

1 **62<sup>nd</sup> PH-EITI Multi-stakeholder Group Meeting**  
2 29 May 2020 | 9:02 AM - 1:30 PM | Google Meet

3  
4 **Minutes of the Meeting**

5  
6 **Attendees**

7  
8 *Government*

|   |   |
|---|---|
| 9 Asst. Secretary Ma. Teresa S. Habitan | Department of Finance (DOF)   |
| 10 Ms. Febe J. Lim                      | DOF   |
| 11 Dir. Anna Liza F. Bonagua            | Department of the Interior and Local<br>Government (DILG)                                     |
| 12 Dir. Araceli S. Soluta               | Department of Energy (DOE)  |
| 13 Engr. Romualdo D. Aguilos            | Department of Environment and<br>Natural Resources-Mines and<br>Geosciences Bureau (DENR-MGB) |
| 14 Ms. Maricor Anne D.G. Cauton         | Union of Local Authorities of the<br>Philippines (ULAP)                                       |

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20 *Industry*

|                                      |   |
|--------------------------------------|---|
| 21 Atty. Ronald Rex S. Recidoro      | Chamber of Mines of the Philippines         |
| 22 Atty. Joan D. Adaci-Cattiling     | OceanaGold Philippines, Inc. (OGPI)         |
| 23 Atty. Francis G. Ballesteros, Jr. | Philex Mining Corporation                   |
| 24 Engr. Rolando J. Paulino, Jr.     | Petroleum Association of the<br>Philippines |

25  
26  
27 **Civil Society Organization (CSO)**

|                                   |   |
|-----------------------------------|---|
| 28 Mr. Vincent T. Lazatin         | Bantay Kita – Publish What You Pay<br>Philippines (BK-PWYP)                             |
| 29 Ms. Angelica Dacanay           | BK-PWYP   |
| 30 Dr. Buenaventura M. Maata, Jr. | Philippine Grassroots Engagement in<br>Rural Development Foundation, Inc.               |
| 31 Dr. Nelson C. Cuaresma, Jr.    | Concerned Advocates Saving<br>Terrestrial and Marine Ecosystems<br>(COASTLINE), Inc.    |
| 32 Dr. Glenn Pajares              | Sectoral Transparency Alliance on<br>Natural Resource Governance in<br>Cebu, Inc.       |
| 33 Prof. Ladylyn L. Mangada       | Philippine Political Science<br>Association, University of the<br>Philippines, Tacloban |

42 *Consultants for the 6th Report*  
43 Atty. Maria Karla L. Espinosa  
44 Ms. Linnet Madelane Chan, CPA

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46 *PH-EITI Secretariat*

47 Ms. Mary Ann Rodolfo  
48 Mr. Eastword Manlises  
49 Ms. Jane Baldago  
50 Ms. Roselyn Salagan  
51 Ms. Anna Leigh Anillo  
52 Ms. Katherine Denise Domingo  
53 Ms. Zoe Jimenez

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## 56 **Agenda**

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- 58 ● Approval of the agenda
- 59 ● Confirmation of the approved minutes of the 61<sup>st</sup> MSG meeting
- 60 ● Matters arising from the previous meetings
  - 61 ○ Report on EITI Board meeting in February and consultation call in April
  - 62 ○ Recap of activities than transpired since the 61<sup>st</sup> MSG meeting
- 63 ● Main Business
  - 64 ○ Highlights of the TWG Meeting on May 8
  - 65 ○ Updates on budget and government guidelines on the new normal
    - 66 ■ Adjusted Work Plan 2020
  - 67 ○ Updates on the 6th Report (FY 2018)
    - 68 ■ Update on BO information publication
  - 69 ○ Outreach activities
    - 70 ■ MSG Online Learning Series
    - 71 ■ Regional/Sectoral webinars in lieu of Roadshow 2020
- 72 ● Other Matters
  - 73 ○ Setting of the next MSG meeting

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### 76 **1. Call to order**

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78 Assistant Secretary Ma. Teresa Habitan chaired the 62<sup>nd</sup> MSG meeting. There being  
79 a quorum, the meeting started at 9:02 a.m.

80

81 The Chair noted that it is the MSG's first time to hold a virtual meeting.

82

83 The Chair, then, acknowledged Atty. Joan Adaci-Cattiling, president of OceanaGold  
84 Philippines, Inc., and now an industry representative to the MSG. She replaced Mr.  
85 Joey Leviste, who has just retired.

86 The Chair also acknowledged Mr. Vincent Lazatin, the new National Coordinator of  
87 Bantay Kita, and new civil society representative to the MSG.

88  
89

## 90 **2. Approval of the agenda**

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92 The Chair asked the members for any additional item for inclusion in the agenda. With  
93 no other additional items for discussion, the agenda was approved.

94  
95

## 96 **3. Approval of the minutes of the 61st MSG meeting**

97

98 The Chair noted that the minutes of the 61st MSG meeting was circulated to the MSG  
99 members in the last week of March. The secretariat reported that no comments were  
100 received from the MSG and that the minutes has been approved through the MSG  
101 Action Form.

102  
103

## 104 **4. Matters arising from previous MSG meetings**

105

106 The Chair asked the members if there were any concerns from previous meetings that  
107 need to be discussed.

108

109 An industry representative recalled that the gender scoping study was one of the  
110 matters that got left behind from the last MSG meeting. He wondered if there was any  
111 plan to push through with a deep dive into the results of the scoping study.

112

113 The Chair reminded everyone that the matter of the gender scoping study is one of  
114 the items under Other Matters, and the discussion of the matter may be deferred until  
115 that part of the meeting.

116

117 The Chair, then, reported on what transpired during the recent meeting of the EITI  
118 International Board in Oslo, Norway in February 2020. It was the last physical meeting  
119 that the Board had before countries around the world imposed travel restrictions and  
120 lockdown measures due to the COVID-19 pandemic.

121

122 Among the issues that were raised was the lack of political commitment in some EITI  
123 implementing countries. In addition, political transitions pose challenges to the  
124 continuous implementation of reforms.

125

126 The EITI Board wants EITI reporting to evolve from the collection and disclosure of  
127 EITI data to data analysis and formulation of policy reforms so as to deepen the  
128 relevance of EITI and enable better economic development among implementing  
129 countries.

130 In order for EITI to achieve its goal of fighting corruption in the extractives, EITI  
131 reporting must allow for timelier reporting instead of the customary reporting being  
132 done. The EITI Standard plays an important role in tackling graft and corruption issues  
133 and risks since transparency is at the heart of anti-corruption efforts.

134  
135 Systematic disclosure and energy transition were also discussed as well as the impact  
136 of the COVID-19 pandemic on the extractives and on EITI implementation.  
137 Considering the situation, the EITI Board decided to give implementing countries more  
138 leeway for certain submissions, EITI reporting, and validation.

139  
140 The Chair advised the MSG members to think of whether or not to request for a  
141 postponement of the start of the validation process which will commence in October  
142 2020. She added that it is something that the MSG should think of in the following  
143 weeks while keeping a close watch on how the situation in the country would develop  
144 amid the pandemic.

145  
146 The Chair, then, gave the floor to the secretariat to give an overview of the activities  
147 that transpired since the 61st MSG meeting in December 2019.

148  
149 The following are the activities that transpired over the last five months:

- 150  
151     ▪ A TWG meeting was held on February 6 to discuss the 6th Report and  
152       beneficial ownership disclosure, among other matters.
- 153  
154     ▪ Assistant Secretary Habitan attended the 46th EITI Board meeting in Oslo,  
155       Norway on February 13-14, and the EITI Implementing Country Constituency  
156       Consultation Meeting on February 10-11.
- 157  
158     ▪ On March 4 to 6, the secretariat joined the Community/Stakeholder Orientations  
159       in CAR that the Bantay Kita arranged. The secretariat was able to engage at  
160       least three (3) stakeholder groups, including women representatives.
- 161  
162     ▪ On March 12, the 62nd MSG meeting was supposed to be held, but was  
163       cancelled due to the COVID-19 situation at the DOF building. A workshop on  
164       mainstreaming that was supposed to be facilitated by Mr. Sam Bartlett of the  
165       EITI International Secretariat was also cancelled. Despite this, the secretariat  
166       continued to meet with Mr. Bartlett. The highlights of the said meeting were  
167       circulated to the MSG.
- 168  
169     ▪ The latest draft of the Gender Scoping Study was circulated to the MSG on  
170       March 22 to April 10 for comments.

171

- 172       ▪ Due to the limitations brought about by the pandemic, the MSG approved  
173 critical documents through the MSG Action Form (March 31-April 16). These  
174 included the TORs for the 7th Report.
- 175
- 176       ▪ On April 24, the secretariat submitted a funding proposal to the World Bank.
- 177
- 178       ▪ On April 29, the Chair had a consultation call with the EITI Board.
- 179
- 180       ▪ On May 8, a second TWG meeting was held.
- 181
- 182       ▪ Over the period, the secretariat did several revisions of the work plan,  
183 considering the developments in the COVID-19 situation. It also had at least  
184 three catch-up calls with the EITI International Secretariat. The most recent call  
185 was on May 26 where the EITI International Secretariat discussed alternative  
186 approaches in EITI reporting and beneficial ownership disclosure.
- 187
- 188

189 **5. Main Business**

190

191       *a. Highlights of the TWG Meeting on May 8*

192

193 The TWG meeting was attended by Engr. Aguilos, Dir. Soluta, Atty. Recidoro, Mr.  
194 Lazatin, and Dr. Maata. It tackled various matters such as the impact of the  
195 government’s COVID-19 response on PH-EITI’s budget and activities, updates on the  
196 production of the 6<sup>th</sup> Report, plans for stakeholder engagement activities including a  
197 webinar on the new version of the Online Reporting in the Extractives (ORE) Tool, an  
198 online learning series for the MSG, and the LGU Roadshow.

199

200 During the meeting, the secretariat also reported the summary of MSG actions on  
201 critical documents that were circulated for the MSG’s review and approval. The  
202 following are the documents that were circulated and the corresponding MSG action.

203

|  |                              |
|--|------------------------------|
| TOR - 7th Report Contextual Information Consultant | Approved subject to comments |
| TOR - 7th Report Reconciliation Consultant         | Approved subject to comments |
| TOR - Mainstreaming Feasibility Survey             | Approved subject to comments |
| Company Waiver on Beneficial Ownership Disclosure  | Approved subject to comments |
| Minutes of the 61st MSG Meeting                    | Approved                     |
| Conference Note for National Conference 2020       | Approved subject to comments |
| Transparency Awards Mechanics                      | For further discussion       |

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|             |  |
|-------------|--|
| Respondents | 4 government reps; 3 industry reps; 3 civil society reps |
|-------------|--|

205

206 The comments of the MSG members were implemented and some of the documents  
207 were already released, specifically the TORs and the draft company waiver on BO  
208 disclosure.

209

210

211 *b. Updates on Budget and Government Guidelines on the New Normal*

212

213 The secretariat shared the salient provisions of the National Budget Circular No. 580  
214 (NBC 580) issued by the DBM on April 22, which had an impact on EITI  
215 implementation. The NBC provided for the discontinuance of the following:

216

- 217 ● Item 4.3.1.3. All foreign travels, except for ministerial meetings and  
218 scholarship/trainings that are grant-funded or undertaken at no cost to the  
219 government;
- 220 ● Item 4.3.1.4. All local travels, unless urgently necessary and allowed by the  
221 Secretary or head of the SUCs, constitutional offices and GOCCs;
- 222 ● Item 4.3.1.6. Hiring of job orders, except those considered as *frontliners* during  
223 this state of public health emergency.

224

225 The secretariat also reported that, in terms of the renewal of job orders (JOs), the DBM  
226 categorically confirmed in a letter that the PH-EITI may renew its JO personnel. All the  
227 members of the PH-EITI secretariat are under JO status.

228

229 Item 4.3.2 of NBC 580 also provides for the discontinuance by at least 10% in the cost  
230 of the following:

231

- 232 ● Item 4.3.2.1. Services of consultants and technical assistants;
- 233 ● Item 4.3.2.4. Cost of training, seminars and workshops.

234

235 In terms of budget, the NBC 580 reduced PH-EITI’s budget to PHP 31.2 million from  
236 PHP 34.2 million. The amount taken away from PH-EITI’s budget was originally  
237 allocated for local and foreign travels.

238

|                        |                         |
|------------------------|-------------------------|
| <b>GAA 2020</b>        | PHP 13.2 million        |
| <b>NBC No. 580</b>     | (3 million)             |
| <b>2019 Continuing</b> | 21 million              |
| <b>Total remaining</b> | <b>PHP 31.2 million</b> |

239 The secretariat, then, shared the provisions of the Inter-agency Task Force for the  
 240 Management of Infectious Diseases or IATF Resolution No. 38, which shall affect  
 241 plans for outreach activities this year. The Resolutions provides for the following  
 242 guidelines on mass gatherings:  
 243

| <b>Enhanced Community Quarantine</b>  | <b>Modified Enhanced Community Quarantine</b>                                      | <b>General Community Quarantine</b>  | <b>Modified General Community Quarantine</b>  |
|---|--|--|---|
| Mass gatherings are prohibited.   | Mass gatherings are prohibited.  | Mass gatherings are prohibited.  | Mass gatherings are allowed but shall be limited to 50% of the seating capacity of the venue. |
| Gatherings that are essential for the provision of government services are allowed. | Gatherings that are critical for the provision of government services are allowed. | Gatherings that are critical for the provision of government services are allowed. |   |

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246 *c. Adjusted Work Plan 2020*

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248 The secretariat reported the following adjustments in the schedule and budget of  
 249 activities mapped out in the work plan for 2020.

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251 

- The schedule of the Legislative Advocacy Training and Planning Workshop was  
 252 moved to a later date.

253

254 

- The schedules of anticipated TWG and MSG meetings were also adjusted.

255

256 

- The National Conference was proposed to be held on October 28, and as a  
 257 culminating activity for the LGU Roadshow.

258

259 

- A training activity on the administration of the new version of the ORE Tool is  
 260 being planned for the secretariat. There will also be webinars on ORE to  
 261 familiarize reporting entities how to use the tool.

262

263 

- The secretariat proposed to hold the Roadshow in two phases, which will run  
 264 from the second week of July up to the last week of September.

265

266 The Chair, then, asked the MSG for any questions they might have.

267

268 An industry representative asked how the secretariat proposes to move forward with  
 269 the rollout of the Roadshow given the COVID-19 situation.

270 The secretariat explained that, considering budgetary constraints and the prevailing  
 271 community quarantine and social distancing measures, all stakeholder engagement  
 272 activities will now have to be done online.

273  
 274

275 *d. Updates on the 6th Report*

276

277 Atty. Karla Espinosa, the consultant for the Contextual Information Chapter of the 6<sup>th</sup>  
 278 Report, presented updates on the production of the 6<sup>th</sup> Report which covers extractives  
 279 data from Fiscal Year 2018.

280

281 The consultant began with the presentation of the timeline of report production.

282

|                           |  |
|---------------------------|--|
| December 2020             | Deadline for 6th Report publication  |
| October 2020              | Internal deadline for 6th Report publication (ahead of the <b>Revalidation</b> scheduled in October 2020*)         |
| March 12, 2020            | Cancelled 62nd MSG meeting   |
| March 16, 2020 to present | Community quarantine due to COVID-19 pandemic  |
| April 6-12, 2020          | Holy Week  |
| June 2020                 | Target completion of 6th Report text without BO disclosure   |
| August 2020               | Target completion of 6th Report with BO disclosure   |
| June/July 2020            | Proposed online "report analysis workshop" / data dive / MSG meeting devoted to 6th Report discussion and approval |

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284

285 The consultant, then, presented the main features of the 6th Report.

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|   |  |
|---|--|
| Title   | <i>Synergizing Transparency for Sustainability</i>   |
| Covered sectors   | Large-scale (1) metallic and (2) non-metallic mining, (3) oil and gas, (4) coal  |
| Covered period  | Fiscal year 2018   |
| General content (based on EITI Standard and MSG comments) | Chapter 1 - Contextual Information (including economic, social & environmental dimensions; legal/policy updates; SSM; unilateral reporting on coal)<br>Chapter 2 - Reconciliation report<br>Chapter 3 - Beneficial ownership transparency (progress in roadmap; BO info) |



|               |   |
|---------------|---|
| Notes/Remarks | <p>- It is supposed to be a pilot mainstreamed report, but it is more like a <i>transitional report</i>. While IA had a modified role, data was not yet collected fully from routine public disclosures of agencies and companies.</p> <p>- <i>Mainstreaming or systematic disclosure</i> is embedded in the report as the thread running through the different chapters.</p> |
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288

289     ▪ Highlights of the Reconciliation Report

290

291 Ms. Linnet Chan, the consultant for the Reconciliation Chapter of the 6<sup>th</sup> Report,  
 292 presented the highlights, scope and methodology, and key findings of the  
 293 reconciliation process.

294

295 The approach and methodology is divided into four (4) phases:

296

- 297     ● Initial Scoping & Data Collection
- 298     ● Materiality & Final Scoping
- 299     ● Reconciliation
- 300     ● Report Writing

301

302

303 The following is the summary of the scoped projects:

304

| Sector                     | Target    | Participating | Non-Participating |
|----------------------------|-----------|---------------|-------------------|
| Metallic (producing)       | 30        | 26            | 4                 |
| Metallic (non-producing)   |           |               |                   |
| Under Suspension           | 8         | 6             | 2                 |
| Under Care and Maintenance | 9         | 5             | 4                 |
| <b>Metallic - Subtotal</b> | <b>47</b> | <b>37</b>     | <b>10</b>         |
| Non-Metallic               | 20        | 20            | -                 |
| Oil and Gas                | 5         | 5             | -                 |
| Coal                       | 1         | -             | 1                 |
| <b>TOTAL</b>               | <b>73</b> | <b>62</b>     | <b>11</b>         |

305

306 For the 6th Report, 73 projects were targeted - 47 metallic mines; the top 20 producing  
 307 non-metallic mines, which is 84% of the total non-metallic mining industry; 5 oil and  
 308 gas projects; and 1 coal project. A total of 62 projects participated for this cycle.

309

310 For the metallic mines, the percentage coverage of sale is at 99.99% for the  
 311 participating metallic mining projects, whereas it is 0.01% for those who did not

312 participate. The percentage coverage of sale for both the non-metallic and oil & gas  
 313 industries is at 100%. For coal, it is 0% since Semirara Mining and Power Corporation  
 314 (SMPC) did not participate.

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 316

317 *Scoped-in Revenue Streams for Metallic Mining.* Scoping covers 97.80% of total  
 318 payments (inclusive of out of scope revenue streams) from participating entities.

319

| Revenue Streams  | Government Agency | 2018 Amount    | % to Total Government Collections |
|--|-------------------|----------------|-----------------------------------|
| Excise tax on minerals                                       | BIR               | 3,779,024,865  | 35%                               |
| Corporate income tax   | BIR               | 3,549,432,548  | 33%                               |
| Withholding tax - Foreign shareholder dividends              | BIR               | 166,428,068    | 2%                                |
| Withholding tax - Royalties to claim owners                  | BIR               | 257,128,809    | 2%                                |
| Withholding tax - Final                                      | BIR               | 215,366,174    | 2%                                |
| Customs duties   | BOC               | 104,605,420    | 1%                                |
| VAT on imported materials and equipment                      | BOC               | 662,456,191    | 6%                                |
| Royalty on mineral reservation                               | MGB               | 1,187,312,323  | 12%                               |
| Local business tax (paid either in mine site or head office) | LGU               | 452,676,597    | 4%                                |
| Real property tax - Basic                                    | LGU               | 63,583,459     | 1%                                |
| Real property tax Special Education Fund (SEF)               | LGU               | 97,079,273     | 1%                                |
| Royalty for IPs  | NCIP              | 58,010,632     | 1%                                |
|  |                   | 10,593,104,360 | 97.80%                            |

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321

322 *Scoped-in Revenue Streams for Non-Metallic Mining.* Scoping covers 98.66% of total  
 323 payments (inclusive of out of scope revenue streams) from participating entities.

324

| Revenue Streams                                 | Government Agency | 2018 Amount   | % to Total Government Collections |
|---|-------------------|---------------|-----------------------------------|
| Excise tax on minerals                          | BIR               | 313,036,242   | 3%                                |
| Corporate income tax                            | BIR               | 2,694,895,119 | 24%                               |
| Withholding tax - Foreign shareholder dividends | BIR               | 57,140,037    | 1%                                |

|  |     |                       |               |
|--|-----|-----------------------|---------------|
| Withholding tax - Profit remittance to principal             | BIR | -                     | 0%            |
| Withholding tax - Royalties to claim owners                  | BIR | 5,217,192             | 0%            |
| Output VAT   | BIR | 6,164,638,699         | 55%           |
| Customs duties   | BOC | 82,622,763            | 1%            |
| VAT on imported materials and equipment                      | BOC | 1,400,852,546         | 12%           |
| Local business tax (paid either in mine site or head office) | LGU | 80,913,436            | 1%            |
| Real property tax - Basic                                    | LGU | 134,197,916           | 1%            |
| Real property tax Special Education Fund (SEF)               | LGU | 134,186,189           | 1%            |
|  |     | <b>11,080,730,074</b> | <b>98.66%</b> |

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*Scoped-in Revenue Streams for Oil and Gas.* Scoping covers 99.95% of total payments (inclusive of out of scope revenue streams) from participating entities.

| Revenue Streams                                  | Government Agency | 2018 Amount           | % to Total Government Collections |
|--|-------------------|-----------------------|-----------------------------------|
| Government share from oil and gas production     | DOE               | 25,982,899,862        | 73%                               |
| Corporate income tax                             | BIR               | 5,264,765,069         | 15%                               |
| Withholding tax - Profit remittance to principal | BIR               | 3,433,279,746         | 10%                               |
| Withholding tax - Final                          | BIR               | 854,743,894           | 2%                                |
|  |                   | <b>35,535,688,572</b> | <b>99.95%</b>                     |

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*Scoped-in Revenue Streams for Coal.*

| Revenue Streams  | Government Agency | 2018 Amount | % to Total Government Collections |
|--|-------------------|-------------|-----------------------------------|
| Local business tax (paid either in mine site or head office) | LGU               | 806,728,389 | 2%                                |
| Real property tax - Basic                                    | LGU               | 1,072,562   | 0%                                |
| Real property tax Special Education Fund (SEF)               | LGU               | 1,072,562   | 0%                                |

|  |     |               |         |
|--|-----|---------------|---------|
| Government share from oil and gas production | DOE | 3,569,015,012 | 98%     |
|  |     | 3,651,832,972 | 100.00% |

334

335

336 Payments made to LGU and DOE will be unilaterally reported.

337

338

339 The consultant presented the summary of the final reconciliation results. Overall, the  
 340 total amount reconciled is at 112%, against the government reported figures. The  
 341 reconciled amount is higher than what was reported by the government, mainly due to  
 342 the figures from NCIP and LGU.

343

344 The consultant explained that for NCIP, since IP Royalty is technically not a revenue  
 345 stream, the supporting documents from the participating projects were collected to  
 346 arrive at the reconciled amount, considering that NCIP was not able to provide the  
 347 complete set of data for 2018.

348

349 As discussed during the last TWG meeting, the LGU data has some issues wherein  
 350 only one to two quarters were reported by the LGU, whereas the companies reported  
 351 all quarterly payments.

352

353

354 *Open Discussion*

355

356 The Chair requested the consultant to highlight or make a footnote for the IP Royalty  
 357 payments to explain that it is not a government collection, since it doesn't accrue to  
 358 the government and is not a revenue source.

359

360 The consultant clarified that the said explanation is already stated in the report.

361

362 The Chair then suggested that the said set of data be removed from the table of  
 363 revenue streams to prevent misinformation since some people just read the tables.

364

365 A government representative noted high discrepancies in the revenue stream for the  
 366 LGUs. She said that the LGUs need to be clarified on the data needed from them. She  
 367 explained that maybe only the data from the first two quarters were collected from the  
 368 LGUs because they are in the middle of the reporting period. She suggested getting  
 369 the data from the last two quarters of the previous year to complete the picture. The  
 370 representative offered help in clarifying the matter at hand and in working on the  
 371 Environment and Natural Resources Data Management Tool (ENRDMT) managed by  
 372 the Bureau of Local Government Finance (BLGF) to lessen the discrepancy of the  
 373 submission by LGUs.

374 The Chair asked the consultant how she computed the percentage of the reconciled  
375 amount against the government reported figures because the percentage for the NCIP  
376 is 532%.

377

378 The consultant explained that it is the reconciled amount divided by the government  
379 amount.

380

381 The Chair instructed the consultant to put a footnote on the percentage amount so that  
382 people will know how it was been computed.

383

384 The consultant for the contextual information added a response to an earlier inquiry  
385 on LGU data. The consultant explained that for the collection of LGU data, the  
386 secretariat relied almost entirely on the ENRDMT. However, it proved to be quite  
387 challenging because the system itself was encountering problems in 2019, during the  
388 time when the data was collected, which explains the big discrepancy. The secretariat  
389 coordinated with the BLGF regarding the matter. It was revealed that the larger system  
390 where ENRDMT is lodged is undergoing enhancements, affecting the collection of  
391 data through the ENRDMT.

392

393 An industry representative noted and questioned the large jump of the total reconciled  
394 amount from the 5th Report, especially for the metallic mining industry.

395

396 The contextual information consultant recalled that, in 2018, the Tax Reform for  
397 Acceleration and Inclusion (TRAIN) Act was implemented. The new law must have  
398 had an impact on the figures presented in the report.

399

400 The same industry representative clarified whether the report would explicitly attribute  
401 the increase to the TRAIN Act. He said it will be very important, not just to guide the  
402 government, but also them in the industry.

403

404 The Chair recalled that in 2017, there was a dip in metal prices, which was used to  
405 explain the reduction in the total reconciled amount. Such kind of explanations must  
406 be very clear in the contextual information. It is not just about reporting the numbers,  
407 but also the story behind the numbers.

408

409

410 The consultant for reconciliation, then, proceeded with her presentation.

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418 *Reconciliation Results - Metallic Mining.*  
 419 *National Commission on Indigenous Peoples.*  
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| Revenue Stream                | Company Amount     | Government Amount | Variance Pre-Recon  | Reconciled Amount  | Variance Post-Recon |
|-------------------------------|--------------------|-------------------|---------------------|--------------------|---------------------|
| <b>Nickel</b>                 |                    |                   |                     |                    |                     |
| Royalty for IPs               | 248,695,225        | 49,760,632        | -198,934,593        | 254,053,390        | 17,201,349          |
| <b>Gold / Silver / Copper</b> |                    |                   |                     |                    |                     |
| Royalty for IPs               | 56,811,653         | 8,250,000         | -48,561,653         | 54,811,653         | 8,250,000           |
| <b>Total</b>                  | <b>305,506,878</b> | <b>58,010,632</b> | <b>-247,496,246</b> | <b>308,865,043</b> | <b>25,451,349</b>   |

421  
 422 Total reconciled amount is PHP 308.9 million or 532% of total reported government  
 423 collections.

424  
 425 The biggest amount still unreconciled from NCIP is attributed to two companies - SR  
 426 Metals, Inc. and Apex Mining Co. Inc.

427  
 428 SR Metals, Inc. was able to support their reported amount, however, NCIP reported a  
 429 higher amount, thus, the PHP 17 million is still unreconciled. Apex Mining Co. Inc. said  
 430 that they did not pay anything for 2018 because they overpaid in the previous year  
 431 and only continued payment in 2019. However, NCIP reported PHP 8 million for the  
 432 payments of Apex Mining Co. Inc. Those are the source of the PHP 25 million variance.

433  
 434  
 435 *Reconciliation Results - Non-Metallic Mining.*  
 436 *Summary*  
 437

| Agency       | Company Amount       | Government Amount     | Variance Pre-Recon   | Reconciled Amount     | Variance Post-Recon | %          |
|--------------|----------------------|-----------------------|----------------------|-----------------------|---------------------|------------|
| BIR          | 5,713,968,374        | 8,493,749,083         | 2,779,780,710        | 8,220,415,309         | 14,642,605          | 97%        |
| BOC          | 1,485,825,747        | 1,482,102,511         | -3,723,236           | 1,481,523,501         | 1,118,071           | 100%       |
| LGU          | 507,406,736          | 308,469,288           | -198,937,448         | 522,290,411           | -1,934,734          | 169%       |
| <b>TOTAL</b> | <b>7,707,200,856</b> | <b>10,284,320,882</b> | <b>2,577,120,026</b> | <b>10,224,229,221</b> | <b>13,825,942</b>   | <b>99%</b> |

438  
 439 The total reconciled amount is PHP 10.2 billion or 99% of total reported government  
 440 collections. The highest variance is from BIR, attributed to Bohol Limestone Corp.,  
 441 which did not provide further supporting documents, that is why there is a PHP 14  
 442 million unreconciled variance.

443  
 444

445 *Reconciliation Results - Oil and Gas.*  
 446 *Summary*  
 447

| Agency       | Company Amount        | Government Amount     | Variance Pre-Recon    | Reconciled Amount     | Variance Post-Recon | %           |
|--------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------|-------------|
| BIR          | 16,162,347,357        | 9,552,788,710         | -6,609,558,647        | 16,162,347,357        | 18,000              | 169%        |
| DOE          | 25,982,899,862        | 25,982,899,862        | -                     | 25,982,899,862        | -                   | 100%        |
| <b>TOTAL</b> | <b>42,145,247,219</b> | <b>35,535,688,572</b> | <b>-6,609,558,647</b> | <b>42,145,247,219</b> | <b>18,000</b>       | <b>119%</b> |

448  
 449 The total reconciled amount is PHP 42 billion or 119% of total reported government  
 450 collections. The remaining PHP 18,000 pertains to the withholding tax - final reported  
 451 by BIR for Nido Production Galoc. There was no disclosure of the withholding tax -  
 452 final in the Audited Financial Statements (AFS) of Nido Galoc Production.  
 453

454  
 455 *Environmental and Social Expenditures.*  
 456

457 The consultant presented the summary of the reconciliation results of the  
 458 environmental and social expenditures for metallic mining. The percentage of the  
 459 reconciled amount is 87.21% for PHP 3.2 billion. She said that the figures are better  
 460 when compared to the previous report.  
 461

462 The remaining unreconciled figures can be broken down into three reasons. First, the  
 463 highest unreconciled figure amounting to PHP 330,423,929 would be the amount  
 464 reported by MGB, but not by the project, in which no supporting documents were  
 465 provided. Second, is the amount reported by the project, but not by MGB, which is  
 466 PHP 129,281,653. Finally, the PHP 23,713,451 reported by both, with different  
 467 amounts and no supporting documents provided.  
 468

469 The consultant also presented the breakdown of the reconciliation results for non-  
 470 metallic mining. The reconciled amount is 99.83% of the reported amount of the  
 471 government. She then presented the breakdown of the unreconciled amount. The PHP  
 472 35 million unreconciled amount is the one reported by the projects but not by MGB, in  
 473 which no supporting documents were provided by the projects. The PHP 3 million is  
 474 the amount reported by both, but no supporting documents were also provided.  
 475

476 The consultant further explained that the total amount reconciled presented during the  
 477 last TWG meeting has already been improved since right after the said meeting, the  
 478 MGB was able to provide more data for the social and environmental expenditures.  
 479

480  
 481  
 482

483 *Open Discussion*

484

485 A civil society representative asked for the meaning and explanation of the 87.21%  
486 from the table of the social and environmental reconciliation results for metallic mining.

487

488 The consultant explained that the 87.21% is the total reconciled amount against the  
489 government reported amount. When computed, it is PHP 3.158 billion divided by the  
490 amount for the government. It is the total percentage reconciled against the  
491 government amount.

492

493 The same civil society representative wanted to know how much of the total revenue  
494 of the mining companies was spent for the social and environmental payments. He  
495 suggested to include such an amount and percentage in the table or as an  
496 interpretation. He explained that the data only tells about the variance, but it doesn't  
497 show how much was spent for the social and environmental protection and  
498 enhancement.

499

500 In reference to the table presented, the consultant explained that the amount under  
501 the company amount, reported by the projects, tells the total amount spent for social  
502 and environmental payments, which is the actual expenditure for 2018.

503

504 To clarify question, the Chair asked whether the civil society representative was asking  
505 how much as a percentage of the revenues of the mining companies are the  
506 expenditures. The representative responded in the affirmative. The Chair said that it  
507 is a new way of looking at the numbers.

508

509 The civil society representative continued to explain that the information will be very  
510 beneficial for people who will be reading the report, especially for environmentalists  
511 and people who are concerned about the social impacts of mining projects. He said  
512 that the explanation can be written as a one-liner or a column.

513

514 The consultant for the contextual information clarified whether the civil society  
515 representative was requesting for a different or separate table that would place the  
516 social and environmental expenditures beside the revenues.

517

518 The civil society representative suggested that it can be an additional column, an  
519 explanation as part of the analysis, or another table.

520

521 The consultant asked if the data will be the social and environmental expenditures vis-  
522 a-vis the total revenue of the government and mining industry.

523

524 The Chair and the civil society representative said that it is the social and  
525 environmental expenditures in relation to the total revenue of the companies.



526 The consultant asked the civil society representative if he was thinking about reporting  
527 it on a per project basis. The representative said that it can just be the overall amount.  
528

529 The Chair clarified that the revenue stream being discussed is the company revenues  
530 and not the government revenues. She also asked if the data being requested is  
531 presently available in the reporting.  
532

533 The reconciliation consultant said that the revenue data was obtained from the  
534 financial statements (FS) provided by the SEC. The contextual information consultant  
535 mentioned that it is not part of the data being reconciled.  
536

537 The Chair asked if the information can be part of the 6th Report. She said that it is  
538 good information since it adds depth to the analysis.  
539

540 The contextual information consultant said that the secretariat would have to mine the  
541 FS which it only has in hard copy. She further explained that the data is not mined  
542 from the FS and that they only select data that are going to be reconciled or would  
543 figure in the report. Hence, it would require another round of data collection.  
544

545 The reconciliation consultant clarified that the secretariat was able to get the revenue  
546 for the sales from the FS of the companies provided by SEC. She said that the concern  
547 is that not all the companies or projects have available AFS.  
548

549 The Chair recommended adding an annotation on the matter. The contextual  
550 information consultant agreed with the Chair and said that the amount spent for the  
551 social and environmental expenditures based on legal provision will be annotated, so  
552 that there is an expectation that the amount constitutes a certain proportion and has a  
553 definite computation.  
554

555 An industry representative agreed that it is important to know how much companies  
556 are spending for environmental protection and social development, in relation to  
557 revenues. He opined that that analysis should be in the contextual information chapter,  
558 not in the reconciliation report, so that the tables will be consistent across the board  
559 and it will be easier to compare. He concurred with the suggestion of contextual  
560 information consultant to do a report analysis workshop to understand the report at the  
561 granular level. He said that the independent administrator (IA) should be reporting on  
562 data and the analysis should be somewhere else.  
563

564 The Chair concluded the open discussion by mentioning that there should be an  
565 analysis of the data collected, and that while it has been agreed that it is important for  
566 the reconciliation, she advised to include it in the contextual information chapter.  
567  
568  
569

570 The reconciliation consultant, then, presented her recommendations for future  
571 reporting:

572

- 573 ● Early engagement of the independent administrator
- 574 ● Walkthrough procedures
  - 575 ○ Debrief and obtain updates
  - 576 ○ Emphasize accrual basis of reporting
  - 577 ○ Require detailed supporting schedules from participating projects
- 578 ● Improve ORE reporting
  - 579 ○ The consultant proposed to have the option to extract the data collected
  - 580 in excel format for efficient reconciliation.
- 581 ● Improvement on ENRDMT
  - 582 ○ The consultant recommended improving the main reporting tool for the
  - 583 LGU since there were issues encountered during the data collection.
  - 584 ○ Training of personnel of the different LGUs on how to properly use the
  - 585 ENRDMT
- 586 ● Improve MGB reporting for environmental and social expenditures
  - 587 ○ Review and evaluate current procedures to identify root cause of late or
  - 588 incomplete data
- 589 ● Prioritize NCIP Monitoring Tool
  - 590 ○ This tool has been developed in 2015 through the collaboration of NCIP
  - 591 and PH-EITI. However, it has yet to be fully rolled out. The NCIP is also
  - 592 asking for additional budget in order to effectively discharge its mandates
  - 593 and duties including the monitoring of payments of IP royalties. The
  - 594 agency also lacks manpower in the regional offices that is why they were
  - 595 not able to report on time.

596

597

### 598 *Open Discussion*

599

600 An industry representative inquired whether the data on SDMP only reflects the  
601 required expenditure and does not include the CSR or social commitments on top of  
602 the SDMP.

603

604 The reconciliation consultant said it does not include CSR. The secretariat asked if the  
605 CSR data is also covered in the report. The consultant answered in the affirmative.

606

607 The contextual information consultant proposed coming up with another table or an  
608 infographic that answers the question, “Where does the mining revenue go?” She said  
609 it could be a pie chart just to give a picture of where mining revenues go, including  
610 among others, social and environmental expenditures. Furthermore, she said that all  
611 comments were noted so as to be able to come up with a fair representation. She  
612 assured that it will be properly annotated in the contextual information chapter.

613

614       ▪ Updates on beneficial ownership (BO) disclosure

615

616 The contextual information consultant presented the updates on beneficial ownership  
617 disclosure. She shared that the Chapter 3 of the 6<sup>th</sup> Report is on BO disclosure, which  
618 will include the country’s implementation of the BO disclosure roadmap.

619

620 *Milestones*

621

|      |   |
|------|---|
| 2016 | MSG approved the PH-EITI BO disclosure roadmap (2017-2020) during the 38 <sup>th</sup> meeting. (Dec)   |
| 2017 | <ul style="list-style-type: none"> <li>● Scoping study</li> <li>● Inclusion of BO in PH-OGP National Action Plan 2017-2019</li> <li>● Inclusion of BO in program of countrywide roadshow</li> </ul>   |
| 2018 | <ul style="list-style-type: none"> <li>● First multi-sectoral BO workshop thru PH-OGP event (May)</li> <li>● SEC issued MC No. 17, s. 2018 (Nov)</li> <li>● BO declaration made part of ORE and pilot BO disclosure included in the 5<sup>th</sup> Report (Dec)</li> </ul>  |
| 2019 | <ul style="list-style-type: none"> <li>● ADB – EITI regional workshop on BO in Asia &amp; the Pacific (Mar)</li> <li>● SEC issued MC No. 15, s. 2019 (Jul)</li> <li>● PH-EITI – COMP – SEC workshop on BO disclosure (Oct)</li> <li>● <i>MSG agreed to align EITI BO disclosure with SEC policy on BO declaration (with a view to mainstreaming BO transparency*) and to publish BO information in the 6<sup>th</sup> Report. (Dec)</i></li> </ul>  |
| 2020 | <ul style="list-style-type: none"> <li>● EITI deadline for public disclosure of BO information (Jan)<br/><i>Position of PH-EITI MSG on mainstreaming BO disclosure was communicated to the International Secretariat (IS), but PH still deemed unable to meet the deadline.</i></li> <li>● In a TWG meeting, SEC gave updates on MC 15 implementation; publication was identified as an issue because MC 15 excludes it; SEC indicated openness to accept companies’ waiver of non-publication in order to publish their BO information. (Feb)</li> <li>● MSG approved a company waiver template which was then sent to SEC for comments. (Apr)</li> <li>● PH-EITI received SEC’s comments. (May 15)</li> </ul> |

622

623

624 BO was discussed as part of the agenda of all the MSG meetings since the approval  
625 of the BO Roadmap in December 2016.

626 The consultant explained the series of events that became problematic in publishing  
627 BO information. An agreement by the MSG was made during the 61st MSG meeting  
628 held in December 2019. The MSG resolved to align the BO disclosure under EITI with  
629 the SEC's requirement of BO declaration under the Memorandum Circular (MC) No.  
630 15, originally issued in 2018 but was amended in 2019. This resolution is consistent  
631 with the EITI Board's decision, in February 2018, to make systematic disclosure the  
632 default expectation of implementing countries. Moreover, it has a basis in the EITI  
633 Standard and complies with Requirement 2.5 (a) which states that, "Where possible,  
634 beneficial ownership information should be incorporated in existing filings by  
635 companies to corporate regulators, stock exchanges or agencies regulating extractive  
636 industry licensing." The SEC falls under the corporate regulator classification. There  
637 was a clear rationale for opting to mainstream BO reporting and disclosure.

638

639 However, aligning with SEC's implementation of MC No. 15 entails waiting until the  
640 end of July 2020, the deadline for submitting the GIS, to get better and more complete  
641 BO information. Also, SEC's BO declaration form does not include PEP identification  
642 and will not be published by SEC.

643

644 Another problem was the matter of publication. The 2019 EITI Standard requires that  
645 countries publicly disclose BO information. Under the 2016 EITI Standard, the  
646 language was that countries "disclose", so the adverb "publicly" from the 2019 EITI  
647 Standard made a lot of difference because under the 2016 EITI Standard, it could  
648 have just been argued that companies were already disclosing by virtue of MC No. 15,  
649 since it was already mandatory for all companies, not only extractive companies, to  
650 declare their beneficial owners as part of their GIS submission.

651

652 However, the 2019 EITI Standard clarified that what it requires is public disclosure, so  
653 given that quotation, come January 2020, PH-EITI was deemed unable to meet that  
654 deadline. But the secretariat communicated with the IS and clarified that it is also  
655 complying with the standard which says that as much as possible, it should be  
656 integrated in the processes of a corporate regulator, and that they are just waiting until  
657 the end of the period to get the BO information from the SEC, to be included in the 6th  
658 Report.

659

660 Another issue with the publication is that MC 15 excludes it. The circular specifically  
661 says that all the submissions on the BO declaration form shall not be uploaded to their  
662 publicly accessible electronic database which is the iView. Given that publication was  
663 an issue, the secretariat and the MSG sought to address it. First, by having the SEC  
664 during the TWG meeting held in February this year. Representatives from the  
665 Enforcement and Investor Protection Department (EIPD) made representations that it  
666 is possible for them to publish provided that the companies would execute a waiver,  
667 similar to the taxpayer's waiver companies execute for BIR. Hence, the secretariat  
668 proceeded with the positive feedback that publication is possible provided a waiver is  
669 given.

670 Second, a draft company waiver for BO disclosure was circulated to the MSG for  
671 comments and approval in February 2020. The MSG commented on and approved  
672 the draft waiver via Google Form in April 2020. It was then sent to the SEC for their  
673 comments. The SEC gave their comments in May and it was circulated to the MSG  
674 members for information and comment. PH-EITI and SEC met via Zoom on May 21,  
675 2020 to discuss and clarify SEC's comments.

676

677

678 *Where are we now?*

679

- 680 ● The first compliance period of MC 15 will end by August 2020.
- 681 ● SEC cannot publish BO information, even with company waivers.

682

683 SEC's position is that:

684 (1) It cannot publish BO information because MC 15 excludes publication and  
685 does not provide any exceptions. SEC would need to amend MC 15 to allow  
686 for exceptions.

687 (2) It can only share to PH-EITI the BO information disclosed by companies,  
688 provided

689 (a) the data subjects give their consent (by themselves or by an authorized  
690 company representative through a Board resolution) and

691 (b) PH-EITI executes a data sharing agreement with SEC under NPC  
692 Circular No. 16-02 in compliance with the Data Privacy Act of 2012  
693 (DPA).

694

695

696 *What can PH-EITI do?*

697

698 There are at least three (3) options to be able to publish BO information:

699

700 A. Ask the companies to execute the waiver (as amended by SEC) and execute  
701 a data sharing agreement with SEC to obtain from SEC a copy of the  
702 companies' BO declaration forms (submitted to SEC as part of the GIS), and  
703 then publish the BO information in the 6<sup>th</sup> Report.

704 B. Directly ask the companies for a copy of the BO declaration forms they  
705 submitted to SEC and for their consent to the publication of their BO  
706 information in the 6<sup>th</sup> Report.

707 C. Push for SEC to amend MC 15 to provide for exceptions to non-publication  
708 (as well as to add PEPs to the declaration form).

709

710

711 The contextual information consultant thinks that it is worthwhile to point out that the  
712 reason such issues on publication are present is because the PH-EITI is not dealing  
713 with the usual financial/quantitative data. The PH-EITI is already dealing with personal

714 information when it comes to BO. Hence, PH-EITI is constrained by the requirements  
715 of the DPA.

716

717 Whether the MSG goes for option A or B, it would entail a lot of responsibility on the  
718 part of the companies because they are the ones who will be executing a document,  
719 and this requires that they ensure that their data subjects consented to the data being  
720 disclosed and published.

721

722 There will be a lot of paperwork for option A. Option B is simpler since PH-EITI just  
723 needs to ask for a copy of the companies' BO declaration forms. But PH-EITI also has  
724 to be careful in ensuring that before publication, the data subjects' consent was  
725 obtained.

726

727 The consultant added that the SEC already received a complaint and there is an active  
728 case against the implementation of MC 15. The Office of the Solicitor General is  
729 representing the SEC in this case and the secretariat requested for a copy of the case  
730 documents to know what the complaint is about and the identified legal arguments.

731

732 The Chair asked what is in the legal case to know what the complaint was about. The  
733 consultant said that she has no idea about which company, but she asked for the  
734 general information about the case. However, SEC didn't give information, although  
735 they said they already prepared photocopies of the case documents for pickup.

736

737 The consultant then asked the members which option they would choose or if there is  
738 another option they think would be a better way to proceed.

739

740

741 *Open Discussion*

742

743 A civil society representative opined that option B would be easier and faster.

744

745 Another civil society representative concurred, with a comment that volunteers were  
746 asked before, but only OGPI complied.

747

748 Another civil society representative asked whether BO disclosure contradicts the DPA.  
749 He pointed out that they may be greater public interests to be considered in line with  
750 data privacy. He suggested considering getting a legal opinion, then possibly craft a  
751 legal argument showing how the BO disclosure is of greater public interest and  
752 therefore outweighs the harm that it may cause regarding privacy rights. He added  
753 that a legal opinion supporting this could help make the case for the SEC to amend  
754 MC No. 15.

755

756 The contextual information consultant said that the SEC agrees that there is public  
757 interest such as transparency and anti-corruption that override the interest in data

758 privacy. She said that the SEC agrees, on principle, that PH-EITI can disclose, and  
759 that MC 15 was issued for companies to disclose beneficial ownership. The SEC  
760 admits that they only look into the information they have when something triggers an  
761 investigation. The SEC agrees that there should be transparency on BO but it finds  
762 itself bound by regulation and legal requirements with regard to publication of the  
763 disclosed BO information.

764

765 The contextual information consultant noted that the PH-EITI could make a case for a  
766 long-term solution by pushing for the amendment of MC 15.

767

768 The Chair said that the other options would also take time. She asked for the position  
769 of the members of the industry and their thoughts on the second option provided  
770 (option B.) She said that option C is the long-term solution if the SEC is willing to  
771 amend MC15, notwithstanding the fact that there is a pending lawsuit against them.

772

773 An industry representative believes that the second option can be done if the  
774 publication of the BO disclosure is properly explained to the companies. He said that  
775 the MSG could talk to the companies to explain what the PH-EITI needs. However, he  
776 pointed out that there could be a problem in securing the consent of the data subject  
777 or beneficial owner because without their consent, the company would not be able to  
778 disclose the BO information needed and allow its publication. The company, then,  
779 would also have to bear the consequences as they would not be able to comply with  
780 the EITI disclosure requirement. So long as the company waiver sticks closely to what  
781 the SEC wants to happen, the industry representative believes that the waiver can be  
782 pushed.

783

784 The contextual information consultant clarified that the data process that takes place  
785 before the information reaches EITI, given that BO information is personal information  
786 governed and protected by the DPA.

787

788 The SEC does not need to ask for consent of the beneficial owners because the SEC  
789 is already a public authority performing a public function. The issue is sharing the  
790 information with PH-EITI and publishing it. PH-EITI already satisfies one of the  
791 conditions, which is that it is performing a function and collecting data is part of it. The  
792 companies protect the controllers of the personal information data of their beneficial  
793 owners, but normally, these are just the directors and officers.

794

795 The contextual information consultant asked whether, without the legal complications  
796 discussed, the publication of BO data be considered as sensitive information as far as  
797 the industry is concerned. She said, the legal strictures become irrelevant if it is not  
798 sensitive information for the companies.

799

800 An industry representative agreed on earlier insights with respect to the legal  
801 requirement that the consent has to come from the data subject. She also agreed that

802 the beneficial owners, as is the case for a number of companies, could be the company  
803 directors and that this information is available in other parts of the GIS that are  
804 considered public information. She pointed out that the complication would be when  
805 the beneficial owners were different from the listed directors.

806

807 Another industry representative proposed exploring layering of the data that need to  
808 be published. He asked if the NPC could be asked for a clarification on the minimum  
809 information that can be readily be published without first securing consent from the  
810 data subject.

811

812 The contextual information consultant said that asking the NPC is hardly an assurance  
813 because if a data subject complains, then there would still be a case. The industry  
814 representative's suggestion could be applied, if the company will be the one to execute  
815 a waiver or a consent form. The burden would then be shifted to the companies to  
816 ensure that they have secured the necessary consent when they execute a waiver  
817 through their authorized company representative.

818

819 The industry representative clarified that he was suggesting a level of data that can be  
820 published without requiring consent.

821

822 The contextual information consultant opined that it might be helpful to enumerate the  
823 information requested for BO. These data are a combination of regular personal  
824 information and sensitive personal information. The EITI Standard requires the  
825 publication of the beneficial owners' name, nationality, country of residence, and PEP  
826 status. The national ID number, date of birth, specific residential address, and contact  
827 information are merely recommended by the EITI Standard. Under MC 15, the  
828 required information includes the complete name, address, nationality, date of birth,  
829 TIN, percentage of ownership or voting rights, and type of BO, since there are nine  
830 categories.

831

832 In comparison to what the DPA protects, the sensitive data would be date of birth,  
833 race, ethnic origin, marital status, religion, political affiliations, health, education, etc.  
834 In terms of the data required by both the EITI and SEC, the sensitive information would  
835 be the TIN, date of birth, and nationality.

836

837 The contextual information consultant asked one industry representative if what he  
838 was saying was that it is easier for companies to give the data if they are assured that  
839 some of the sensitive data would be redacted, given that it requires additional  
840 requirements for disclosure and publication.

841

842 The industry representative asked if it is possible to publish only the names at the  
843 moment, considering that these are already public information. He proposed to take  
844 option B wherein the names submitted to SEC will only be the data published.

845



846 The contextual information consultant clarified that if only the names were published,  
847 it would not meet the requirements of the EITI Standard. The Standard would require  
848 at least the name, nationality, and country of residence, including PEP, which were  
849 also disclosed in the GIS.

850

851 The Chair asked if such information can be used in time for submission of the 6th  
852 Report and if it is something that can be compiled substantively.

853

854 The contextual information consultant made it clear that what is being done is an  
855 assessment of the receptiveness of the industry, should option B be decided upon,  
856 since it would require PH-EITI getting a copy of the declaration form directly from  
857 companies.

858

859 The Chair said she might directly ask the industry if they would be willing to allow PH-  
860 EITI to redact some information.

861

862 A civil society representative expressed concerns over having the PH-EITI secretariat  
863 and MSG to be in a position to hold custody of information that are not meant to be  
864 disclosed, and also have the power to redact such information. He further emphasized  
865 that it might be worth getting a legal opinion on what is actually covered by the DPA,  
866 and if there is any conflict between a request for BO information and DPA.

867

868 The same civil society representative concurred with one of the industry  
869 representatives on the option to publish just the names for the 6th report. If PH-EITI  
870 could legally circumscribe why this is in the public interest and that the public interest  
871 outweighs private interest then eventually, PH-EITI should be in a position where the  
872 beneficial owner's consent would not be needed. The information on the GIS could be  
873 insufficient in some cases where there are layers of ownership.

874

875 The Chair asked the civil society representative whom he wants to consult for legal  
876 opinion.

877

878 The civil society representative answered that it could be legal scholars, former  
879 justices of the Supreme Court, data privacy experts, or someone who could look at the  
880 issue from a legal standpoint.

881

882 The contextual information consultant said that the NPC can provide legal opinion.

883

884 The Chair asked the contextual information consultant about the implications of not  
885 meeting standards.

886

887 The contextual information consultant reiterated that the PH-EITI will undergo  
888 validation this year should it push through with the original schedule. She explained  
889 that the deadline was already January 2020 so there is more urgency to comply

890 because PH-EITI will be under the EITI International's scrutiny. If PH-EITI cannot  
891 publish BO disclosures, the legal obstacles will simply have to be described.

892

893 The Chair said that they should prioritize what can and cannot be done given the time  
894 and the environment in which PH-EITI are forced to work in right now. She said that  
895 she is willing to forgo, for the moment, PH-EITI's status as an EITI compliant country  
896 considering the difficulty to go around such legal obstacles. The Chair said that the IS  
897 must also be aware of such problems. She advised the members to ask the NPC for  
898 legal opinion to know exactly what PH-EITI will ask for, and the MSG has to agree on  
899 that. The MSG would also have to agree on other steps to be considered. In the  
900 meantime, the PH-EITI will submit the names which already appear on public  
901 documents - the GIS. Additional information will be submitted eventually.

902

903 The contextual information consultant proposed that if the general inclination is to go  
904 for option B, the secretariat will draft a communication to companies to secure and  
905 request a copy of the BO declaration form, subject to an undertaking that the  
906 information will be, to a certain extent, kept confidential by PH-EITI. PH-EITI will be  
907 undertaking the responsibility to protect the privacy within legal bounds and identify  
908 which parts would be published. It would be up to the company to opt in or not, so it  
909 would be a voluntary disclosure and publication. If the members prefer it to be  
910 voluntary, then PH-EITI will simply have to document what will be gathered and explain  
911 the legal challenges/barriers to full disclosure.

912

913 The Chair expressed concerns over letting the PH-EITI Secretariat handle highly  
914 confidential information, especially considering the current work setup wherein the  
915 staff are mostly working from home.

916

917 A civil society representative concurred saying he does not think PH-EITI should be  
918 holding information that is not ready to be disclosed as it exposes PH-EITI to a risk of  
919 inadvertently disclosing information that should not be disclosed.

920

921 The secretariat noted the options enumerated and asked the members if they already  
922 wanted to decide on an option or if they wanted to defer the decision for another  
923 meeting or e-mail. The secretariat mentioned that several members prefer option B  
924 based on the messages sent through the meeting chatbox. The other option is to get  
925 the BO information available in the GIS and other platforms although it may not  
926 constitute compliance due to lack of other necessary information.

927

928 The Chair asked the members if they already wanted to decide on the matter or if they  
929 would rather discuss it via email or Viber group.

930

931 An industry representative said that the information required for EITI compliance  
932 mentioned by the contextual information consultant are already in the GIS. The

933 secretariat may look into the GIS and confirm if the list of officers and directors already  
934 there would suffice, without the BO declaration form included.

935

936 The contextual information consultant explained that the secretariat would have to  
937 compare because owners that are published on the GIS, not the BO declaration form,  
938 are considered legal owners and are not, in the eyes of EITI, the beneficial owners.  
939 The beneficial owners are only the ones declared on the BO declaration form. The  
940 EITI International distinguishes between the legal owners and the beneficial owners.

941

942 The Chair proposed to do option B and wait for the companies to respond because in  
943 the end, the companies are the ones who will give their consent.

944

945 The members agreed to implement option B.

946

947

948     ▪ Proposal for Online Report Analysis Workshop

949

950 The consultants proposed to conduct a separate MSG meeting/seminar/workshop on  
951 the 6<sup>th</sup> Report. This would be conducted online for two to three hours in late June or  
952 early July. This would be moderated by the consultants.

953

954 The following are the proposed general objectives:

955

- 956     1. For the MSG to have more focused time to review, discuss, approve, learn,  
957       and appreciate the 6<sup>th</sup> Report
- 958     2. To equip and prepare MSG members and the secretariat for activities that aim  
959       to disseminate or communicate the 6<sup>th</sup> Report
- 960     3. To serve as a compressed report analysis-workshop and data dive that is  
961       normally conducted for each country report

962

963

964     e. *Updates on the production of the 7<sup>th</sup> Report [FY 2019]*

965

966 In the interest of time, the secretariat recommended that the discussion of the matter  
967 of the 7<sup>th</sup> Report production be deferred. The secretariat also proposed that all agenda  
968 items under Other Matters be communicated via email.

969

970 The MSG agreed with the recommendation, and the discussion of the said agenda  
971 items was deferred.

972

973

974

975

976

977 *f. Update from EITI International: Alternative Reporting*

978

979 The secretariat reported on the alternative EITI reporting that the EITI International  
980 Secretariat is encouraging implementing countries to produce especially amidst the  
981 COVID-19 pandemic.

982

983 The secretariat explained that more implementing countries are finding it difficult to  
984 produce a report under the current global health situation and that an alternative  
985 report will be more aligned with EITI mainstreaming.

986

987 The secretariat enumerated some alternatives to the conventional reporting. These  
988 include a thematic report on social and environmental payments, IP royalty data, or  
989 on Semirara Mining and Power Corporation, the lone material coal project.

990

991 The secretariat asked the members for their thoughts on how the alternative reporting  
992 could affect the data gathering.

993

994 A civil society representative said it might not be a mutually exclusive thing where PH-  
995 EITI needs to choose between the conventional and alternative reporting. He said it  
996 could be the conventional reporting supplemented with talks about some of the  
997 thematic issues. He also proposed to consider, in terms of thematic reporting, how  
998 extractives industry responded to the pandemic in terms of protecting the workers and  
999 adjusting amid different situations.

1000

1001 An industry representative concurred with the civil society representative. He agrees  
1002 that PH-EITI should do a thematic report this year because like what the EITI  
1003 International says, the findings have little variance ever since PH-EITI started  
1004 reporting. He thinks everybody would be better served if there would be focus on  
1005 various aspects of the extractives so there would be a deeper treatment. He proposed  
1006 that PH-EITI look into the social and environmental payments since it has a direct  
1007 impact on communities. Second, he proposed to review the efficacy of such payments  
1008 to assess whether or not they are really working towards sustainability. Even if PH-  
1009 EITI proceeded with a thematic reporting, he insisted that data should be gathered for  
1010 two reasons: 1) data is needed every year; 2) all mining companies have already been  
1011 trained to report every year, and if they do not do it for one year, they might forget it  
1012 and PH-EITI will then have a harder time getting them to do it in subsequent years. He  
1013 suggested retaining the reporting template aspect.

1014

1015 The Chair said that PH-EITI could expound on the percentage of the social and  
1016 environmental payments vis-a-vis the mining revenues, as brought up in the  
1017 discussion of the reconciliation results.

1018

1019 The contextual information consultant asked the members if there should still be  
1020 reconciliation if data gathering would be done since that is the bulk of the work of an

1021 independent administrator. She said that based on the recommendations that the  
1022 reconciliation consultant gave earlier, the proposal would entail more work because  
1023 the walkthroughs and systems would have to be improved. If the thematic reporting  
1024 would be an analysis of an aspect of the traditional report, then the traditional reporting  
1025 would still have to be done.

1026  
1027 An industry representative offered an alternative, which is to gather data for 2019, and  
1028 then do reconciliation in 2020, so the reconciliation will be for two years.

1029  
1030 A government representative is particularly concerned about the TOR of the IA since  
1031 it already includes reconciliation.

1032  
1033 Another government representative concurred with the suggestion of the contextual  
1034 information consultant.

1035  
1036 The Chair said that the suggestion of one of the industry representatives could be  
1037 explored in the 8th Report, considering the data that will be generated and the fact  
1038 that there's no assurance yet if physical walkthroughs with projects and agencies can  
1039 be done.

1040  
1041 The secretariat said that there is not much choice since the TORs have already been  
1042 released for the 7th Report although the TORs are not yet signed.

1043  
1044 The Chair clarified that if an alternative report means that there is no reconciliation,  
1045 but is stated on the TORs, then there would be no choice unless the TORs would be  
1046 changed.

1047  
1048 A civil society representative said that any thematic report will require another TOR.

1049  
1050 With no other comments or insights from the members, the MSG resolved to do  
1051 conventional reporting.

1052  
1053 An industry representative asked that alternative reporting be flagged for the 8th  
1054 Report.

1055  
1056 The Chair said it might be relevant to do an alternative report for the 8th Report since  
1057 it's reporting on 2020.

1058  
1059 A government representative proposed to highlight the social expenditure diverted in  
1060 response to COVID-19. He informed everyone that the MGB released and issued a  
1061 memorandum that requires companies to allot a portion of their SDMP to COVID-19  
1062 response.

1063  
1064

1065 *Open Discussion*

1066

1067 The Chair requested the secretariat to refresh the MSG on what the validation in  
1068 October would entail.

1069

1070 The secretariat explained that the 6th Report will be the basis of the revalidation this  
1071 year. The secretariat reported that there had been several meetings with the EITI IS  
1072 and that the IS has been asking the PH-EITI to inform them if there were any  
1073 challenges being encountered, considering the COVID-19 situation. If the report will  
1074 be delayed, the PH-EITI may opt to request an extension.

1075

1076 The contextual information consultant emphasized that the MSG would have to decide  
1077 on the option to request for an extension in light of the current COVID-19 situation.  
1078 There are no foreseen problems in producing the 6th Report which is the subject of  
1079 the revalidation. However, there are aspects to validation and revalidation concerning  
1080 stakeholder engagement that may be tricky to comply with within the EITI validation  
1081 framework. This includes outreach activities of PH-EITI, as well as the level of  
1082 commitment of each sector to the implementation.

1083

1084 The Chair advised the members to ask themselves whether the concerns for extension  
1085 could be resolved within the extended timeframe. Otherwise, the Chair doesn't see  
1086 any value added from seeking an extension. PH-EITI might need to be more specific  
1087 on the concerns over stakeholder engagement that PH-EITI needs to address for  
1088 validation.

1089

1090 A civil society representative asked how much time there is for an extension. The Chair  
1091 answered that the usual extension is 6 months.

1092

1093 To give the new members an idea of what happened during the validation process in  
1094 2017, the contextual information consultant explained that it includes an appointed  
1095 validator, appointed by the EITI Board, to assess compliance by a specific country with  
1096 the EITI Standard. The validation entails desk research, wherein the IS gathers all  
1097 data including documents of the implementing country. The main part is the report,  
1098 which is one of the main outputs of the implementing country to assess if the report  
1099 complies with or meets the requirements of the standard. The other part is assessing  
1100 stakeholder engagement in each of the three sectors. A mission then arrives in the  
1101 country where the validator gathers information through interviews with different  
1102 stakeholder groups. This may be conducted either one-on-one or in groups. This is  
1103 how they assess the level of engagement of the sectors, and how EITI in the country  
1104 is impacting or getting results. The validator is going to assess how much stakeholder  
1105 engagement has been done within the revalidation year and the PH-EITI does not  
1106 have much to show for it in terms of outreach activities.

1107

1108 The Chair asked up to when an extension can be sought because the International  
1109 Board would have its next meeting in June. The Chair is anticipating that this is one of  
1110 the concerns that would be raised by implementing countries.

1111

1112 The contextual information consultant answered that the only time period given under  
1113 the standard is before the date of validation, which is enough time for the EITI Board  
1114 to decide.

1115

1116 The Chair left the matter of the validation to the secretariat to think about for a while  
1117 then instructed them to give an update.

1118

1119 The Chair advised to move forward with the outreach activities since it is also critical  
1120 for the validation.

1121

1122

1123 *g. Outreach activities*

1124

1125 For the outreach activities, the secretariat asked for three decision points from the  
1126 MSG. One is the MSG Online Learning Series, and in relation to that, the topic and  
1127 sequence. The third decision requested from the MSG is on the approach for the  
1128 roadshow.

1129

1130 Consistent with the PH-EITI work plan for 2020, the secretariat proposed an MSG  
1131 Online Learning Series, a capacity-building program for the MSG aimed at enabling  
1132 the MSG members to effectively participate in natural resource governance. The  
1133 online series is planned to run from June until August 2020.

1134

1135 Among the suggested topics for the learning series are the following:

1136

1137 ● Legislative Advocacy Training and Planning

1138 ○ Discussant/Lecturer: Consultant

1139 ○ Suggested Date: 2nd week of June

1140 ● Fundamentals of Mining (introducing the 4 states of mining)

1141 ● The Economics of Mining

1142 ● Principles of Governance applied in NRG

1143 ● Governance Principles on Transparency

1144 ● Governance Principles on Accountability

1145 ● NRG and poverty reduction

1146 ● Laws on natural governance

1147 ● Taxation in natural resource management

1148

1149 The secretariat asked members if they agree on the topics listed. The secretariat also  
1150 informed the members that they will also be requested to serve as facilitators or  
1151 lecturers for some topics.

1152 The Chair asked the period of implementation of] the learning series, if it would last  
1153 through the end of the year or if it would spill over 2021.

1154

1155 The secretariat's proposed period for the learning series is from June until the last  
1156 week of August, since preparation for other PH-EITI activities are scheduled in  
1157 September and October.

1158

1159

1160 *Legislative Advocacy Training and Planning.* This learning activity will serve as a  
1161 venue for the MSG to establish strategies for the enactment of a law on transparency  
1162 and accountability in the extractives. The activity will done online in four separate days,  
1163 two hours per session.

1164

1165 An industry representative asked whether the activity would really take 8 hours for 4  
1166 days. In response to the question, the secretariat presented the proposed session  
1167 outline and modules.

1168

1169 The Chair shared that based on her experience, the maximum number of hours for  
1170 webinars is two.

1171

1172 An industry representative suggested conducting the learning series in two days for  
1173 four hours each.

1174

1175 The Chair suggested removing some of the modules.

1176

1177 The secretariat said it would revisit the duration of the session and would write it as  
1178 part of the notice that would be circulated to the MSG, including the topic that the MSG  
1179 members might want to facilitate themselves.

1180

1181

1182 *Roadshow 2020*

1183

1184 The secretariat shared that the LGU Roadshow will now be done online and in two  
1185 phases.

1186

1187 Under Phase 1, participants will be clustered by region, and regions with more than  
1188 five projects will be divided into clusters by province. The estimated number of  
1189 participants per cluster is 60. The secretariat proposes 11 clusters under Phase 1.

1190

1191 The Chair is worried about the quality of connectivity since it will be conducted online.  
1192 She asked if the secretariat has any idea on the kind of internet connection that the  
1193 participants have.

1194



1195 The secretariat answered that if the MSG agrees with the schedule and approach, the  
1196 secretariat could get in touch with the targeted participants and invite them. The  
1197 secretariat is under the assumption that some of the participants have the capacity to  
1198 go online but it is understood that not everyone has the same capacity or connectivity.  
1199 Another option is to stream the whole program and the participants can just watch  
1200 from their personal devices, but their participation might be limited to just listening in.  
1201

1202 A government representative pointed out that even if the participants could simply  
1203 stream, they would still need stable connection. She said that the purpose of the  
1204 Roadshow would be defeated if the participants' engagement would be limited to just  
1205 streaming. She shared that when they had a meeting with the DILG, they discovered  
1206 that the LGUs do online virtual town hall meetings. Her only concern is the participants  
1207 from the CSO.  
1208

1209 The Chair said that one of the suggestions done before was the hosting of a company,  
1210 but the secretariat is limited to the guidelines of the community quarantine wherein  
1211 there should be no mass gatherings. The Chair then asked for the schedule of the  
1212 program.  
1213

1214 The secretariat presented the program schedule and approach for Phases 1 and 2.  
1215 The secretariat acknowledged the limitations and the quarantine measures in place.  
1216

1217 The Chair proposed to have a program that is heavy on visuals since it might be  
1218 difficult for the participants to sit throughout the program.  
1219

1220 The secretariat noted the comments of the MSG. It also encouraged the members to  
1221 go through the MSG kit to review the other materials and items.  
1222

1223 The next MSG meeting was set on August 25, 2020.  
1224

1225 Without any further discussion, the meeting was adjourned at 1:30 pm.