

1 **50th Multi-Stakeholder Group (MSG) Meeting**
 2 9 March 2018 | 9:00 AM – 12:00 NN
 3 Summit Hall E, 4th Floor Delegation Building
 4 Philippine International Convention Center (PICC)
 5 Pasay City

6
 7 **Attendees:**

8
 9 **Government**

10 Undersecretary Bayani Agabin	Department of Finance (DOF)
11 Ms. Febe Lim	DOF
12 Engr. Romualdo Aguilos	Department of Environment and Natural Resources -Mines and Geosciences Bureau (DENR-MGB)
13	
14 Dir. Melita Obillo	Department of Energy (DOE)
15 Mr. Shan Barros	DOE
16 Mr. Benjamin Mortos	DOE
17 Ms. Maricor Ann Cauton	Union of Local Authorities of the Philippines (ULAP)
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21 **Industry**

22 Atty. Ronald Rex Recidoro	Chamber of Mines of the Philippines (COMP)
23 Mr. Bradley Norman	OceanaGoldPhilippines, Inc. (OGPI)
24 Mr. Anthony Ferrer	Petroleum Association of the Philippines (PAP)/Galoc Production Company
25	
26 Atty. Francis Joseph Ballesteros, Jr.	Philex Mining Corporation
27	

28 **Civil Society Organization (CSO)**

29 Dr. Merian Mani	Marinduque State University
30 Ms. Starjoan Villanueva	Alternative Forum for Research in Mindanao, Inc. (AFRIM)
31	
32 Mr. Chadwick Llanos	United Sibonga Residents for Environmental Protection and Development (USREPD)
33	
34 Engr. Maria Rosario Aynon Gonzales	Palawan State University

1	Mr. Buenaventura Maata, Jr.	Philippine Grassroots Engagement in Rural
2		Development Foundation, Inc. (PhilGrassroots-
3		ERDF)
4	Ms. Maria Kristina Pimentel	Bantay Kita – Publish What You Pay Philippines
5	Mr. Augusto Blanco, Jr.	Mandaya Tribe, Compostela Valley
6	Mr. Ronald Allan Barnacha	Philippine Rural Reconstruction Movement
7		(PRRM)
8	Ms. Maria Aurora Teresita Tabada	Visayas State University (VSU)
9		
10	Observers	
11	Mr. Renato Baja	Holcim Mining and Development Corp. (HMDC)
12	Mr. Carlos Tulali	United States Agency for International
13		Development - Facilitating Public Investment
14		(USAID-FPI)
15	Mr. Lukas Alkan	Papua New Guinea EITI (PNG EITI) Secretariat
16	Mr. Christopher Tabel	PNG EITI Secretariat
17	Mr. Francis Diakon	PNG EITI Secretariat
18	Mr. Vaieke Vani	PNG EITI Secretariat
19	Mr. Ryosuke Watanabe	Japan International Cooperation Agency (JICA)
20		Papua New Guinea
21		
22	PH-EITI Secretariat	
23	Atty. Maria Karla Espinosa	
24	Ms. Mary Ann Rodolfo	
25	Ms. Joylin Saquing	
26	Ms. Roselyn Salagan	
27	Mr. Marco Zaplan	
28	Mr. Ryan Justin Dael	
29	Mr. Eastword Manlises	
30	Mr. Jaime Miguel	
31	Mr. Ricardo Evora	
32	Ms. Angelina Alba	
33	Ms. Rhoda Aranco	
34		
35	Agenda:	
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37	• Approval of the Minutes of the 49 th MSG Meeting	
38	• Matters arising from previous MSG Meetings	
39	• Main Business	
40	○ Revised 2017 Recap Presentation	
41	○ Report on the PH-EITI-PPI Journalism Fellowship Workshop	

- 1 ○ Discussion and Approval of 2018 Work Plan
- 2 ○ Discussion and Approval of Terms of Reference for production of 5th Report
- 3 ○ Issues in implementation of DENR Administrative Order 2017-07
- 4 ● Other Matters
- 5 ○ Updates on upcoming activities – 2018 National Conference; Data Deep Dive
- 6 ○ Updates on Beneficial Ownership Roadmap
- 7 ○ Development of online reporting tool for companies
- 8 ○ Presentation of upcoming PH-EITI communication materials (PH-EITI Quarterly
- 9 newsletter, etc.)
- 10 ○ Message to the PNG EITI Delegation
- 11 ○ Setting of next MSG meeting

13 **1. Call to Order**

15 The 50th MSG meeting was chaired by DOF Undersecretary Bayani Agabin. There being a
16 quorum, the meeting was called to order at 9:20AM.

18 The Chair welcomed the delegation from Papua New Guinea (PNG) EITI who had been in
19 the country for a week-long study visit.

21 **2. Approval of the Minutes of the 49th MSG meeting**

23 The Chair recalled that during the last meeting, it was agreed that members would be given
24 one week to send their comments on the minutes of the 48th meeting. He asked the
25 secretariat if there were comments submitted, and the secretariat responded in the
26 negative, making the said minutes deemed approved.

28 The Chair then said that the same process would be adopted for the minutes of the 49th
29 meeting. Members will be given a week to send comments, the secretariat receiving none
30 during the period, the minutes will be deemed approved.

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

34 The secretariat reported that there are only three identified matters arising from the last
35 meeting and all had to do with courtesy meetings with the Secretaries of the Department
36 of Energy (DOE) and the Department of Interior and Local Government (DILG) and the
37 National Privacy Commission (NPC). The secretariat said it will draft, for the Chair's
38 signature, letters addressed to these offices.

40 The secretariat also reported that they participated in the forum "Building a community of
41 practice around the Right to Information and the Right to Privacy" on March 2, 2018, which
42 was co-organized by Bantay Kita and the NPC, among others. In this forum, there were

1 talks on how to move beneficial ownership disclosure forward.

3 **4. 2017 Recap Presentation**

5 The Chair recalled that the video presentation was shown to the MSG in the last meeting,
6 but there were comments; hence, the video was revised. The secretariat played the
7 revised presentation, after which the Chair applauded the team and commented that the
8 presentation was very good and that it captured what was asked. Special mention was
9 made of Mr. Ryan Dael, PH-EITI's data visualization specialist, who was mainly responsible
10 for the video production.

12 Upon query from the Chair, the secretariat confirmed that the video will be uploaded in
13 PH-EITI's website and noted that it can also be uploaded in YouTube.

15 **5. Report on the PH-EITI-PPI Journalism Fellowship Workshop**

17 PH-EITI's media officer, Ms. Roselyn Salagan, reported on the journalism fellowship
18 workshop that happened just the previous day. She explained that the workshop is part of
19 a series of activities in line with the PH-EITI-PPI media training and fellowship program,
20 which has four components, to wit:

- 22 • Media seminar-workshop in Luzon, Visayas, and Mindanao
- 24 • Writing fellowship, which would provide grants to participants with compelling story
25 proposals. As of that date, there were 14 proposals from Luzon, two from Visayas, and
26 seven from Mindanao.
- 28 • Fellowship workshop, where the articles of the journalists with approved story
29 proposals would be critiqued and may be given additional story angles, inputs or
30 suggestions
- 32 • Presentation of the best three stories during the PH-EITI National Conference

34 The Chair asked about the stories as he wanted to get a sense of what they are about.

36 The secretariat gave a summary of the media fellows' presentations during the fellowship
37 workshop, recounting 11 story proposals with subjects ranging from small-scale metallic
38 mining and quarrying activities across the country to hydropower.

40 The Chair asked about the rationale for the activity. The secretariat explained that the
41 media is one of EITI's identified stakeholders and the media training had always been part

1 of PH-EITI work plan but it did not materialize due to budget constraints. The main
2 objective of the program is to elevate reportage on the extractive industries.

3
4 PH-EITI partnered with the Philippine Press Institute (PPI) because it is the oldest
5 professional media organization that has the widest network of print journalists in the
6 country specializing in civic journalism.

7
8 The secretariat added that the program covered the entire extractive industries, not just
9 mining, as even PPI was particular about preserving their independence and not being seen
10 as industry-biased.

11
12 Following are the comments/reactions of MSG members on the media training:

- 13
14 • According to an industry representative, given the magnitude of the efforts
15 undertaken, it may be worthwhile to maximize the outputs from the workshops. He
16 raised the possibility of using some of the stories to be part of the annual report or
17 collating these stories and coming up with a separate volume.
18
19 • A CSO representative asked if there were action plans generated after the workshop.
20 He said that PH EITI could continuously make use of this group to come up with more
21 sustainable activities in the future. How can they continuously contribute to PH-EITI
22 towards the promotion of transparency? Considering the funds spent by PH EITI for
23 this media training activity, he wanted to see a more sustainable program resulting
24 from it.
25
26 • Another CSO representative opined that there is a need to recognize the role of media
27 as the “fourth estate”, because they play a critical role in crystallizing public opinion.
28

29 Based on the training held last year, in relation to facing the media, the core message
30 was that the objective is really to build capacities and transform the media so they
31 would understand where the MSG is coming from and for them to present more
32 balanced reporting.

33
34 She said that it would be good to include the top stories in the publication of the
35 country report, but they have to be checked for national interest, balanced views, and
36 use of PH-EITI data.

37
38 The CSO representative said that she is pleased that they have started with the media
39 training but this should not be a one-shot deal. Training the media should be a
40 continuing effort.
41

- 1 • A representative from government commented that the training is a very important
2 investment on the part of PH-EITI. The main goals are for the media to know the other
3 side of the story, know PH-EITI language, and counter the stigma of the extractive
4 industry, not necessarily for favorable write-ups.
5
- 6 • Another CSO representative shared that the media training paved the way for them to
7 reach the media, particularly in terms of them accessing, analyzing, and understanding
8 the data that PH-EITI has already produced. Second, the relationship building was also
9 a very important investment. The CSO representative encouraged the MSG to plan
10 media events or stories that would highlight not only the utilization of data but also
11 the processes and working relationships within the MSG. That is something that people
12 really do not recognize and appreciate – that members coming from different
13 stakeholder groups may have their differences, but for particular objectives, they can
14 see eye to eye and contribute to the same objective.
15

16 The secretariat thanked the MSG members for all the comments. In response, it said:

- 17
- 18 • PH-EITI cannot impose on the media training participants to do action planning with
19 respect to PH-EITI. The objective of the training is really just to build the capacities of
20 and network with the media. The most concrete output that can be expected from the
21 exercise is a number of published data-driven articles or stories on the extractive
22 industries.
23
- 24 • From PPI’s end, because of partnership with PH-EITI, their 2018 annual conference will
25 have, as its theme, the extractive industries.
26
- 27 • According to PPI, the selection of the top stories that will be showcased in the PH-EITI
28 National Conference may involve the MSG, if they so prefer. Otherwise, the national
29 coordinator could comment on behalf of PH-EITI.
30

31 Additional comments/reactions/inputs from MSG members:

- 32
- 33 • A CSO representative shared that what they would like to see later on is the impact of
34 PH-EITI reports in terms of how it changes the lives of communities that are directly
35 affected by investments in the extractives, either positively or negatively. This may
36 become an integral part of the contextual information on an annual basis. She
37 expressed confidence that more local partners will be reading these stories, especially
38 because they are written by the local media.
39
- 40 • An industry representative suggested that, to further increase awareness of EITI, press
41 or news releases can be made after every MSG meeting, provided that there are major

1 or substantial things to report. He cited, for instance, the matter of beneficial
2 ownership, which can be developed into a news story, especially if there is MSG
3 consensus on certain issues. If there are newsworthy items, ready quotes can be taken
4 from one MSG member from each stakeholder group and a news release can be made
5 out of these.

- 6
7 • Another CSO representative commended the idea of engaging the media and getting
8 them on board. She noted that this is really going beyond the standard of what is being
9 done in the MSG, as it would complement MSG efforts to make EITI more felt by the
10 masses.

11
12 She looks forward to having a story on “PH-EITI after 5 years” as part of the output of
13 the media training. Having the media on board is already a win on the part of PH-EITI,
14 because they will be bringing the accomplishments of EITI in the ground. They will be
15 bridging the gap between EITI and the host communities of the extractive industries.

- 16
17 • Another CSO representative referred the secretariat to the concept of Most Significant
18 Change (MSC), which is a tool to monitor impact at the local level, regardless of the
19 presence or absence of any baseline. A qualitative tool for impact evaluation and
20 outcome monitoring, this is done through the stories of community leaders.
- 21
22 • A representative from government commented on balanced reporting and story
23 telling, noting that the stories should also include the government actions that have
24 been undertaken during the relevant time.

25
26 To wrap up the discussion on the media training and fellowship, the Chair asked if the
27 objectives have been met, to which the secretariat responded positively. According to the
28 Chair, based on the comments given, there may be a need to plan further steps. One is to
29 have the stories included in the annual report or have a separate volume altogether. He
30 instructed the secretariat to prepare a proposal on this way forward. The secretariat took
31 note of the instruction.

32 33 **6. Discussion and Approval of 2018 Work Plan**

34
35 The Chair recalled that during the last meeting, the 2018 work plan was presented but due
36 to insufficient time, discussion was deferred and everyone was given more time to review
37 and submit comments.

38
39 Upon the Chair’s query, the secretariat informed that they have not been able to send the
40 revised work plan, but they have already received comments on the first draft.

1 The secretariat asked to be allowed to present the inputs they received from the DILG-
2 PPEI, which is a logical framework that categorizes EITI activities according to four
3 programs. They deemed it best to present the inputs to solicit the MSG's thoughts on the
4 framework.

5
6 The Chair asked if the said framework will feed into the work plan. The secretariat
7 responded in the affirmative but noted that the framework does not entirely correspond
8 to the five PH-EITI objectives.

9
10 DILG-PPEI's input provides a logical framework for all of PH-EITI's activities for the year. It
11 suggested four programs: (1) economic profiling of the extractive industries; (2) public
12 dialogue and constructive engagement in natural resource management; (3) advocacy for
13 sustainable development; and (4) effective program management. There is an attempt to
14 tie these programs to outputs that, in a way, corresponds to the five objectives of PH-EITI.
15 The diagram/framework is attached hereto as **Annex A**.

16
17 According to the secretariat, if the MSG finds the framework useful to guide the
18 implementation of activities for the year, then this shall be adopted. They noted, though,
19 that they have maintained the original format of the work plan previously presented
20 because this is what is consistent with the reports they submit to PH-EITI funders and the
21 DOF.

22
23 While the format submitted by DILG-PPEI is similar to the format used by government
24 agencies (which includes fields for programs, activities, output, key performance indicators
25 [KPI], outcome and outcome indicators), in practice, the secretariat only submits PH-EITI
26 inputs to be incorporated in the bigger framework for the DOF Fiscal Planning and Policy
27 Office. The secretariat cautioned that if the body will go for this format, it would largely be
28 internal to the MSG, as it cannot really be integrated in the DOF's KPIs because they are
29 different. The format would require them to identify, monitor and assess performance
30 indicators such as the number of policy recommendations derived from PH-EITI country
31 reports, percentage increase in industry participation in EITI, number of subnational
32 implementation of EITI, and the like.

33
34 A CSO representative expressed appreciation for the proposed logical framework saying
35 that this is really what the MSG needs so that at the end of the year, an objective
36 assessment can be done on whether PH-EITI objectives were achieved or not. She
37 suggested that each stakeholder group be furnished a copy, hold separate meetings to
38 discuss within their respective sector so that during the next meeting, members can give
39 sound inputs on whether or not to adopt the framework.

1 Another CSO representative asked: (1) if the framework already addresses the problems/
2 issues/concerns identified earlier when the original work plan was first presented, and (2)
3 if the MSG needs to approve the March activities to be able to implement based on the
4 work plan. He said that the MSG should take some action now so that in the next meeting,
5 the work plan can already be approved.

6
7 The secretariat assured the body that the recurring and continuing activities, like the
8 production of the 5th report and conduct of the national conference, are already being
9 executed simply because there is no choice but to carry them out. Further, in the history
10 of PH-EITI, implementation of activities was not really bound by the approval of the work
11 plan, unless the activity is extraordinary or new.

12
13 On the question of whether the format responds to the concerns and issues raised during
14 the last meeting, the secretariat reminded that the logical framework is meant to be a
15 separate document. The framework is not the work plan per se.

16
17 An industry representative articulated two things: First, the group can form a smaller
18 technical working group (TWG) to thresh out the specific activities and then have the
19 stakeholder representative cascade them to his/her own constituency. Second, it is very
20 important to monitor progress in MSG recommendations, to track whether or not agencies
21 are really taking action on the recommendations.

22
23 A CSO representative pointed out that the PH-EITI National Conference will already be held
24 the following month. She opined that it would be better if the MSG can already approve
25 the work plan before the conference.

26
27 Another CSO representative moved to approve, in principle, the work plan, but with a
28 collatilla that whatever revision the small group is going to come up with will be part of the
29 approval. The motion was seconded.

30
31 The Chair summed up the main points agreed upon as follows: (i) everyone will be given
32 one week to comment on the revised work plan; (ii) each sector will nominate one
33 representative to a TWG to finalize and approve the details of the work plan; (iii) the
34 secretariat will facilitate discussion of any issues, if necessary. If there are no issues, the
35 understanding is that the TWG representatives are authorized to approve on behalf of
36 everyone in his/her sector.

37
38 An industry representative queried if the said document is internal or if it is submitted to
39 the international secretariat.

1 The secretariat replied that the work plan is submitted to the international secretariat and
2 it is also published in the PH-EITI website. They further informed the body that the
3 secretariat produces several reports, as they are required to report to the World Bank, the
4 DOF, and the international secretariat through the Annual Progress Report (APR).

5
6 The Chair said that if such is the case, then the reports being done by the secretariat may
7 have already covered the things that the proposed format seeks to address. According to
8 him, to avoid being repetitive and so as not to waste efforts, what can be done is to study
9 the reports that PH-EITI already submits to relevant units/agencies.

10
11 The Chair instructed the secretariat to take into consideration the comments of the
12 members and to make sure that PH-EITI does not do redundant reports. He also asked the
13 secretariat to provide the members with updates on this matter.

14 15 **7. Discussion and Approval of Terms of Reference (TOR) for the production of the 5th Report**

16
17 The Chair asked if the draft TOR was sent to MSG members for comments, as agreed during
18 the last MSG meeting. The secretariat responded in the affirmative and further informed
19 that since the last meeting, comments have already been received from the CSOs, industry,
20 and DILG.

21
22 Upon query from the Chair, the secretariat informed that they received no comments on
23 the inputs given by other members; hence, there was no further discussion, except for the
24 CSO's inputs which were already presented to the body during the last meeting.

25
26 The secretariat said that the TOR version included in the kit already incorporates all the
27 inputs/comments they have received. They proceeded to present the salient points.

28
29 The secretariat showed the original document with columns for comments from the MSG
30 and for the secretariat's response in modifying/amending the first draft.

31
32 During the previous meeting, certain comments were already answered, such as the
33 inclusion of downstream revenues. This need not be explicitly stated in the TOR, general
34 terms sufficing. This, in fact, is subject to MSG determination, especially when the
35 reporting template is discussed in the future.

36
37 The primary reason for accelerating the approval of the TOR is to be able to already start
38 the procurement process. As far as the report production process is concerned, the
39 secretariat can only proceed as far as asking companies for the waiver. The other parts
40 have to be handled by the IA. However, the procurement of IA services cannot be done
41 until the TOR is approved by the MSG.

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The secretariat presented the comments given by the CSOs during the last meeting: (i) more reporting on the non-metallic sectors; (ii) inclusion of Minahang Bayan; and (iii) inclusion/clarification of employment data.

As to reporting on the non-metallic sector, the secretariat said that this can be discussed when the MSG talks about the scope in the reporting template; otherwise, the non-metallic sector has been and will continue to be covered by the report. The disaggregation of employment data and other data can likewise be resolved and determined when the reporting template is discussed.

A CSO representative explained that their comment was more of the EITI report data being very different from the MGB and DOLE numbers reported. She said that it would be good to establish a scope or definition of what type of labor or employment is being talked about, because the numbers are very different and discrepancy is significant. It would be difficult to push for policy reforms if people do not have the same understanding of the labor universe being talked about in the report. The secretariat took note of the points raised and said that these concerns will be tackled when the MSG discusses the scope and when the IA is already on board.

The secretariat went on to report that the major points made during the last meeting and the inputs/comments received mostly had to do with ensuring that the IA delivers everything that is stated in the TOR and to enhance the quality of the drafts submitted for review of the MSG. Thus, the main provisions that were added are on engaging a professional copywriter and making sure that the qualification of the IA included solid background in technical writing.

The Chair asked if there is sufficient time to discuss all the comments raised, as there seemed to be plenty. The secretariat acknowledged the Chair’s concern, so they made a quick run-down of the major points/inputs raised in the draft:

- Item 2.4 –the line “whether paper or electronic” was added because part of the responsibilities of the IA is to provide advice and PH EITI is embarking on an online reporting tool for the companies and agencies.
- During the validation, there was question as to why “materiality” was not justified, so a phrase was added: “rationale for materiality and threshold”.
- The secretariat added a provision on the IA’s responsibility to contact the reporting entities, including their regional offices, when necessary. This is in particular reference to the NCIP and MGB.

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- There is a provision that the report, including the initial drafts, should be well written and comprehensible, as assured by a professional technical writer and editor provided by the IA.
- There was a provision added on the qualifications of the IA. They must have a senior writer and editor who must ensure that the initial and final drafts of the report are well written, comprehensible, and coherent, and that there are no conflicting data in the entire document.
- Based on a more optimistic outlook, the target publication date was set in October, effectively pushing the target two months ahead of the original deadline.

The Chair commented that this is essentially because the MSG no longer wants people rushing work during the Christmas season and because of the change in the manner by which information will be requested from the companies. While information gathering used to start in July, the plan now is to start getting data by end of April, after close of tax season. The secretariat agreed and added that data collection is estimated to be done by end of July or August along with the roadshow. The contract period envisioned should be from April to April (the following year), because it should cover the launch of the report, where the IA services should still be rendered.

An industry representative noted that it should be clear to the IA that they still have responsibilities even after the final report has been published. He suggested that there be a provision for a retention amount until final obligations are met. In response, the secretariat pointed to the provision on the Schedule of Payment which provides the following:

- 15% upon contract signing
- 20% following delivery of the inception report
- 20% following delivery of the 1st draft EITI report
- 20% following MSG approval and publication of the EITI Report and production of electronic data files that can be published together with the final report.

In the past, this was a shortcoming of the IA, so this was included as part of the condition before releasing this 20%.

- 25% after launching of the report the following year.

This is effectively the retention amount.

The Chair commented that the retention amount seems too high that the tender may fail.

1 A CSO representative suggested a review of the TOR together with the IA so that the MSG
2 will not be asking more than what is stipulated. If the IA has completed all its deliverables
3 based on the TOR, then they have to be paid.

4
5 The secretariat said that the reason they extended the contract to after the launch of the
6 EITI report is because it is that point where the report sees print. Before that happens, the
7 secretariat needs to continue to have access to the IA because the latter has sole access to
8 the master file. The secretariat has no access to and cannot modify the file.

9
10 Upon the Chair's query, the secretariat responded that while PH-EITI owns the file, based
11 on the contract, the IA exclusively does everything from layout to modifying the main file.
12 It is the IA that gives the final version for printing. The secretariat noted that, based on
13 experience, there remain some errors even after approval of the final version for
14 publication. This has been true for the past reports where addenda were published.
15 Nevertheless, the errors did not entail substantive revisions.

16
17 A CSO representative observed that one reason why there are still changes after approval
18 of online report publication is the fact that members have very little time to review the
19 report. If this year the IA really submits the report by October, this will give MSG members
20 enough time to review before publication in December.

21
22 The Chair opined that if there are cases like these, the burden should be on PH-EITI, noting
23 that there should be time to review thoroughly. He said that what may be missing is
24 "approval and acceptance of the final report". He also thinks that the last 25% may be
25 broken because it is too big, and he is wary if there would be anyone interested to work
26 with this, having one-fourth ($\frac{1}{4}$) of the payment on hold until the succeeding year. He
27 suggested to break down the 25% thus: 15% upon acceptance of the final report and 10%
28 for retention.

29
30 The secretariat took note of the Chair's comments and suggestions.

31
32 A government representative from MGB asked if the contract includes submission of
33 supplemental report after initial validation by EITI International.

34
35 The secretariat responded that based on their understanding, this was done in the past
36 but it was only because assistance was sought from the international secretariat who does
37 make that kind of assistance available, i.e., to do a first review. The secretariat noted,
38 however, that this was in view of the validation that PH-EITI was about to undergo at the
39 time. It was a form of technical assistance that the international secretariat offered to go
40 over the initial draft of the report as an additional pair of eyes to see if the report complies
41 with the requirements of the EITI Standard.

1
2 With no other comments on the TOR, there was a move for its approval and it was
3 seconded.

4 5 **8. Issues in implementation of DENR Administrative Order (DAO) 2017-07**

6
7 The secretariat recalled that in previous meetings, the MSG already discussed how the
8 DENR MGB has begun implementing the DAO after publication of the 4th Report. MGB
9 formally requested the MSG for a list of entities that did not participate in the fourth
10 reporting cycle. In response, PH-EITI provided MGB the list of targeted companies that did
11 not participate, as per the IA. The list included 12 companies classified according to
12 metallic, non-metallic, oil & gas, and coal.

13
14 The secretariat reported that they asked MGB for updates, and in response, MGB provided
15 a timeline where beginning January, after the list of non-participating companies was sent
16 to MGB central office, the same list was forwarded to EMB Central Office. Thereafter, MGB
17 Central Office issued, on January 17, show-cause orders to the non-participating
18 companies on the list (10 metallic, 2 non-metallic), copy furnishing the regional offices that
19 had jurisdiction over these companies. Since then, the secretariat has been receiving calls
20 from companies asking about how they should proceed.

21
22 According to the secretariat, most of the persons who contacted them claimed to be new
23 to EITI, so they had to refer them to emails and other communications previously sent to
24 their companies. These companies included Eramen, Eagle Cement, CTP Construction and
25 Mining, Adnama, Ore Asia and Techiron.

26
27 There were those who responded to the show cause orders, with two companies
28 submitting BIR waiver and reporting template, namely Eagle Cement and CTP Construction
29 and Mining. While Eagle Cement did not explain why they were not able to participate,
30 CTP explained that the demise of their finance officer prevented them from submitting the
31 reporting template.

32
33 The secretariat reported their dilemma of not being able to offer much for a response
34 because this is not within its authority to do, DENR being the implementing/enforcing
35 agency.

36
37 Of the 12 companies in the list, six responded and two submitted their reporting
38 templates.

39
40 The secretariat presented to the MSG the following issues regarding implementation of
41 the DAO:

- 1
- 2 1. Should the MSG push for implementing guidelines of the DAO, considering it is part of
- 3 the recommendations for the 4th Report (one of the recommendations addressed to
- 4 MGB)?
- 5
- 6 2. How should the pilot experience be treated? Should MSG push for strict enforcement
- 7 or allow a trial period, considering the DAO has a clear penalty provision if companies
- 8 did not comply?
- 9

10 The Chair opined that the issues presented are regulatory issues. On the first item, he

11 believed that the DAO is self-executory and that there is no more need for implementing

12 guidelines. The MGB representative agreed to this.

13

14 According to MGB, what they intend to do is to strictly follow the penalty provision of the

15 DAO, i.e., failure to comply with the disclosure requirement of PH-EITI will cause

16 companies the non-issuance of OTP and the suspension of ECC. However, the provision

17 also says, “until such time that they comply with the requirements”. Now these companies

18 are complying, but their submission is late.

19

20 The secretariat commented on the phrase “until such time that the company complies”,

21 noting that this can have several interpretations. For instance, does submission of

22 reporting templates post publication count as compliance? The secretariat believes that

23 the lack of guidelines as to when the show cause order should be issued (and responded

24 to) brought about such issue. If there were guidelines saying that show cause orders should

25 be sent a certain period after the PH-EITI request for participation was given, then if the

26 BIR waivers and reporting templates are not received within a certain period of time, then

27 issuance of show cause orders is called for and justified.

28

29 However, what happened was that show cause orders were sent after the report had

30 already been submitted and published. This would make it seemingly unfair for the

31 companies to be considered to “comply” when there is no more practical sense to it.

32

33 The Chair remarked that it is MGB who has the regulatory authority over these companies.

34 He suggested that what the MSG can do is to submit a position paper on the issues and

35 concerns for the consideration of MGB.

36

37 This was concurred with by an industry representative. To him, the DAO is already

38 complete because it has a penalty provision for non-compliance. He also agreed with the

39 secretariat on the issue of timing in the issuance of the show cause letters, because it was

40 done after report publication; hence, subsequent “compliance” already seems useless. He

41 supported the idea that a letter can be written to MGB to present what the MSG sees as

1 certain loopholes in the implementation. Otherwise, if this is repeated, it would send a
2 signal to the companies that belated submission is allowed.

3
4 A CSO representative remarked that compliance is not just a matter of submitting
5 documents but submitting complete documents in a timely fashion. This definition of
6 compliance will impact the next report. She asked what will happen to the belated
7 submission of the companies. She also asked the number of days MGB allows a company
8 to respond to a show cause order.

9
10 According to MGB, based on their standard procedures, they send three letters. First letter
11 is the show cause, the next two letters are warning letters.

12
13 Another CSO representative asked about the possibility of PH-EITI officially communicating
14 to MGB once the data collection/gathering for the report has started, so that it can serve
15 as a countdown or reminder.

16
17 The secretariat said that this can be done. There is just concern over the companies not
18 knowing exactly when to expect the show cause order to be issued against them. According
19 to the secretariat, this is not to intervene in the regulatory processes of MGB, but as
20 pointed out earlier, just to obtain information and updates on agency action.

21
22 It would be fair to all stakeholders involved in the implementation of the DAO to be
23 informed of exactly how the DAO will be implemented. If the procedure should include
24 that the secretariat initiate communication to inform the MGB that the reporting cycle has
25 commenced and that letters requesting for issuance of BIR waiver and accomplishment of
26 reporting template have been sent to the companies, then this will be done.

27
28 An industry representative commented that, based on experience, he thinks that some
29 companies do not really understand the importance of their role in the transparency
30 program. He also thinks that the Chair's recommendation for PH-EITI to send a letter to
31 MGB is just more of giving feedback to the agency on how processes can be improved
32 prospectively. Last year's performance was a very good example where communication
33 failed. There were a lot of things to be improved for this year and in the succeeding report.

34
35 The MGB representative tried to put the matter into context. According to him, they can
36 determine if a company did not participate only after the report has been published, and
37 it is officially stated that certain companies did not participate in that particular report.
38 Before the collection of data, they inserted a copy of the DAO to remind that MGB will be
39 implementing the DAO.

1 According to the Chair, in order to maximize the DAO, there is a need to look at the process.
2 He asked if it is possible to already include the DAO in the first letter. Considering the
3 feedback earlier that if companies receive a letter that is not from MGB, they will not mind
4 it that much, the suggestion is for PH-EITI to send a letter, then MGB to send a letter as
5 well, attaching a copy of the PH-EITI letter and the DAO.

6
7 A CSO representative asked if the cut-off dates for the submission of reply to the letter can
8 already be determined and made clear, such that if these dates are not followed or
9 complied with, then it will be considered as non-participation. This would be a signal for MGB
10 to take action.

11
12 The Chair responded that the letter would indicate request for submission at or by a certain
13 date, then MGB will be asked to send another letter before the deadline to follow up on
14 the document request. Thereafter, the secretariat can do an inventory of which companies
15 submitted and which did not, so this can be reported to MGB for their action.

16
17 Another CSO representative asked if all the mining companies were given a copy of the
18 DAO.

19
20 According to the Chair, while there is a principle that when rules and regulations are
21 published, everyone is assumed to have knowledge already, and everyone will be bound
22 to follow, it would not hurt if the secretariat would still send letters (together with copy of
23 the DAO) to these companies.

24
25 The MGB also informed that after the publication of the DAO, copy of the same was
26 distributed to the regional offices for them to give out to mining companies in their
27 respective jurisdictions. In fact, one of the non-participating companies in the 2017 report
28 admitted to having received the DAO, but they did not know the responsibility of
29 submitting to PH-EITI. In reaction to this, the Chair commented that ignorance of the law
30 excuses no one.

31
32 To summarize the action points, the secretariat noted that the instruction is to write a
33 letter to MGB to request for a meeting to discuss the issues and concerns on the
34 implementation of the DAO, and not a letter providing feedback or recommendation. The
35 Chair confirmed and added that the feedback/ recommendation can be part of the
36 discussion during the meeting.

37
38 Additionally, the secretariat proposed, if it would be amendable to MGB, that when PH-
39 EITI sends the letters to the companies, they will already copy furnish MGB and its regional
40 offices with jurisdiction over the companies.

1 **9. Other Matters**

- 2
- 3 • Updates on upcoming activities – 2018 National Conference (NatCon) and Data Dive
- 4

5 The secretariat reported that the tentative date for the NatCon is still April 18, 2018.
6 The two days before that, April 16-17 will be the CSO Conference and the day after,
7 April 19 will be the National Resource Governance Student Conference (co-organized
8 with Industry).

9

10 Based on the last meeting, the venue identified for the NatCon was Green Sun Hotel
11 in Makati, but the secretariat informed that they are constrained to avail of a
12 government-approved venue, which would most likely be PICC.

13

14 Meanwhile, the Data Dive is scheduled to happen in May 2018.

15

16 The secretariat, through Mr. Marco Zaplan, technical officer, presented the results of
17 the surveys conducted during the last MSG meeting to identify topics preferred by
18 MSG members for the content of the Executive Summary and the Data Dive.

19

20 Survey population consisted of 25 respondents (10 CSO, 8 government, 7 industry).
21 The results showed that these are the items that should be prioritized in the Executive
22 Summary: (i) total contribution of the sector to the economy; (ii) disaggregated LGU
23 shares; (iii) social expenditures and CSR; (iv) national government agency revenue
24 streams; and (v) country validation results.

25

26 Considering the interesting results, further analysis was done on the data, as the
27 secretariat wanted to know if the responses were dependent on the sector the MSG
28 members represent. It turned out, with 95% confidence, that there is convergence at
29 least for the types/kinds of information that MSG members want to present in the
30 Executive Summary.

31

32 In relation to the Data Dive, the following are the top data skills demanded: data
33 storytelling, followed by data analysis, data visualization, coordinates mapping, and
34 fiscal regime modelling. For the Data Dive, only those sessions with at least five
35 respondents will be conducted to ensure that each session will have at least five
36 participants.

37

38 Mr. Zaplan also showed a slide depicting the top data sets demand by sectors, to wit:
39 social and environmental impact data, LGU shares in national wealth data, project
40 level feasibility studies data, service contracts and mineral production, general
41 information sheet data, specific project-level revenue data, and contract coordinates.

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The most wanted sessions include: for the plenary – data storytelling, data analysis, data visualization; for the breakout – fiscal modeling, mapping, data viz for specific data.

- Updates on Beneficial Ownership Roadmap

The secretariat reported that they have a pending matter on setting a meeting with the National Privacy Commission. They noted that this will still be pursued. They also proposed a TWG to later flesh out what needs to be done with the roadmap.

- Development of online reporting tool for companies

The secretariat apprised the MSG that they have gotten in touch with a World Bank (WB) consultant who can assist in developing the online reporting tool. The consultant introduced them to prospective platforms for the tool.

The secretariat also reported that they have agreed a provisional timeline with the consultant: From February 26 to March 8, a prototype will be developed and this will be for presentation to the MSG; from March 9 to March 18, comments and feedback will be gathered. On March 19, the consultant is scheduled to come to Manila and there could be a TWG meeting with the industry, reporting NGAs, and other interested parties to run a prototype tool together.

To give the MSG an idea of the tool, the secretariat gave a walk-through of what it would look like. They showed the dashboard and demonstrated how easy it would be to generate reports from the submitted data. They explained that each company will have a dedicated page. If the companies have questions when filling out the form, they can easily pose a question and the secretariat/web administrator can respond to the question.

The plan is to enable data collection through use of the tool come roadshow time. The secretariat requested if they can have MSG comments by March 18, in preparation for the TWG meeting by March 19.

The secretariat added that the online reporting tool has been in the work plan for two to three years already, and, as such, it has been budgeted. There is, however, some concern over the sufficiency of the budget.

- Presentation of upcoming PH-EITI communication materials (PH-EITI quarterly newsletter, etc.)

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The secretariat presented to the MSG the re-launch of the PH-EITI newsletter. They noted that they were not able to issue newsletters in the past years because of certain constraints, but now, they are ready to present the new quarterly PH-EITI newsletter. Mr. East Manlises, communications officer, delivered the presentation.

The newsletter will be titled “A Cup of T” which stands for A Cup of Transparency. This will be served quarterly through email, with the principal stakeholders of PH-EITI as the main audience. The newsletter aims for greater public awareness of transparency efforts by being a source of relevant updates on PH-EITI, among others.

“Cup of tea” is an idiom which refers to something one likes or excels in, or something to be reckoned with. PH-EITI’s cup of Transparency reflects a value that is deemed indispensable to the Philippines as a democratic nation.

The newsletter will have sections, with *First Cup* containing the top stories of the quarter and updates on PH –EITI events and activities. The newsletter will also contain stories about PH-EITI’s involvement in events and activities initiated by other organizations. There will also be a section on *EITI Global* which will contain a summary of up to three EITI news around the world.

The last section is “TEA Break” where MSG members will be invited to contribute stories. “TEA” stands for transparency and extractives annotations (or anecdotes), which pertain to blogs, impact stories, or any contribution from MSG members.

There will also be space for Announcements, which can contain dates for submission of reporting requirements, for example.

Mr. Manlises gave a walk-through of the newsletter page where he showed the proposed logo and demonstrated how the newsletter will look like through a test email.

The Chair asked if there will be a visitor counter, if PH-EITI has a Facebook page or Twitter account, and if there will be a link to the newsletter. The secretariat responded in the affirmative. They added that in the subscribers list, they already added the email addresses of all MSG members, and that they intend to further populate the list with other engaged stakeholders.

After the presentation of the proposed newsletter, the secretariat showed a surprise video to celebrate the conduct of the 50th MSG meeting. The Chair commented that the video evokes a lot of memories. He thanked the secretariat for the nice surprise.

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- Message: PNG EITI Delegation

The Chair expressed appreciation to the delegation of PNG EITI and hoped they learned a lot and had a fruitful stay. He noted that the learning process has been two-way, as PH-EITI also learned from the group.

The Chair called on Mr. Lukas Alkan, national coordinator of PNG EITI and head of the PNG delegation, to receive a simple token from PH-EITI – a framed depiction of “bayanihan”, a Filipino custom that shows the spirit of communal unity, of helping one another in times of need without expecting anything in return. The Chair explained the concept and encouraged the PNG EITI representatives to imbibe the *bayanihan* spirit.

Speaking on behalf of the delegation, Mr. Alkan extended his gratitude to everyone in PH-EITI for inviting them to come and observe the 50th meeting. He congratulated the Chair and MSG members for achieving so much progress in EITI implementation in the Philippines and for being compliant with the international standards.

He said that all the time that they were sitting and observing the meeting, he could not help comparing it with how they do MSG meetings in PNG EITI. PH-EITI conducts a meeting in a very professional and high-level manner. Of the PH-EITI MSG meeting he observed:

- Everyone comes prepared and at the designated time; hence, meetings are conducted on time. According to Mr. Alkan, in PNG-EITI, not everyone shows up on time, and the tendency is to wait for all stakeholders to be present; hence, meetings usually start an hour late.
- The level of discussion is such that the MSG members discussed matters in detail and not in a rush. Each member took sincere interest in and listened to the concerns of each constituency.

Mr. Alkan also shared the challenges he faces as head of the PNG EITI national secretariat. They struggle to make their MSG contribute meaningfully. He was very impressed with how much the PH-EITI MSG members contribute to the discussion and decision making.

Mr. Alkan reiterated his thanks to PH-EITI for allowing them to come for the study visit. He said that the relationship between PNG EITI and PH-EITI secretariats will continue. He invited everyone to come to PNG, so both PNG EITI and PH-EITI can exchange ideas

1 and experiences together.

2

3 • Setting of next MSG meeting

4

5 The secretariat showed the calendar of MSG meetings for 2018, which was approved
6 in principle by the body during the last meeting. Based on the calendar, the next
7 meeting should be on April 13, 2018.

8

9 However, in view of the schedule of the NatCon events and activities (April 16-19), the
10 body agreed to not hold an MSG meeting in April and just do online circulars for urgent
11 matters that would need MSG decision or action, if any.

12

13 • Other Matters

14

15 A CSO representative followed up on the status of the PH-EITI contracts portal.

16

17 In response, the secretariat reported that they are currently uploading MMT reports
18 and remaining MPSAs. They are likewise coordinating with the Natural Resource
19 Governance Institute (NRGI) on the matter.

20

21 Another CSO representative asked about the MOAs between IPs and companies, if
22 these are included in the disclosure.

23

24 The secretariat said that they had talked with NCIP about making the contracts
25 publicly available. They were advised to seek individual consent, at the very least, at
26 the NCIP regional level. The secretariat further shared that in a workshop they
27 attended earlier, they gathered from the resource person that the MOAs should be
28 covered by the Executive Order on FOI, since NCIP is an administrative agency,
29 although this is not the same as making the MOAs publicly accessible in a contracts
30 portal.

31

32 The Chair instructed the secretariat to take charge and just update the MSG members
33 from time to time.

34

35 With no other matters raised, the 50th MSG meeting was adjourned at 12:40 pm.

36