;
- 6 b. The processing involves the personal information of a data subject who is a party to a
- 7 contractual agreement, in order to fulfill obligations under the contract or to take steps
- 8 at the request of the data subject prior to entering the said agreement;
- 9 c. The processing is necessary for compliance with a legal obligation to which the personal
- 10 information controller is subject;
- 11 d. The processing is necessary to protect vitally important interests of the data subject,
- 12 including his or her life and health;
- 13 e. The processing of personal information is necessary to respond to national emergency
- 14 or to comply with the requirements of public order and safety, as prescribed by law;
- 15 f. The processing of personal information is necessary for the fulfillment of the
- 16 constitutional or statutory mandate of a public authority; or
- 17 g. The processing is necessary to pursue the legitimate interests of the personal
- 18 information controller, or by a third party or parties to whom the data is disclosed,
- 19 except where such interests are overridden by fundamental rights and freedoms of the
- 20 data subject, which require protection under the Philippine Constitution.
- 21 6. The processing of sensitive personal and privileged information is prohibited, except in any
- 22 of the following cases:
- 23 a. Consent is given by data subject, or by the parties to the exchange of privileged
- 24 information, prior to the processing of the sensitive personal information or privileged
- 25 information, which shall be undertaken pursuant to a declared, specified, and legitimate
- 26 purpose;
- 27 b. The processing of the sensitive personal information or privileged information is
- 28 provided for by existing laws and regulations: Provided, that said laws and regulations
- 29 do not require the consent of the data subject for the processing, and guarantee the
- 30 protection of personal data;
- 31 c. The processing is necessary to protect the life and health of the data subject or another
- 32 person, and the data subject is not legally or physically able to express his or her
- 33 consent prior to the processing;
- 34 7. The processing of sensitive personal and privileged information is prohibited, except in any
- 35 of the following cases:
- 36 a. The processing is necessary to achieve the lawful and noncommercial objectives of
- 37 public organizations and their associations provided that:
- 38 b. Processing is confined and related to the bona fide members of these organizations or
- 39 their associations;
- 40 c. The sensitive personal information is not transferred to third parties; and
- 41 d. Consent of the data subject was obtained prior to processing;

- 1 e. The processing is necessary for the purpose of medical treatment: Provided, that it is  
2 carried out by a medical practitioner or a medical treatment institution, and an  
3 adequate level of protection of personal data is ensured; or  
4 f. The processing concerns sensitive personal information or privileged information  
5 necessary for the protection of lawful rights and interests of natural or legal persons in  
6 court proceedings, or the establishment, exercise, or defense of legal claims, or when  
7 provided to government or public authority pursuant to a constitutional or statutory  
8 mandate.  
9 8. In addition to restrictions and penalties for unauthorized processing, unauthorized  
10 disclosure of personal or sensitive personal information to third parties without the consent  
11 of the data subject is penalized. (Republic Act No. 10173, Sections 25-26, 28, 32)  
12

13 The consultant stated that if there is significant statutory hurdle to BO reporting, PH-EITI might be able  
14 to argue for an adapted implementation, as stated in the 2016 EITI Standard.  
15

- 16 9. The DPA and its associated restrictions do not apply to:  
17 a. information about an individual who is or was performing service under contract for a  
18 government institution that relates to the services performed, including the terms of  
19 the contract, and the name of the individual given in the course of the performance of  
20 those services;  
21

22 This exception may pertain to FTAAAs. However, FTAAAs typically involve corporations rather than  
23 individuals performing service. Tracing BO and whether they are related to PEPs might not fall under this  
24 exception. The consultant noted that it's basically about strict construction of the exemption, which is  
25 what the DPA states.  
26

- 27 b. information relating to any discretionary benefit of a financial nature such as the  
28 granting of a license or permit given by the government to an individual, including the  
29 name of the individual and the exact nature of the benefit; or  
30 c. information necessary in order to carry out the functions of public authority which  
31 includes the processing of personal data for the performance by the independent  
32 central monetary authority and law enforcement and regulatory agencies of their  
33 constitutionally and statutorily mandated functions.  
34

- 35 10. Presumption in favor of the data subject and in favor of applicability of the Act (Sec. 6, IRR):  
36 a. Unless directly incompatible or inconsistent with the preceding sections in relation to  
37 the purpose, function, or activities the non-applicability concerns, the personal  
38 information controller or personal information processor shall uphold the rights of data  
39 subjects, and adhere to general data privacy principles and the requirements of lawful  
40 processing.

- 1           b. The burden of proving that the Act and these Rules are not applicable to a particular  
2           information falls on those involved in the processing of personal data or the party  
3           claiming the non-applicability.  
4           c. In all cases, the determination of any exemption shall be liberally interpreted in favor of  
5           the rights and interests of the data subject.  
6

7           *B. Corporation Code*

- 8           1. All domestic stock corporations are required to submit their GIS to the SEC on a yearly basis.  
9           This includes company's stockholders, such as name, nationality, current residential address,  
10           Tax Identification No. (TIN), number of shares subscribed and percentage of ownership, the  
11           top twenty (20) stockholders in number of shares subscribed.  
12           2. However, control can be exercised by a person over a corporation without being the owner  
13           of record of the shares. (e.g. proxy and voting trust agreements which are not required to  
14           be reflected in the GIS).  
15           3. Even if provided, the public cannot determine beneficial owners of corporate subscribers  
16           unless their GIS are likewise obtained. (Note *Narra Nickel* 2-3 level limitation.)  
17           4. If a foreign corporation is the subscriber, information is unlikely to be obtained by the  
18           Philippines, unless a treaty or executive agreement to that effect is existing between the  
19           Philippines and the pertinent states (i.e., interconnection of company registers).  
20           5. Note that executive agreements cannot amend statutes in the domestic sphere. It's only  
21           treaties that have that power.  
22

23           *C. Securities Regulation Code*

- 24           1. Applies only to public and reporting corporations listed in Rule 3 of the 2015 SRC  
25           Implementing Rules (SRC IRR).  
26           2. SEC Form 17-A requires disclosure of the beneficial owners of 5% or more of each class of  
27           equity securities. The SRC IRR defines beneficial owner or beneficial ownership as any  
28           person who, directly or indirectly, through any contract, arrangement, understanding,  
29           relationship or otherwise, has or shares voting power (which includes the power to vote or  
30           to direct the voting of such security) and/or investment returns power (which includes the  
31           power to dispose of or direct the disposition of such security).  
32           3. Requires persons who acquire beneficial ownership of 5% of any class of equity securities to  
33           submit to the issuer, the Exchange where the security is traded, and the SEC, a sworn  
34           statement containing the information required by SEC Form 18-A.  
35           4. Requires directors, officers, and stockholders that beneficial ownership of 10% or more of  
36           any class of security of a company to file SEC Forms 23A and 23B.  
37           a. SEC Form 23A filed when a person initially becomes a director or officer or is a  
38           stockholder that has reached the 10% threshold.  
39           b. Subsequent changes of ownership must then be reported under SEC Form 23B.  
40



1 An industry representative clarified that it is possible that majority of metallic mining companies are  
2 publicly listed. The consultant acknowledged this and said that if that is so, then information may be  
3 obtained through the SEC filings in compliance with the SRC.  
4

5 Definitions of BO and PEP provided in the following policies might also inform the MSG as it crafts its  
6 own operational definitions:  
7

8 *D. Anti-Money Laundering Act*

- 9 1. "Beneficial owner" refers to a natural person who ultimately owns or controls the account  
10 and/or the person on whose behalf a transaction is being conducted. It also includes those  
11 persons who exercise ultimate effective control over a legal person or arrangement.
- 12 2. "Politically Exposed Person" (PEP) refers to a natural person who is or has been entrusted  
13 with prominent public positions in the Philippines or in a foreign State, including heads of  
14 state or government, senior politicians, senior national or local government, judicial or  
15 military officials, senior executives of government or state-owned or -controlled  
16 corporations and important political party officials.
- 17 3. The AMLA IRR provides that covered institutions take reasonable measures to determine  
18 whether a customer or beneficial owner is a PEP.
- 19 4. Covered entities must obtain latest GIS and list of beneficial owners and beneficiaries from  
20 corporate and/or juridical entities. In cases of higher risk business relationship with such  
21 persons including foreign PEPs, covered institution shall apply enhanced due diligence  
22 measures. Requirements for PEPs also apply to family members or close associates.
- 23 5. The AMLA IRR provides that even if required to be collected, information regarding covered  
24 or suspicious transactions is confidential; and covered institutions, their officers and  
25 employees are prohibited from communicating any information related thereto.  
26

27 *International Laws*

28  
29 *A. FATF*

- 30 1. Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer  
31 and/or the natural person on whose behalf a transaction is being conducted. It also includes  
32 those persons who exercise ultimate effective control over a legal person or arrangement.
- 33 2. Reference to "ultimately owns or controls" and "ultimate effective control" refer to  
34 situations in which ownership/control is exercised through a chain of ownership or by  
35 means of control other than direct control.  
36

37 There is a contrary authority which the MSG may refer to in the case of *Gamboa vs. Teves*, where it  
38 appears that now, in finding out who the true beneficial owner is, one can look *ad infinitum*.  
39

- 40 3. Foreign PEPs are individuals who are or have been entrusted with prominent public  
41 functions by a foreign country, for example Heads of State or of government, senior

- 1 politicians, senior government, judicial or military officials, senior executives of state owned  
2 corporations, important political party officials.
- 3 4. Domestic PEPs are individuals who are or have been entrusted domestically with prominent  
4 public functions, for example Heads of State or of government, senior politicians, senior  
5 government, judicial or military officials, senior executives of state owned corporations,  
6 important political party officials.
- 7 5. Persons who are or have been entrusted with a prominent function by an international  
8 organization refers to members of senior management, i.e. directors, deputy directors and  
9 members of the board or equivalent functions.
- 10 6. The definition of PEPs is not intended to cover middle ranking or more junior individuals in  
11 the foregoing categories.
- 12

13 The consultant emphasized that FATF and EU4AMLD are not treaties, and, as such, are not part of the  
14 law of the land by transformation. Neither are they customary international law, and, therefore, not  
15 part of the law of the land by incorporation under Article 2 of the Philippine Constitution.

16

17 *B. EU4AMLD*

- 18 1. Art. 3(6) of the Fourth AMLD provides that a beneficial owner is ‘any natural person(s) who  
19 ultimately owns or controls the customer and/or the natural person on whose behalf a  
20 transaction or activity is being conducted.’
- 21 2. A percentage of 25% plus one share is considered as evidence of ownership or control.  
22 However, different approaches are taken to determine beneficial owners in the Member  
23 States, which can create confusion and practical problems when determining beneficial  
24 owners in cross-border cases.
- 25 3. Art. 3(9) 4AMLD defines “politically exposed person” as “a natural person who is or who has  
26 been entrusted with prominent public functions and includes the following:
- 27 a. heads of State, heads of government, ministers and deputy or assistant ministers;  
28 b. members of parliament or of similar legislative bodies;  
29 c. members of the governing bodies of political parties;  
30 d. members of supreme courts, of constitutional courts or of other high-level judicial  
31 bodies, the decisions of which are not subject to further appeal, except in  
32 exceptional circumstances;  
33 e. members of courts of auditors or of the boards of central banks;  
34 f. ambassadors, chargés d'affaires and high-ranking officers in the armed forces;  
35 g. members of the administrative, management or supervisory bodies of State-owned  
36 enterprises;  
37 h. directors, deputy directors and members of the board or equivalent function of an  
38 international organisation.
- 39 4. No public function referred to in points (a) to (h) shall be understood as covering middle-  
40 ranking or more junior officials;
- 41

1 The consultant furthered that EU4AMLDD is more restrictive than the provisions in the FATF and in the  
2 US.

3  
4 C. US

- 5 1. Beneficial owner includes any person who, directly or indirectly, through any contract,  
6 arrangement, understanding, relationship, or otherwise has or shares:
- 7 a. Voting power which includes the power to vote, or to direct the voting of, such  
8 security; and/or,
  - 9 b. Investment power which includes the power to dispose, or to direct the disposition  
10 of, such security.
- 11 2. Persons shall also be deemed to be beneficial owners if they have the right to acquire  
12 beneficial ownership of such security within sixty days, including but not limited to any right  
13 to acquire:
- 14 a. Through the exercise of any option, warrant or right;
  - 15 b. Through the conversion of a security;
  - 16 c. Pursuant to the power to revoke a trust, discretionary account, or similar  
17 arrangement; or
  - 18 d. Pursuant to the automatic termination of a trust, discretionary account or similar  
19 arrangement.
- 20 3. "Politically exposed person" generally includes a current or former senior foreign political  
21 figure, their immediate family, and their close associates. More specifically:
- 22 a. A "senior foreign political figure" is a senior official in the executive, legislative,  
23 administrative, military or judicial branches of a foreign government (whether  
24 elected or not), a senior official of a major foreign political party, or a senior  
25 executive of a foreign government-owned corporation. Includes any corporation,  
26 business, or other entity that has been formed by, or for the benefit of, a senior  
27 foreign political figure.
  - 28 b. The "immediate family" of a senior foreign political figure typically includes the  
29 figure's parents, siblings, spouse, children, and in-laws.
  - 30 c. A "close associate" of a senior foreign political figure is a person who is widely and  
31 publicly known to maintain an unusually close relationship with the senior foreign  
32 political figure, and includes a person who is in a position to conduct substantial  
33 domestic and international financial transactions on behalf of the senior foreign  
34 political figure.

35  
36 BO definition under the US standard is almost similar to the definition found in the SRC. On the other  
37 hand, provisions defining PEP are very broad, illustrated by, for example, its definition of  
38 immediate family which includes "in-laws" without specifying the degree of affinity.

39  
40 The consultant recommended a definition of BO that follows the definitions in the SRC and in the US:

1 ***Proposed Definition of Beneficial Owner***

- 2 1. Beneficial owner includes any person who, directly or indirectly, through any contract,  
3 arrangement, understanding, relationship, or otherwise has or shares:
- 4 a. Voting power which includes the power to vote, or to direct the voting of, such  
5 security; and/or,
  - 6 b. Investment power which includes the power to dispose, or to direct the disposition  
7 of, such security.
- 8 2. Persons shall also be deemed to be beneficial owners if they have the right to acquire  
9 beneficial ownership of such security within sixty days, including but not limited to any right  
10 to acquire:
- 11 a. Through the exercise of any option, warrant or right;
  - 12 b. Through the conversion of a security;
  - 13 c. Pursuant to the power to revoke a trust, discretionary account, or similar  
14 arrangement; or
  - 15 d. Pursuant to the automatic termination of a trust, discretionary account or similar  
16 arrangement.

17  
18 An adapted version of the EU4AML and US definition of PEP was proposed:

19  
20 ***Proposed Definition of Politically Exposed Person***

- 21 1. "Politically exposed person" is a natural person who is or who has been entrusted with  
22 prominent public functions and includes the following:
- 23 a. heads of State, heads of government, Cabinet Secretaries, Undersecretaries, or  
24 Assistant Secretaries;
  - 25 b. members of the House of Representatives or the Senate of the Philippines;
  - 26 c. members of the governing bodies of political parties;
  - 27 d. members of the Supreme Court;
  - 28 e. members of Civil Service Commission, the Commission on Elections, and the  
29 Commission on Audit;
  - 30 f. Governor and Deputy Governors of the Bangko Sentral Ng Pilipinas;
  - 31 g. ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
  - 32 h. members of the administrative, management or supervisory bodies of State-owned  
33 enterprises;
  - 34 i. directors, deputy directors and members of the board or equivalent function of an  
35 international organization.
- 36 2. The persons in (a) to (h) shall not cover middle-ranking or more junior officials. "Politically  
37 exposed person" shall include the immediate family of those enumerated. Immediate family  
38 shall be limited to the politically exposed person's parents, siblings, spouse (legal or  
39 common-law), children (legitimate or illegitimate), and in-laws within one degree of  
40 consanguinity.

1 **Proposed Materiality Threshold for Companies in the Extractive Industry**

- 2 1. Public companies under the 2015 SRC IRR; or  
3 2. Reporting companies under the 2015 SRC IRR; or  
4 3. Companies whose assets are at least X; or  
5 a. Based on SEC submitted AFS  
6 b. Initial threshold based on average total assets for 2016 (Where X >= 75th percentile)  
7 c. Indexed to CPI yearly computed based on NEDA data  
8 4. Companies whose gross income is at least X  
9 a. Based on SEC submitted AFS  
10 b. Initial threshold based on average gross income for 2016 (Where X >= 75th  
11 percentile)  
12 c. Indexed to CPI yearly computed based on NEDA data  
13

14 The consultant explained that there are literatures about materiality but mainly from the field of  
15 accounting. It refers to assets and certain metrics like net income. Certainly, public and reporting  
16 companies defined under the SRC would be there. For privately held companies, the MSG can consider  
17 adopting a metric which deals with a percentile rank of that company as regards gross revenue and  
18 assets. To avoid adjusting percentile rank every year, inflation rate may be factored in. It is important to  
19 set materiality thresholds because as mentioned in the Optimal Law Enforcement literature, there are a  
20 number of issues that arise when deluged with information. Focus on companies where there is a high  
21 probability of shenanigans occurring. This is more likely in companies that are larger in terms of assets,  
22 revenues, and others.  
23

24 **Comments on the Presentation**

25  
26 A CSO representative thanked the consultant for a comprehensive presentation. However, concerns  
27 over not being able to go anywhere in terms of BO identification/reporting were expressed. The  
28 impression given by the initial findings is that this is a difficult task. The representative asked for an  
29 assessment by the consultant of his level of confidence as to the feasibility of obtaining data on BO and  
30 PEP.  
31

32 The Chair remarked that the MSG has now become acquainted with all the laws that would frame the  
33 study on BO. All the laws are protective of the individual and no one will argue against that. In terms of  
34 the work, it has to be guided by existing conditions. The MSG has to find a way by which information  
35 can at least be extracted given the limitations.  
36

37 An industry representative reiterated that, in terms of revenues, it's very possible that the majority of  
38 the revenues in the metallic mining sector are actually from publicly listed companies. If one will look at  
39 the revenue split between publicly and not publicly listed companies, it is probably over 50%. The MSG  
40 can take some comfort in the fact that publicly listed companies are obliged to do some level of  
41 reporting on this.  
42

1 The Chair explained that PH-EITI will do this to the level that it is able to (i.e., working with companies  
2 that are already reporting to EITI). PH-EITI will not be the only one pushing for the reform. This calls for  
3 further reform in, for example, the capital market so that more companies will be encouraged to get  
4 listed. It is important to look at the recommendations on how to move forward.

5  
6 A CSO representative stressed the importance of the MSG having clarity on the reason a study on BO is  
7 being carried out. This will help ensure that when this is presented to policy makers, the response will  
8 not be defensive as though specific people are being targeted. There has to be economic and social  
9 reasons for the disclosure of beneficial owners.

10  
11 The same representative shared that AMLA was highly contested by the senators. They felt that it was a  
12 targeting and discrimination against them. Senator Pia Cayetano even gave an example where her  
13 application for a credit card was prolonged because she fell under PEP. The CSO representative also  
14 proposed that there be clarity as to why PEP would be included in a BO bill, so that it would not be  
15 framed as something discriminatory.

16  
17 The CSO representative is already anticipating questions on looking at BO from a prosecution  
18 perspective as what is provided in the AMLA. Companies cannot be forced to disclose if they are not  
19 doing anything wrong. The question is, is the framing from a prosecution perspective, or is it more like  
20 organizing data that is already there? The representative indicated interest in also looking at the BO  
21 structure of small-to-medium extractive companies, because many of them also have problems in the  
22 community where they operate. The representative expressed optimism that, if properly framed, BO  
23 reporting need not be hindered by existing laws, precisely because PH-EITI would be proposing a policy  
24 that can address the roadblocks. Unless it's a constitutional block, there is no need to worry.

25  
26 An industry representative remarked that the aim is to have mining companies report their beneficial  
27 owners and the government come up with a counter report indicating real owners. He echoed the  
28 earlier question of whether BO reporting is doable. Given the limitations on confidentiality in various  
29 laws, what the body may end up doing is to come out with an erroneous report, indirectly endorsing  
30 falsity. If, for example, company X is Filipino (60% owned by Filipino), when in fact, it is foreign-owned,  
31 PH-EITI will have a problem. Concerns over compromising MSG members' as well as PH-EITI's  
32 reputations were articulated. The representative stressed that the body has to take a good hard look at  
33 this.

34  
35 The importance of considering that disclosure will be on a 60-40 rule, because MPSAs are limited to  
36 Filipinos, was also pointed out. The value of the report will be in this aspect, and this has to be taken  
37 into account moving forward. The use of dummies and how these can be threshed out given the  
38 limitations of the law was also raised.

39  
40 The consultant was asked to provide an assessment of whether or not BO reporting is doable in the  
41 Philippines given the context. If it is at all possible, a recommendation on how deep the disclosure could  
42 be, was also requested to be reflected in the final paper.

1 A CSO representative underscored the importance of having the MSG come up with its own definition of  
2 what BO is in the Philippine context, noting the legal limitations and the extent of BO reporting.

3  
4 Another CSO representative pointed out that if there are mining companies that are willing to disclose  
5 and would signify their consent, then a visit can be done, and work on tracing who the beneficial owners  
6 are can be initiated. This can be a starting point.

7  
8 Atty. Angeles said that the biggest difficulty will be with public disclosure. The 2016 EITI Standard  
9 provides for public disclosure of information such as address, unique identification numbers, and others,  
10 which is clearly not consistent with the Data Privacy Act. Unless some kind of amendatory law is  
11 enacted, that is not possible. What is clear is that processing of these information in SEC is within its  
12 mandate. Certainly, SEC can process information provided to them by virtue of regulatory requirements  
13 and can thereby assess who are beneficial owners.

14  
15 He also said that the task is best suited for data analytics which would be far more adept in linking  
16 names, identifiers, and particular stockholdings. Some form of interconnection of company registers  
17 would be helpful, as they are trying to do now in EU in line with the EU4AML. However, it is uncertain  
18 whether SEC already has this capability.

19  
20 He articulated hope that he will not be asked to go down the rabbit hole ad infinitum to look at  
21 documents of thousands of stockholders, as that would be fairly difficult. He committed to putting  
22 together an initial recommendation for the MSG given the existing constraints, outlining the things that  
23 can be dealt with.

24  
25 The Chair thanked the consultant and reminded that the next reporting is on August 13. The secretariat  
26 clarified that the date of the next meeting may be amended due to schedule complications, but the  
27 consultant's output is still due on August 13, although it possibly would not be presented in an MSG  
28 meeting on that day.

## 29 30 **5. Comments on Draft PH Validation Report**

31  
32 The draft PH Validation Report was circulated to the MSG for comments on June 29, 2017. The initial  
33 deadline for comments was July 10, giving the MSG two weeks to review and comment and giving the  
34 secretariat enough time to consolidate the comments. The secretariat aims to submit to the  
35 International Secretariat (IS) the consolidated comments in response to the draft validation report,  
36 instead of MSG members sending comments to the IS separately or bilaterally, to meet the expressed  
37 preference of the IS for just one consolidated document.

38  
39 To date, the secretariat had received comments on the draft validation report from Atty. Golda  
40 Benjamin, Mr. Chadwick Llanos, Ms. Nelia Halcon, and DOF. Comments on the draft report on initial  
41 data collection and stakeholder consultation had also been submitted by Mr. Ben Maata, Mr. Augusto  
42 Blanco, Mr. Chadwick Llanos, and Ms. Nelia Halcon.

1 The secretariat gave a summary of the results contained in the draft validation report, then suggested to  
2 open the discussion thereon. The draft report basically recommends a downgrading of PH ratings on  
3 certain aspects of EITI implementation. The initial assessment by the IS rated the country to have  
4 generally made satisfactory progress. However, the independent validator, Adam Smith International,  
5 recommends in the draft validation report that PH ratings in particular areas of implementation be  
6 lowered as follows:

- 7
- 8 a. MSG governance – from *beyond* to *satisfactory*
- 9 b. License allocations – from *beyond* to *satisfactory*
- 10 c. State participation – from *satisfactory* to *meaningful*
- 11 d. Comprehensiveness of revenue collection – from *satisfactory* to *meaningful*
- 12 e. Subnational transfers – from *satisfactory* to *meaningful*
- 13 f. Social expenditures – from *beyond* to *satisfactory*
- 14 g. Public debate – from *beyond* to *satisfactory*
- 15 h. Outcomes and impact of implementation – from *beyond* to *satisfactory*
- 16

17 Overall, PH-EITI was assessed to have made no lower than *meaningful progress*. The secretariat has  
18 received MSG members’ comments providing justification, explanation, or counter argument to the  
19 findings of the independent validator. The independent validator, upon receipt of the MSG’s comments  
20 will have to address these comments and make a separate report on how it did so.

21  
22 A CSO representative inquired if the IA will also be submitting comments, as most of the findings in the  
23 draft validation report refer to the IA’s work. The secretariat responded that the IA already committed  
24 to submit their comments on the matter of materiality.

25  
26 The Chair solicited more comments from the body.

27  
28 A CSO representative expressed discomfort with the recommendations of the independent validator. It  
29 was suggested that there be a more specific explanation for the downgrading to give the MSG a better  
30 perspective of the things that need to be considered. The secretariat remarked that *meaningful progress*  
31 is not so bad; it’s just that it’s not the equivalent of being found *compliant*. What an EITI implementing  
32 country aspires for is *satisfactory progress*. The Chair encouraged the body and said that the first  
33 validation report allows room for improvement in the implementation of PH-EITI.

34  
35 Another CSO representative commented that the downgrade is related to the non-participation of  
36 Semirara, and that this probably presents an opportunity to engage Semirara and hold them to the  
37 process. A remark was made that perhaps the draft validation report was done before the IA submitted  
38 their explanation. Also, the independent validator probably did not see the selection processes for MSG  
39 members, which have already been completed.

40  
41 The Chair added that, as regards State participation, while state-owned mining corporations may be  
42 significant players in the extractive industry in other countries, the case is otherwise in the Philippines



1 where they only account for a small percentage. This must be emphasized and explained well. The  
2 secretariat added that SOE and materiality issues have already been explained during the consultations  
3 in February and the initial assessment of the IS should have already covered them.

4  
5 The secretariat asked for direction from the MSG as to what tone to adopt in responding to the draft  
6 validation report. The Chair recommended to adopt a civil tone and simply provide factual information.

7  
8 At this point, the secretariat took the opportunity to inform the body that Dr. Cielo Magno is stepping  
9 down as one of the CSO representatives in the MSG. Ms. Kristina Pimentel will be sitting in the MSG in  
10 an interim capacity until the CSO selection process is initiated to identify the permanent representative.

11  
12 A CSO representative then manifested that Bantay Kita will be submitting a paper in response to the  
13 draft validation report. She shared that one of their observations pertains to item 7.4 (outcomes and  
14 impact of implementation) where the rating was downgraded from *beyond* to *satisfactory*. At least from  
15 the CSO side, documents have already been sent to show that consultations and outreach go beyond  
16 the coalition members, contrary to the statement that “the administrator is unsure whether only the  
17 MSG is consulted when feedback and recommendations are done”.

18  
19 The Chair asked the secretariat when the MSG comments should be submitted. The secretariat replied  
20 that it’s on July 18, Tuesday, and said that the paper will be shown to the MSG before it is submitted in  
21 order to confirm that it captures the collective response of the body. Bantay Kita committed to send  
22 their paper within the day.

23  
24 The Chair suggested prioritizing the agenda item on Final 4<sup>th</sup> Report Coverage of LSNM Mining and  
25 tackling Pre-approval of Reporting Templates afterwards.

## 26 27 **6. Final 4<sup>th</sup> Report Coverage of LSNM Mining**

28  
29 The secretariat recalled that in previous MSG meetings, the body already started the discussion on  
30 scoping for the Large Scale Non-metallic Mining (LSNM) sector. In the last meeting, resource persons  
31 from the Cement Manufacturers’ Association of the Philippines (CEMAP) were invited to deliver  
32 presentations about their industry, which was intended to give adequate information on the sector and  
33 aid MSG members in determining the scope for it.

34  
35 The secretariat sought the MSG’s final decision on the LSNM scope in light of time considerations and  
36 the volume of work that including the LSNM sector in the country report entails. The 4<sup>th</sup> Report is due in  
37 December and will cover two years. There was a previous suggestion to cover the top 80% in terms  
38 of production, which is represented by only four companies. Another suggestion was to cover the top 10  
39 companies in terms of sales. The secretariat noted that although this is subject for the IA’s  
40 recommendation, it would be better to already have the MSG’s decision on the matter.

41  
42 The Chair opened the discussion and posed these questions to the body:

- 1 • Does the MSG want to cover the top 80% in terms of revenues?
- 2 • Does the MSG want to cover the top 10 companies in terms of sales, assets, or production?
- 3 • Will the scope be based on geographic location?

4  
5 A CSO representative suggested to do a geographical sampling, as that might also have social impact. It  
6 was added that it would be good to get CEMAP's recommendation as to which companies to cover and  
7 which companies would cooperate with EITI. The secretariat informed the body that they have already  
8 asked CEMAP, but no response has been received yet. The secretariat informed the body that it is  
9 organizing a briefing on the PH-EITI reporting process scheduled on July 22 (Friday) and it is open to  
10 MSG members who wish to join.

11  
12 The Chair outlined the next steps regarding the matter. The MSG will decide on the scope after the  
13 consultation meeting with the non-metallic sector. Results of the meeting will be circulated, then the  
14 MSG can make a decision on the scope.

15

## 16 **7. Pre-approval of Reporting Templates**

17

18 The secretariat recounted the workshop on the reporting templates held in the afternoon of the last  
19 meeting. The secretariat has compiled all the comments given and integrated them in the templates. All  
20 the templates were modified in some way. Most changes were effected in the reporting templates of  
21 BIR and MGB, which is not surprising because these are the two agencies that report the bulk of the  
22 information.

23

24 The secretariat noted that the present meeting is the third one where this matter is discussed. The  
25 secretariat requested the body for pre-approval of the templates for purposes of providing advanced  
26 copy of them to the companies and reporting agencies, especially in view of the lengthy procurement  
27 process for the IA. It has been the practice in the past that templates are sent in advance, unofficially, to  
28 the companies and reporting agencies.

29

30 The secretariat inquired if the body wishes to go over the templates again. A CSO representative asked  
31 to be given two weeks to review. Another CSO representative emphasized that they have already spent  
32 enough time reviewing and discussing the templates. Further, it was suggested that if any member of  
33 the MSG has specific items they want to raise about any data gap, then they may just do so. A motion  
34 was made and seconded to pre-approve the templates. It was reiterated that pre-approval means that  
35 the templates may already be distributed unofficially to the participating entities in advance, but they  
36 may still be modified once the IA is procured.

37

38 The secretariat explained that reporting agencies and MSG members were also present in the Reporting  
39 Templates Workshop. The proposed changes have to do with making the templates more  
40 understandable and consistent with practice. The secretariat reported that they did not note a

1 diminution or reduction in the data being gathered. A summary of the changes is provided to the MSG.  
2 The secretariat called the attention of the body to specific items needing MSG's decision.

3  
4 • ***DOE proposed to present information on a per consortium basis and not on a per entity basis.***

5 The rationale behind the proposal is the present availability of information with DOE, which is  
6 on a per consortium instead of a per company report. The Chair inquired regarding how this  
7 particular information has been reported in the past. The DOE representative responded that  
8 it's through the provision of service contracts. It was mentioned that BIR would be able to  
9 provide the data and that this proposal will not affect BIR's reporting. The Chair advised that if  
10 there will be deviations from the way it was reported in the first three reports, an explanation  
11 has to be provided.

12  
13 A CSO representative acknowledged the concern but explained that the Standard insists on  
14 disaggregation. If it is not possible, an explanation has to be articulated. A representative from  
15 DOE mentioned that they have made efforts to request contractors to submit the required data  
16 but did not get a response.

17  
18 An industry representative from the Oil and Gas sector explained the circumstances they are  
19 faced with in the sector. They are audited by the DOE yearly, but only the operator keeps the  
20 records. Other members of the consortium do not have any of these documents. In terms of  
21 revenue distribution, they would have those records reflecting only what is remitted to the  
22 members of the joint venture. As operators, they remit to the government its share and all other  
23 taxes, on behalf of the joint venture. Reports on revenues are also available because they are  
24 also audited by their partners.

25  
26 A CSO representative emphasized that this is precisely the reason there's a need to know more  
27 about the oil and gas sector. The idea in getting data on a per company basis is so that all  
28 parameters will be comparable in a disaggregated manner. If data is aggregated per consortium,  
29 it will not give a clear picture of the sector. Indonesia was cited as an example with the same  
30 predicament.

31  
32 The Chair reiterated the point of having DOE present on the Oil and Gas sector to enable the  
33 MSG to fully understand it. This has become imperative, especially since validation is ongoing  
34 and it is possible that this can surface as an issue. If the case is similar with Indonesia, the MSG  
35 may have to point out to the International Board that requiring Oil and Gas companies to report  
36 the same way as mining companies do might not be the appropriate standard because the  
37 nature of the consortium is such that it does not allow that kind of reporting to happen.

38  
39 The MSG decided to maintain the status quo as to the relevant reporting templates until this  
40 particular matter is sufficiently explained.

- 1 • **List of third party contractors and the amount paid by each company cannot be provided by**  
2 **PPA since the third party contractors have other customers that are not extractive companies.**  
3 **PPA cannot disaggregate information per mining company without the third party**  
4 **contractors. PPA recommended to delete this item.**

5 The MSG was asked to decide if this information will be obtained from the companies instead.  
6 The MSG decided to not make any changes in the current reporting template specific to the  
7 PPA.

- 8  
9 • **Add other taxes like documentary stamp taxes, deficiency taxes, etc.**

10 The MSG agreed to this proposal. It will be fair for the mining companies as well to reflect all  
11 payments made to the government. The community will also appreciate full transparency.

- 12  
13 • **Adopt the changes in the social funds and expenditures section of the MGB template, i.e., that**  
14 **changes effected in the MGB template be reflected in the mining company template as well.**

15 The MSG agreed to reflect the changes in the MGB template to the template for mining  
16 companies. Questions such as how will this be factored in the template and how is protection of  
17 and respect for socio-cultural values measured were raised.

- 18  
19 • **Reconsider the inclusion of number of contractors and suppliers in the company template for**  
20 **Oil & Gas.**

21 The question of whether or not the number of contractors is necessary and meaningful was  
22 raised. An industry representative commented that this is already indicated in the reports  
23 submitted to the DOE. There was a suggestion to attach the document to the template. The  
24 Chair reiterated the urgency of having DOE's presentation about the Oil and Gas sector. After  
25 the MSG gains a deeper understanding of the sector, they can try to devise a way of reporting  
26 without unduly penalizing the companies and the agencies.

## 27 28 **8. Draft Program for the 2017 Roadshow**

29  
30 The secretariat provided essential details of the upcoming roadshow:

- 31 • There will be six legs like last year – Baguio, Manila, Cebu, Davao, Puerto Princesa, and Butuan.  
32 • Regions covered are practically the same as last year's but with new/additional LGUs to be  
33 covered.  
34 • The roadshow will be conducted within the whole month of August with 1-2 legs per week.  
35 • Each leg will have two major activities – a forum on the first day and a workshop on the  
36 enhanced ENRDMT on the second day. In certain areas (Baguio, Palawan, and Butuan), there will  
37 be workshops on the NCIP monitoring tool, to be conducted simultaneously with the ENRDMT  
38 workshop on the second day.  
39 • The secretariat is contemplating doing community visits in three of the six areas – Baguio, Cebu,  
40 and Butuan (subject to possible security concerns).

- 1 • MSG members are invited to participate. In the last roadshows, MSG members served as  
2 resource persons.

3

4 The Chair asked MSG members to already inform the secretariat about their participation.

5

6 The secretariat ran through the program and also informed the body that this has been sent at least to  
7 the target participants of the Baguio leg. On the first day, there will be presentations on:

8

- EITI
- Key Findings of the 3rd Country Report / Trends in the First Three Reports
- Updates on Agency Actions on PH-EITI Recommendations
  - Mines and Geosciences Bureau
  - Department of Budget and Management
  - Department of the Interior and Local Government
- Panel Discussion (LGU, NGA, Industry, and Civil Society Representatives)
- Initiatives to Promote Transparency
  - Contracts Portal
  - Monitoring Tool for IP Royalties and Memorandum of Agreement
  - Environment and Natural Resources Data Management Tool
  - Beneficial Ownership Disclosure

10

11

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20

and, in the afternoon, two workshops on the following:

21

- Using the PH-EITI Report as a Tool for Local Development
- EITI Implementation at the Sub-National Level.

22

23

24

25

The conduct of community visits was previously suggested by an industry representative for the purpose  
26 of reaching out to the community and increasing local awareness on EITI at the barangay level.

27

28

A motion to approve the draft program was made and was seconded.

29

30

Asec. Habitan turned over the chairmanship of the meeting to Engr. Romualdo Aguilos.

31

32

### **9. Approval of Revised Position Paper on EITI Bills**

33

34

The draft position paper was discussed during the last MSG meeting. MSG comments were consolidated  
35 and integrated in the paper by the secretariat. The revised paper was presented to the body. (See **Annex**

36

**A.**)

37

38

There were discussions on specific items, as follows:

39

1        ***On Exemption from Confidentiality***

2  
3        An industry representative raised concerns with respect to confidentiality. Considering the initial  
4        report presented earlier on Beneficial Ownership, the representative suggested that the MSG  
5        already contemplate on the obstacles under, for instance, security regulations law. The  
6        recommendation is for the MSG to be forward-looking and tackle this already in the draft by using  
7        certain language addressing confidentiality.

8  
9        According to a CSO representative, coming up with a definition of BO can be a starting point. Upon  
10        reaching a common definition, the level of confidentiality may then be determined. Starting with  
11        publicly listed companies as a strategy was reiterated.

12  
13        It was noted that the bills are silent with respect to the matter of BO.

14  
15        The secretariat sought MSG approval of the revised position paper and noted that it can serve as  
16        reference for MSG members anytime the Congress calls a hearing or meeting on the matter. An industry  
17        representative moved for the approval of the position paper, seconded by a CSO representative. The  
18        revised position paper was approved.

19  
20        **10. Approval of Terms of Reference for Subnational Report**

21  
22        Documents in relation to this agenda item will just be circulated via email.

23  
24        **11. Other Matters**

- 25  
26        •    ***Updates on upcoming activities***

27  
28               ***38<sup>th</sup> International Board Meeting***

29        The Philippines will be hosting the 38<sup>th</sup> International Board Meeting in Manila. The secretariat  
30        has initiated talks with the international secretariat regarding arrangements. The event will run  
31        from October 25-27, 2017. The first two days are dedicated for the Board meetings, while the  
32        third day will be for a study tour. Mr. Gerard Brimo of Nickel Asia Corporation has agreed to  
33        host the tour in Rio Tuba, subject to approval by the International Secretariat.

34  
35        Significant for PH-EITI is hosting a reception in the evening of October 25. It will be held in  
36        Conrad Hotel as the venue chosen by the International Secretariat. MSG members will be invited  
37        to the reception.

38  
39        The secretariat emphasized the importance of initiating preparations and finalizing details as  
40        early as possible because the Board meeting is happening at around the same time as the  
41        ASEAN meetings.

1 The Chair asked if there would already be a decision on whether or not the Philippines is EITI-  
2 compliant by the time of the Board Meeting. The secretariat responded that the results may be  
3 announced during the Board meeting, but the decision should come out earlier, sometime in  
4 August or September.

#### 5 6 ***Regional Training (Manila)***

7 The Regional Training will be conducted simultaneously with the International Board Meeting  
8 (October 25-27). The details were circulated to the body in early June. The training will be held  
9 in Conrad Hotel as well. The IS invites three members of the PH-EITI MSG, one from each of the  
10 three sectors, to participate in the training. Atty. Golda Benjamin was nominated to represent  
11 the CSO sector, and Atty. Francis Ballesteros, the industry sector. Two representatives from the  
12 national secretariat will also join the training. Participating countries from the region (Southeast  
13 Asia and the Pacific) include Indonesia, Myanmar, Papua New Guinea, Solomon Islands, and  
14 Timor Leste.

15  
16 The secretariat awaits the nominated participant from the government sector.

#### 17 18 ***Beneficial Ownership Conference (Jakarta)***

19 The conference will be on October 23-24, 2017 in Jakarta. Participants to the conference should  
20 be familiar with the technical aspects of BO. The IS will be bringing in government  
21 representatives involved in or relevant to BO disclosure and reporting. The IS will be funding one  
22 representative from the SEC. The secretariat has sought permission from the IS to send more  
23 than the usual 3 participants, the expenses of which will come from the PH-EITI budget. The  
24 secretariat will inform the MSG of the final number of people allowed to join and the program of  
25 activities as soon as the information becomes available.

#### 26 27 ***Meeting with LSNM Mining Sector***

28 The meeting is tentatively set on Friday, July 21. The meeting aims to firm up scoping of the  
29 sector and come up with a recommendation on which companies will be covered by the 4th  
30 Report. Resource persons who presented in the last meeting (CEMAP and member companies)  
31 and new metallic companies that will be covered for the first time will be invited.

#### 32 33 ***MSG Capacity Building***

34 The secretariat is looking at the possibility of holding another mine tour and proposing to hold it  
35 back-to-back with the 45<sup>th</sup> MSG meeting. The last tour the MSG had was back in 2014 in Rio  
36 Tuba. This year, the secretariat has asked Mr. Joey Leviste of OceanaGold to host a mine tour to  
37 their Didipio mine in Nueva Vizcaya, and he has agreed. The tentative date is within August 30  
38 to September 1. Logistical preparations are being firmed up.

39  
40 A CSO representative suggested adding a visit to either an Oil and Gas or Cement company in  
41 the itinerary. An industry representative said that oil and gas operations are offshore and a tour  
42 will require extensive preparations (e.g., training) for each visitor. As regards visiting a cement

1 company, the Chair and a CSO representative said that perhaps this can be done later, especially  
2 since the scoping for the non-metallic mining sector has yet to happen.

3  
4 A motion was made and seconded to approve the proposal to visit OceanaGold, and the  
5 proposal was approved.

6  
7 The secretariat requested the body that there be no MSG meeting set in the month of August  
8 because of the roadshow schedule.

### 9 10 **Media Training**

11 The training for media professionals is aimed to strengthen and broaden awareness on PH-EITI,  
12 encourage use of PH-EITI reports, and engage the media in PH-EITI's activities. The secretariat is  
13 in touch with outfits that can provide such training, including the PROBE Media Foundation, the  
14 Philippine Center for Investigative Journalism (PCIJ), and the Philippine Press Institute (PPI).  
15 PROBE's initial proposal includes a workshop for media practitioners and a fellowship program  
16 where participants will conceptualize and submit proposals on pieces that they would want to  
17 create on specific EITI-related topics. PROBE will review the submissions and the winning fellow  
18 will be granted a budget to fund proposed study/article/output. PH-EITI can identify the general  
19 theme for the fellowship.

20  
21 There is also a proposal to conduct for the MSG a training on facing the media, which will  
22 include simulations. A CSO representative expressed interest in the training not just to be able  
23 to face the media but to help MSG members to better explain EITI to the public, to clearly  
24 articulate in precise language what EITI is and is not doing without ignoring real concerns in the  
25 community. Another CSO representative added that ethical standards in facing the media  
26 should be included in the training design as well.

27  
28 The involvement of provincial media in the training was also raised. The secretariat said that  
29 they will make sure the provincial media are engaged.

30  
31 The proposed trainings for media practitioners and for the MSG were approved.

32  
33 Further discussion surfaced past plans or proposals to organize a pool of trained speakers who  
34 can talk about EITI and the details of the country reports. A CSO representative supported this  
35 point and added that what PH-EITI needs is to develop a communications plan which can include  
36 the proposed pool of speakers, media engagement, , and other strategies.

### 37 38 **Implementation of DAO 2017-07**

39  
40 The secretariat asked for guidance from the MSG on how to respond to queries concerning  
41 mandatory participation in EITI of mining companies. The secretariat has been receiving  
42 communications in line with the implementation of the DAO. They sought approval from the



1 body to proceed with replying to concerns such as whether or not these companies are covered  
2 in the 4<sup>th</sup> Report. The body approved. The Chair suggested the issuance of a statement that will  
3 clarify the scope of the 4<sup>th</sup> Report in the PH-EITI website.  
4

5 A CSO representative recommended that, as courtesy to DENR, it would be prudent to talk to  
6 them first to inform them that the MSG will be sending out clarificatory letters. This will not only  
7 prevent sending the message that DENR did something wrong in issuing a generic policy, but  
8 also so that when companies ask, DENR and the MSG will give the same answer.  
9

10 The secretariat will follow up the request for a meeting with the DENR Secretary.  
11

12 • **Setting of the next MSG Meeting**  
13

14 The 45th meeting will be held in OceanaGold sometime between August 30 and September 1, 2017.  
15 The secretariat will communicate the confirmed details to the MSG.  
16

17 The Chair reminded the secretariat about inviting Region XII to the roadshow.  
18

19 With no other matters raised, the 44th MSG meeting was adjourned at 12:22 in the afternoon.