

46th Multi-Stakeholder Group Meeting

12 October 2017 | 9:00 AM – 12:00 NN

Carlota Paz Function Room, Hotel Jen Manila

Attendees:

Government

Usec. Bayani Agabin	Department of Finance (DOF)
Asst. Sec. Ma. Teresa Habitan	DOF
Ms. Febe Lim	DOF
Engr. Romualdo Aguilos	Department of Environment and Natural Resources -Mines and Geosciences Bureau (DENR-MGB)
Dir. Anna Liza Bonagua	Department of the Interior and Local Government (DILG)
Dir. Araceli Soluta	Department of Energy (DOE)
Ms. Maricor Cauton	Union of Local Authorities of the Philippines (ULAP)

Industry

Mr. Gerard Brimo	Nickel Asia Corporation (NAC)/ Chamber of Mines of the Philippines (COMP)
Ms. Nelia Halcon	COMP
Atty. Francis Joseph Ballesteros, Jr.	Philex Mining Corporation
Mr. Bradley Norman	Oceana Gold Philippines, Inc.

Civil Society Organization (CSO)

Mr. Chadwick Llanos	United Sibonga Residents for Environmental Protection and Development (USREP-D)
Ms. Starjoan Villanueva	Alternate Forum for Research in Mindanao (AFRIM)
Mr. Augusto Blanco, Jr.	Indigenous Peoples (IP) Representative, Mandaya Tribe, Compostela Valley
Engr. Maria Rosario Aynon Gonzales	Palawan State University
Mr. Buenaventura Maata, Jr.	Philippine Grassroots Engagement in Rural Development Foundation, Inc. (PhilGrassroots-ERDF)
Atty. Golda Benjamin	Siliman University

1 **Independent Administrator and Consultant**

2 Atty. Joseph Emmanuel Angeles Consultant
3 Ms. Corina Molina Isla Lipana- PWC
4 Ms. Jenny Belle Rodis Isla Lipana- PWC
5 Mr. Ian Oliver Teodoro Isla Lipana- PWC
6 Ms. Linnet Chan Isla Lipana- PWC

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8 **PH-EITI Secretariat**

9 Atty. Maria Karla Espinosa Secretariat
10 Ms. Abigail Ocate Secretariat
11 Ms. Mary Ann Rodolfo Secretariat
12 Ms. Joy Saquing Secretariat
13 Ms. Roselyn Salagan Secretariat
14 Mr. Ryan Justin Dael Secretariat
15 Mr. Marco Zaplan Secretariat
16 Ms. Johna Paula Manzano Secretariat
17 Mr. Jaime Miguel Secretariat
18 Mr. Ricardo Evora Secretariat
19 Ms. Ma. Rowena C. Raymundo External Documenter

20
21 **Observers**

22 Mr. Arvi Miguel DILG- PPEI Project
23 Mr. Kaycee Crisostomo TVI Resource Development Philippines
24 Incorporated
25 Ms. Angelica Dacanay Bantay Kita

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28 **Agenda:**

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- 30 • Approval of the Minutes of the 45th MSG Meeting
 - 31 • Matters arising from previous MSG Meetings
 - 32 • Main Business
 - 33 ○ Presentation on and approval of Materiality for 4th Report
 - 34 ○ 4th Report Coverage of LSNM Mining
 - 35 ○ Approval of Outline of 4th Report
 - 36 ○ Presentation on revised beneficial ownership scoping study and approval of
 - 37 definitions (with report on the TWG meeting)
 - 38 • Other Matters
 - 39 ○ Updates on upcoming activities
 - 40 ■ 38th EITI International Board Meeting and related activities
 - 41 ○ Media Training

- Setting of next MSG meeting

1. Call to Order

The 46th PH-EITI Multi-Stakeholder Group (MSG) meeting was called to order at 9:19 AM. Department of Finance (DOF) Assistant Secretary Ma. Teresa Habitan, Alternate Focal Person of the PH-EITI, chaired and facilitated the meeting.

The Chair acknowledged and welcomed the presence of DOF Undersecretary Bayani Agabin who is the new PH-EITI Focal Person.

The Chair then congratulated the body because the Philippines had just recently been recognized by the EITI International Board as the first country to meet with satisfactory progress all the requirements of the 2016 EITI Standard.

The Chair said that EITI has recognized our country's pioneering efforts in using EITI data to drive government reforms. This, too, is a recognition of the hard work and efforts of the MSG and the national secretariat.

The Chair then asked for a motion to approve the agenda for the meeting, and the agenda was subsequently approved.

2. Approval of the Minutes of the 45th MSG meeting

The Chair announced that the minutes of the 45th MSG was circulated last Tuesday, 10 October 2017. The MSG members were given one more week to send their comments, after which period without the secretariat receiving any comment, the minutes will be deemed approved.

3. Matters arising from previous MSG meetings

The secretariat noted that the matters arising now include previously 'parked' items that were discussed again during the last meeting.

- *Offer of Timor Leste to conduct a training for the MSG on the Petroleum Fund process* – This is a matter from way back in 2013. Through the years, it could not be implemented due to budget constraints. During the last meeting, the secretariat was instructed to prepare a detailed proposal taking into consideration the available resources such as the modules of the Natural Resource Governance Institute (NRGI) on sovereign wealth fund. The item is still pending, but the secretariat committed to work on the proposal after

1 the major events in October.

- 2
- 3 • *Online reporting tool for companies* – The secretariat announced that the draft TOR
- 4 could already be sent to the MSG for comments, and that a meeting/consultation with
- 5 industry representatives will be organized to discuss the TOR, since they will be the
- 6 users of the online reporting tool.
- 7
- 8 • *Measuring public awareness of EITI* – The secretariat was instructed to coordinate with
- 9 survey-taking organizations to implement this. The matter is still pending.
- 10
- 11 • *Introducing PH-EITI to new Department of Environment and Natural Resources (DENR)*
- 12 *Secretary* - The last action taken was re-sending of the letter to the office of the DENR
- 13 Secretary. The secretariat reported that based on recent follow-up with the office of
- 14 Secretary Cimatu, they were told that the request letter is on the Secretary’s desk, but it
- 15 has not been acted upon yet. The Chair suggested that the secretariat also brief the
- 16 Secretary’s Chief of Staff or Head Executive Assistant.
- 17

18 **4. Presentation on and approval of Materiality for 4th Report**

19

20 The Independent Administrator (IA) recalled that in the last MSG meeting, the body agreed

21 to still use the 2% materiality threshold. Given this, they presented the 2015 and 2016

22 proposed materiality calculation. The numbers were initially based on 2014 data, but these

23 will be updated once the 2015 and 2016 financial statements of the targeted companies

24 become available. (See **Annex A.**)

25

26 The calculated threshold is PHP249.54 million for mining and PHP882.96 million for oil and

27 gas. Based on these thresholds, the revenue that will be covered will amount to PHP12

28 billion for mining and PHP44 billion for oil and gas.

29

30 In terms of percentage coverage, 99.4% of revenues from the mining industry and 99.97% of

31 revenues from the oil and gas sector will be covered.

32

33 A civil society organization (CSO) representative asked why 100% coverage was not

34 achieved. In response, the IA explained that the calculation of materiality percentages

35 covered only the in-scope revenue streams of participating entities. The difference can be

36 attributed to the out-of-scope revenue streams of participating companies.

37

38 For mining, the IA presented a list of revenue streams that are in scope given the calculated

39 threshold. The IA noted that there are no significant changes to be included in the 4th

40 Report.

1 An industry representative queried about customs duties as one of the additional revenue
2 streams specified by the MSG. The IA responded that this is outside the calculated
3 threshold, but they noted that it was included last year regardless if it was below the
4 threshold. For this year, the same thing will be done because customs duties is a main tax
5 being paid by mining companies.

6
7 The IA shared that the following funds will be included in the 4th Report:

- 8 • Rehabilitation Cash Fund - Actual Expenditure
- 9 • Monitoring Trust Fund - Actual Expenditure
- 10 • Environmental Trust Fund - Actual Expenditure
- 11 • Final Mine Rehabilitation and/or Decommissioning Fund - Actual Expenditure
- 12 • Mine Waste & Tailings Fees
- 13 • Annual Environmental Protection and Enhancement Program (EPEP)
- 14 • Social Development & Management (host and neighboring communities)
- 15 • Mining Technology and Geosciences Advancement
- 16 • Information, Education & Communication (IEC)
- 17 • Safety and Health Programs

18
19 A CSO representative queried about the Final Mine Rehabilitation and Decommissioning
20 Fund. He requested that the report include both what is put in reserves and what is actually
21 spent.

22
23 The IA said that they would have to work on this, because this is not in the reporting
24 template sent to the companies. They noted, though, that some companies disclose this
25 kind of information in the financial statements, but for companies that do not, they will try
26 to get the information directly from the companies.

27
28 An industry representative remarked that the CSO representative raised a very good point.
29 He suggested to have a supplemental questionnaire for the companies to report on the
30 balance of the Final Mine Rehabilitation and Decommissioning Fund, not necessarily for
31 reconciliation but for reporting purposes only. The IA took note of the suggestion.

32
33 For Oil and Gas, there was no change in the revenue streams that will be included, and there
34 is no additional scoped-in revenues specified by the MSG.

35 36 **5. 4th Report Coverage of Large-Scale Non-Metallic Mining (LSNM) Mining**

37
38 For non-metallic mining, the top five projects based on production will be targeted with the
39 following companies in-scope: Eagle Cement, Concrete Aggregates, Holcim Mining and
40 Development, Rio Tuba Nickel Mining, Republic Cement and Building Materials, Inc, Teresa
41 Marble/Solid Cement.

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The secretariat explained that they have communicated to the IA the emerging position of the MSG based on the members' responses to the email requesting for comments on whether to include the top five (5) companies which involve multiple projects, or just the top five (5) projects and their corresponding companies. According to the secretariat, not all but a majority prefer to cover only the top 5 projects. In the interest of time, the secretariat already communicated this to the IA. This matter was included in the agenda to get the MSG's confirmation that the report will indeed cover the top five (5) projects.

The secretariat showed the top five projects for both 2015 and 2016. They then sought confirmation from the body that there is indeed agreement to scope the top five projects and not the top five companies. It was noted that if the top five companies were scoped, there would be 21 projects for 2015 and 24 projects in 2016.

The Chair concurred that from the email discussion, majority of the MSG members expressed preference for covering the top projects for the initial scoping. With no comment or reaction from the body, the Chair took the silence as agreement by and from the body.

According to the IA, there would also be a need to include a rationale for the decision to cover only the top five LSNM projects in the 4th Report.

A CSO representative noted that in earlier discussions, several options were considered but the MSG decided that the number be limited to five, considering that this will just be a pilot test. Five is a manageable number enough to test reporting on projects. This number may be increased later on in future reports.

The IA will draft the rationale for scoping the top five projects based on the discussion, and this will be presented to the MSG.

6. Approval of Outline of 4th Report

The IA presented and discussed the comments they received on the proposed outline of the 4th Report.

- *On Section II - Exploration and Production.* There was a comment/suggestion to include the topic of Multi-Partite Monitoring Team (MMT) performance and extractive industries (EI) operational or policy changes brought about by MMT recommendations.

According to the IA, the MMT process and evaluation of related reports are already included as part of Section VI of the 4th Report.

1 In addition, since the suggestion is to include policy changes resulting from MMT
2 recommendations, the IA sought clarification if any EI operational and policy changes
3 can indeed be directly attributed to MMT recommendations. This is considering that the
4 function of the MMT is to monitor compliance with the minimum requirements of safety
5 and operational regulations.

6
7 The CSO representative who gave the suggestion explained that mining companies take
8 MMT reports and recommendations seriously. This is important in relation to how EIS-
9 related policies of companies are being followed. If there were items related to MMT
10 recommendations that can be included in the report, it would be beneficial in the
11 interest of transparency.

12
13 The Chair queried if this can be done on a national scale. She asked for a specific
14 example of a certain project of a certain company where an MMT policy
15 recommendation resulted in changes in the policies of that company.

16
17 The IA asked if they understood it correctly that the policy change resulting from MMT
18 recommendation being referred to is only within the company and not on a national or
19 local government level. If so, reporting on this can be done on a sampling basis and not
20 for all companies.

21
22 The CSO representative explained that at the national level, MMT reports have not been
23 organized and statistically analyzed. There is something wrong in the overall policy of
24 creating the EIS and the MMT reports. In this context, there should be policy changes at
25 the national level. At the company level, specific MMT recommendations are aimed at
26 improving the operations of the mining company as well as its environmental
27 sustainability.

28
29 The Chair asked the CSO representative if the suggested item for inclusion in the report
30 is something of an introduction only and something that is being looked at for further
31 study and analysis. If the IA can find a pertinent specific company or MMT report, then
32 this can be a case study. This can be written inside a box, like an anecdote in the
33 contextual information, which can indicate an emerging issue or what PH-EITI will do or
34 where it will go in the future.

35
36 The CSO representative said that as it is now, the MMT is still a work in progress. There
37 is not even a standard tool being used yet.

38
39 An industry representative reacted that there are actually existing tools, particularly
40 with respect to water and air. The total suspended solids and total heavy metals in the
41 water that is discharged into the environment are measured during the MMT process.

1 There is monitoring being done and there are reports that come out from the MMT.

2

3 The Chair underscored the need to identify the goal. If there is a case study, then the IA
4 can write about it. She suggested that the concerned CSO representative help in drafting
5 this portion of the contextual information.

6

7 In summary, the IA, with the assistance of the CSO representative and the industry
8 representative who also volunteered to help, will try to find a willing company and write
9 a case study.

10

11 A government representative suggested engaging companies with complete (full-year)
12 MMT reports. Since these reports are submitted quarterly, one can check whether an
13 MMT recommendation in one quarter, for example, has been followed as it should have
14 been in the succeeding quarters. The IA took note of this.

15

16 • *On Section IV - Social and Economic Spending.* The suggestion is to include the impact of
17 Social Development and Management Programs (SDMP) in the host communities of
18 extractive industries. The IA noted that these were included in the prior reports, where
19 the beneficiaries were indicated, although not really the specific communities. The IA
20 recalled that the reporting template for companies already includes not only the SDMP
21 amount but also the specific projects covered under the SDMP.

22

23 Another comment pertains to the extractive sector's impact on poverty reduction in
24 host communities. The suggestion was to include some analysis of data as to how
25 extractive activities contribute to poverty reduction.

26

27 A CSO representative shared that in the many visits he has done, mining companies ask
28 about the payments they make to the government. At the provincial level, revenues
29 from extractive companies are mixed with the general fund. Thus, there is difficulty in
30 measuring how much goes to poverty alleviation.

31

32 The Chair articulated that the Bureau of Local Government Finance (BLGF) has started
33 work on improving the reporting process of LGUs to reflect specifically the concern
34 raised by the CSO representative. Some of the enhancements include: i) LGU shares in
35 national wealth are now disaggregated; ii) contributions coming from mining companies
36 are included in LGU revenues; iii) LGUs are supposed to use their shares in national
37 wealth as well as direct payments from the companies for specific projects or purposes.

38

39 The Chair suggested allowing the Environment and Natural Resources Data Management
40 Tool (ENRDMT) to be fully implemented so that, though not in the 4th Report, but in the
41 next reports, there could be firmer basis for determining how funds are being used.

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The Chair asked the body if there were other comments on the outline of the report, and there were none.

Other updates from the IA

The IA also presented some updates on the progress of reconciliation activities. They reported that, as of date, the following companies have not responded to them yet: Philsaga Mining Corporation; Forum Energy Philippines Corporation; Semirara Mining and Power Corporation; Cambayas Mining Corporation; Ore Asia Mining & Development Corporation; Atro Mining -Vitali, Inc.; Investwell Resources, Inc.; and the two newly scoped entities, namely, FCF Minerals Corporation and Techiron Resources, Inc. Five of these companies did not participate last year. These are: Forum Energy, Semirara, Cambayas, Atro Mining-Vitali, and Investwell Resources.

The IA noted that they have sent emails but they have gotten no response from the companies yet. They have also called the telephone numbers but could not get through.

Two industry representatives volunteered to assist. Meanwhile, the Department of Energy (DOE) was asked to help particularly in communicating with Semirara.

With regard to template submission, the IA reported that for the 2015 templates, they have received 21, four of which are complete. Other templates have no signatures or there are information that are still pending. For the 2016 templates, they have also received 21, six of which are complete.

Both Oriental Petroleum & Minerals Corp. and Philodrill Corporation have communicated that as in the previous year, they will not be participating again for the 4th Report.

For government agencies, pending reporting templates are from Bureau of Internal Revenue (BIR), National Commission on Indigenous Peoples (NCIP), Philippine Ports Authority (PPA), Mines and Geosciences Bureau (MGB), and DOE.

As regards oil and gas, the IA asked if DOE could compel all oil and gas companies to join or participate, which is what DENR-MGB did for mining companies. The DOE representative said she would discuss this matter with the new director concerned.

The IA also shared that last 5 October 2017, the Department of Budget and Management (DBM), Bureau of the Treasury (BTr), and BIR met together to discuss the process of collecting and releasing the LGU share in national wealth. The meeting was fruitful insofar as it clarified to all agencies what their responsibilities are. According to the IA, they will also

1 follow-up DOE and MGB for a similar meeting.

2

3 The IA announced that for this year, they will try to reconcile the share in national wealth
4 being received by LGUs against the share based on their computation. They will provide
5 more updates once the details become available.

6

7 In terms of waiver submissions, the IA reported that 34 mining companies and 5 oil and gas
8 companies have already signed the waiver. The following companies have yet to sign the
9 waiver: Adnama Mining Resources Inc., Agata Mining Ventures Inc., Citinickel Mines and
10 Development Corp., Eramen Minerals Inc., Mt. Sinai Mining Exploration and Development
11 Corp., Wellex Mining Corp., Atrato Mining-Vitali Inc., Cambayas Mining Corp., Investwell
12 Resources, Inc., Oriental Vision Mining Philippines Corp., Benguet Corp., FCF Minerals Corp.,
13 Techiron Resources Inc. , Forum Energy Philippines Corp., Oriental Petroleum & Minerals
14 Corp., Alcorn Gold Resources Corp., Philodrill Corporation, and Semirara Mining and Power
15 Corporation.

16

17 An industry representative inquired if the materiality threshold is still applicable for targeted
18 companies and if there is a cut-off for reporting purposes.

19

20 The IA responded in the negative, saying that the MSG agreed to include all operating
21 mining companies. Nevertheless, moving forward, the MSG may want to reconsider
22 implementing a threshold for the companies again.

23

24 A CSO representative recalled that the agreement was to set a cut-off date, after which time
25 and there is no response from the companies, the IA can just indicate in the report that
26 efforts were exerted but companies did not submit.

27

28 The IA recounted their experience in December last year when they had to accommodate
29 Adnama and SR despite the cut-off date set in November. They expressed hope that this
30 would not happen again this year.

31

32 With regard to the definition of “project”, the IA mentioned that they presented in the last
33 MSG meeting their proposed definition of “project” which was for MSG approval.

34

35 The IA then presented the revised definition of “project” incorporating the comments
36 received in the previous meeting.

37

38 According to the Chair, the body was given time to comment even after the meeting but no
39 comments were received. The proposed definition was deemed approved.

40

41 The IA then presented their proposed timeline for the production of the 4th Report. The IA

1 will provide reconciliation updates on 3 November 2017. In order for them to meet the
2 deadline of report submission, the cut-off has been set on 17 November 2017. After this
3 period, there will be no more accommodation of additional data/information.

4
5 The IA will submit the initial report for MSG review on 1 December 2017. The next two
6 weeks, December 4 to 14, will be dedicated for MSG comments on the report, including IA
7 responses to the comments. The final submission of the 4th Report is targeted on 15
8 December 2017.

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10 **7. Presentation on revised beneficial ownership (BO) scoping study and approval of**
11 **definitions (with report on the TWG meeting)**

12
13 Dr. Angeles started his presentation by saying that he will be presenting the amendments
14 made based on the comments and recommendations of the Technical Working Group
15 (TWG) during its meeting.

16
17 On the proposed definition of Beneficial Owner

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19 According to the speaker, the attendees during the TWG meeting suggested that the
20 definition of beneficial owner be consistent with that provided in the Securities Regulation
21 Code (SRC). The reason is that companies are already used to this definition and there will
22 be less regulatory uncertainties and risks if this legal definition will be adopted. Dr. Angeles
23 thus recommended the verbatim adoption of the definition under the SRC implementing
24 rules. This would make compliance easier.

25
26 On the proposed definition of Politically Exposed Person (PEP)

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28 It was noted that the original proposed definition of PEP was based on the European 4th
29 Anti-Money Laundering Directive (EU4AMLDD). This proposed definition was amended to suit
30 the local conditions, particularly as to the types of officials the country has. Participants of
31 the TWG meeting suggested to include LGU officials, which the original
32 definition/formulation did not include.

33
34 There was also query as to whether the inclusion of Bangko Sentral ng Pilipinas (BSP)
35 officials and heads of international organizations was appropriate. The response was that it
36 would be for the MSG's decision, although he did note that this is included in EU4AMLDD.

37
38 The speaker then presented the revised list of all persons included in the PEP. He
39 particularly raised item 13, "all elective officials of local government units". Upon query
40 from the Chair, the speaker confirmed that this would include the numerous officials at the
41 barangay level. He noted that this was what he tried to point out to the TWG, but the

1 members were adamant about the inclusion. The speaker said that the MSG could decide on
2 this, but under EU4AMLDD, LGU officials are not included, unless they are otherwise
3 members of the governing bodies of political parties.

4
5 On the proposed Materiality Threshold

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7 Dr. Angeles said that the initial formulation of the materiality threshold provided general
8 thoughts on how to go about it. There was a concern, however, that it was rather
9 complicated; thus, there was a suggestion during the TWG meeting to simplify it.

10
11 There was also a comment that PEPs be obligated to report regardless of level or extent of
12 beneficial ownership. In the SRC, there is a 10% threshold, but the TWG suggested that all
13 PEPs be obliged to report regardless of the extent of their share. This is up to the discretion
14 of the MSG who can alternatively decide to maintain the 10% threshold.

15
16 The process involves two steps. First step is determining if it is a qualified entity, i.e., if the
17 entities are classified in the Securities and Exchange Commission (SEC) General Information
18 Sheet (GIS) as “Mining and quarrying” based on the latest Philippine Standard Industrial
19 Classification (PSIC). The second step relates to assets. Any entity with above PHP100 million
20 in total assets is already considered large.

21
22 Those that would have to be reported are the following: (i) those who possess beneficial
23 ownership of at least 10% of any class of securities of a qualified entity, and (ii) PEPs
24 regardless of extent of beneficial ownership, as suggested by the TWG. The speaker said it
25 is up to the MSG if they will accept that recommendation or adhere to the 10% or any
26 threshold they would choose.

27
28 The Chair raised concern over how to administratively implement the reporting process
29 should PEPs include all elected local officials.

30
31 There was a suggestion to consider the Statement of Assets, Liabilities, and Net Worth
32 (SALN). However, assuming a total of about 43,000 barangays with eight local officials per
33 office, this will entail going over the documents of some 344,000 individuals just for the
34 barangay level.

35
36 The speaker agreed that the process would indeed be difficult and cumbersome. SALNs are
37 typically kept in hard copy and not digitized. The Chair asked the DILG representative if
38 SALNs of all officials are submitted to DILG. The response was negative.

39
40 According to Dr. Angeles, Section 8 (A) of RA 6713 states that for elective local officials,
41 SALNs are filed with the Deputy Ombudsman in their respective regions. This is true for

1 regional and local officials and employees. For elective officials like senators and
2 congressional representatives, access to their SALNs would mean going to their respective
3 offices.

4
5 The government representative from the Union of Local Authorities of the Philippines
6 (ULAP) commented that while the intention is good, there are limitations such as the
7 pertinent documents being scattered or sporadic and the question of administrative
8 capacity to implement. She suggested a phased implementation, which can start, for
9 example, at the provincial level first. This would involve only 81 provinces.

10
11 Another government representative suggested starting with local chief executives (LCEs),
12 governors and mayors, including city administrators.

13
14 The speaker agreed that one way to address the administrative burden of implementing the
15 reporting of “all elective officials of LGUs” is by defining some limits, such as up to
16 provincial/city/municipal level only.

17
18 *On Recommendations regarding Forms and Other Administrative Matters*

19
20 With regard to Beneficial Ownership forms, the closest to what would be required is the SEC
21 Forms 23-A and 23-B. The speaker said that the best approach might be to extend the
22 applicability of these forms to the beneficial owners of qualified companies as earlier
23 defined or those within the materiality threshold.

24
25 Under the Corporation Code, the SEC is vested with rule-making authority. It is possible for
26 SEC to require that natural persons with beneficial ownership must be listed and that the
27 grandfather rule must be followed. This recommendation addresses the observation that
28 some SEC forms provide juridical persons instead of natural persons as beneficial owners.

29
30 Another recommendation, more administrative in nature, is the expeditious procurement of
31 a database to enable searchability and facilitate the tracing of beneficial owners and PEPs.

32
33 With regard to the PEP forms, the Personal Data Sheet (PDS) provides useful information
34 almost similar to that found in SALNs, except for assets. Information that can be found in
35 the PDS includes name of spouse, parents, and children of government officials. It has the
36 added convenience of being collated at the Civil Service Commission (CSC) national office.
37 The PDS contains information that can be cross-referenced against the SEC filings to
38 determine whether listed persons are in fact owners as reported under modified SEC Forms
39 23-A and 23-B.

40
41 The PDS can be amended to include other persons, which would be considered immediate

1 family and also PEPs. This can be done by an administrative rule. This would require a data
2 sharing agreement between DOF and CSC.

3
4 Dr. Angeles underscored that in all steps, it would be appropriate to have advisory opinion.
5 This is a type of insulation/insurance, and its relevance is heightened by rather large
6 penalties for non-compliance. Thus, it would be prudent to obtain a favorable advisory
7 opinion from the National Privacy Commission (NPC) as regards any aspect of processing
8 personal information like those in the PDS or SALN.

9
10 Public disclosure of beneficial owners, the extent of their ownership, not to mention unique
11 ID, residence, nationality, and other such aspects, is certainly sensitive. The more sensitive
12 and personal the information is, the more questionable public disclosure is, and the more it
13 highlights the need for proper advisory opinion from the NPC.

14
15 At the conclusion of the presentation of Dr. Angeles, the floor was opened for questions and
16 comments.

17
18 A CSO representative raised the following comments/queries: (i) what burden would be
19 imposed on companies or whom should they be disclosing and at what level; (ii) what are
20 the most urgent requirements; (iii) based on the impediments identified, how far can
21 companies be required to disclose BOs and PEPs; (iv) what would be a possible roadmap in
22 terms of policy reforms?

23
24 It was suggested that in the next MSG meeting, representatives from the NPC be invited to
25 give a short briefing.

26
27 The speaker reiterated that one point of reference is the SRC rule, which provides that the
28 beneficial owner is the one that reports and not the company, and that forms are filed with
29 the SEC. As regards the SALN, it is not clear that beneficial ownership is to be reported. This
30 has to be covered by a favorable opinion by the Department of Justice (DOJ) or the CSC.

31
32 Nonetheless, reports can be cross-referenced with other data. The more efficient manner of
33 going about is to have the list of PEPs culled from the CSC PDS filings, then search for those
34 names in the SEC filings. This type of activity will be much more doable and efficient once
35 SEC has put up the database. The speaker mentioned that the procurement is supposedly in
36 the advanced stages already.

37
38 The CSO representative asked the speaker for recommendations relevant to the purpose of
39 PH-EITI. Given all the possible roadblocks, what can be the roadmap? Where can PH-EITI go
40 now? How does PH-EITI proceed?

1 The Chair proposed that the body agree on the definitions first and then define the
2 roadmap that will contain the action plan and what PH-EITI would want to accomplish in the
3 years to come.

4

5 The secretariat pointed out that the presentation is the revised draft circulated to the MSG
6 and was meant to be the final draft from the consultant. Ideally, this should be deemed as
7 the completed study, subject to the acceptance of the MSG, and the basis for the MSG's
8 decision on or approval of the recommended definitions. The secretariat noted that during
9 the TWG meeting, the MSG was adequately represented and the comments raised therein
10 were addressed or considered. The present presentation was intended mainly to get the
11 comments, if any, of the MSG members who were not present during the TWG meeting.

12

13 The secretariat also mentioned that PH-EITI will be participating in the coming BO
14 conference in Jakarta on October 23-24. PH-EITI will be represented by three MSG
15 members, together with the consultant, Dr. Angeles, who would be there not only to share
16 what the Philippines is doing but also to learn and know what other implementing countries
17 are doing in terms of BO reporting.

18

19 According to the secretariat, the latest output from the consultant already contains
20 recommendations for consideration of the MSG. She asked if body still has questions they
21 would like to direct to the consultant or if they would need additional time to review the
22 document.

23

24 On the definition of materiality, upon query from the Chair, it was confirmed that the two
25 conditions must be present to be considered as a qualified entity: (i) classified as mining and
26 quarrying under the PSIC and (ii) with at least PHP100M in total assets based on audited
27 financial statement.

28

29 It was further clarified that a natural person should be required to report its beneficial
30 ownership in a qualified entity if: (i) he/she has at least 10% of any class of securities of the
31 qualified entity or (ii) he is a PEP owning a security in a qualified entity.

32

33 A CSO representative requested for more time, considering that the purpose of the study is
34 to inform a roadmap that will be implemented later on, and that it has very important
35 implications that need to be carefully studied.

36

37 The secretariat pointed out that another new recommendation in the revised draft with
38 respect to the materiality definition is reference to the PSIC. The consultant had to provide
39 this classification basis because the requirement of the EITI Standard is broader than PH-
40 EITI's covered entities. Requirement 2.5 requires "that implementing countries maintain a
41 publicly available register of the beneficial owners of the corporate entity(ies) that apply for,

1 or hold a participating interest in an exploration or production oil, gas or mining license or
2 contract.”, not only entities that are in operation.

3
4 The secretariat also mentioned that during the TWG meeting, there was already a proposal
5 to meet with the SEC, CSC, and NPC. This will be pursued and arranged.

6
7 The secretariat also related that during the TWG meeting there was prevailing interest in
8 capturing PEP at the lowest level to reflect the reality of the complexity of the country’s
9 political structure and how it is not immune to corruption, to combat which is part of the
10 reason behind BO disclosure.

11
12 Going back to the roadmap, a CSO representative suggested that what may be presented is
13 a timed recommendation. For this year, for example, how far can the BO reporting be
14 pushed based on the current policy and definition? How far can the boundaries be pushed
15 realistically?

16
17 The Chair asked the body how to put into action and how to implement all that have been
18 discussed. The secretariat commented that the question right now is whether to ask the
19 consultant to do this as part of the scoping study or to already conclude his services. The
20 scoping study is meant to provide basis for how MSG will move BO disclosure and reporting
21 forward.

22
23 According to the Chair, the report of the consultant actually starts in page 42 of the study,
24 where he outlines specific proposals on what to do and what can be undertaken. The task
25 of PH-EITI is not to dismantle everything in one go. Focus is needed. The relevant portions
26 of the report like the matrix presented can be translated in the form of a roadmap.

27
28 The Chair noted that the only thing missing from the matrix is a timeline so there is
29 indication of when and how to phase in. Milestones should be reflected as well. These are
30 the things that the MSG wants to be guided on, considering its tripartite nature where the
31 constituencies have varying concerns. The Chair emphasized that what MSG would like to
32 see is a general direction and flow of activities with identified milestones.

33
34 Dr. Angeles said that his initial thought was that putting timelines at this point might be
35 arbitrary without having an initial discussion with NPC, for example. He is certain, though,
36 that the first step is getting an advisory opinion to insulate people from possible liabilities.

37
38 He restated that what the MSG requires is a roadmap, a sequential or chronological map or
39 plan of what has to be done towards specific objectives.

40
41 The secretariat volunteered to provide a template, subject to MSG instructions. The speaker

1 welcomed the idea. The Chair instructed the secretariat accordingly.

2
3 **8. Other Matters**

- 4
5 ■ Updates on other upcoming activities

6
7 - 38th EITI International Board Meeting and related activities

8
9 As of reporting time, there just remain two weeks until the 38th EITI International Board
10 meeting to be held at the Conrad Hotel in Manila. The secretariat is in close
11 coordination with the EITI International Secretariat (IS).

12
13 The secretariat noted that the meeting is primarily an EITI international event, but since
14 the country is hosting, there will also be events and activities from the PH-EITI end.

15
16 A dinner reception will be hosted by the DOF and PH-EITI on October 25, evening of the
17 first day of the Board meeting. MSG members will be requested to be present during the
18 reception.

19
20 The secretariat showed a provisional program that would last for about two hours. It
21 consists of a welcome address from the Secretary of Finance and messages from PH-EITI
22 constituencies, particularly the government regulatory agencies, DENR and DOE. There
23 would be an audio-visual presentation on PH-EITI and a musical number.

24
25 Alongside the Board meeting would be a PH-EITI constituencies' exhibit and talks. This
26 will be similar to the exhibit staged during the national conference. This time, though,
27 there will be integrated talks called the "transparency talks" where each sector will give
28 a short talk on a new initiative they are doing. The talks will be held pursuant to IS
29 request that there be a forum or venue to share innovations in transparency.

30
31 The transparency talks will consist of three short talks from BLGF (government side) to
32 talk about ENRDMT, from the mining industry to talk about TSM, from the CSO to talk
33 about subnational initiatives.

34
35 There will actually be two international events on October 25-27. Simultaneous with the
36 international Board meeting will be the Regional Training for implementing countries of
37 the Southeast Asia and the Pacific Region. The MSG will send three participants,
38 representing the three sectors/constituencies. Atty. Golda Benjamin from the CSO, Atty.
39 Francis Ballesteros from the industry, and Director Anna Bonagua from the government.

1 The field visit has been stricken out, as only a few members of the international Board
2 confirmed interest and participation.

3
4 The secretariat reported that the invitees on the list already number about 277,
5 including the international board, international secretariat, representatives of EITI
6 implementing and supporting countries and their corresponding ambassadors in the
7 country, representatives from the industry, government agencies (all reporting
8 agencies), past and present members of the MSG, and development partners. The
9 Office of the President has been invited, but the President already declined and done .
10 The Office of the Vice-President and Office of the Cabinet Secretary were likewise
11 invited.

12
13 The secretariat assured the MSG that they would be there to assist for the whole
14 duration of the event. They also informed the body that they have hired an event
15 management company to assist in the logistics.

16
17 ■ Media Training

18
19 The media training for the MSG (capacity building) will be held in the afternoon and up
20 to the following day.

21
22 The other media training included in the meeting agenda is for media practitioners. For
23 this activity, PH-EITI will collaborate with the Philippine Press Institute (PPI). There will
24 be a seminar and a writing fellowship component. PPI specializes in community
25 journalism and their proposal is to have the seminar nationwide, so there will be one in
26 Luzon, Visayas, and Mindanao. For each island group, there will be a mine visit
27 component for media practitioners. The secretariat is in touch with COMP for
28 suggestions on which companies to visit.

29
30 PH-EITI will not have a hand on the content of the articles that will come out of the
31 fellowship, but there was assurance that PH-EITI can input to the general theme and will
32 be part of the seminar as resource person. The media training is to engage the media as
33 partners in advocacy, but also as a way to broaden public awareness through this
34 partnership.

35
36 ■ Setting of the Next MSG Meeting

37
38 The next regular MSG meeting was scheduled on 10 November 2017. The agenda will
39 include the draft BO roadmap, a progress report on non-metallic, and recap of the
40 October events.

1 ▪ Others

2

3 The secretariat requested for MSG instructions on how to go about the scope of LSNM
4 who will be participating in the report. They informed that they would be sending
5 within the day the letter request to these companies. However, just in case there is
6 resistance, the secretariat asked if they might schedule another briefing. The MSG
7 confirmed.

8

9 The presence of some MSG members during the said activity was requested.

10

11 With no other matters raised, the 46th MSG meeting was concluded at 11:52 in the morning.