

PH-EITI 7th MSG MEETING

6:00 PM- 8:00 PM | August 23, 2013

Rajah-Datu Hall, The Royal Mandaya Hotel,

Davao City

Attendees:

9	Usec. Jeremias N. Paul Jr.	Chair/ Department of Finance (DOF)
10	Asst. Sec. Ma. Teresa S. Habitan	DOF
11	Atty. Maria Karla L. Espinosa	DOF
12	Elsa P. Agustin	DOF
13	Febe J. Lim	DOF
14	Asec. Daniel A. Ariaso, Sr.	Department of Energy (DOE)
15	Engr. Romualdo Aguilos	Mines and Geosciences Bureau—Department of Environment and Natural Resources (MGB-DENR)
17	Michael Joseph Juan	Union of Local Authorities of the Philippines (ULAP)
18	Rose Ann A. Cruz	Philippine Poverty Initiative (PPEI)-Department of the Interior and Local Government (DILG)
20	Sandra Marie Recolizado	Board of Investments (BOI)
21	Dr. Cielo Magno	Bantay Kita
22	Prof. Jay L. Batongbacal	University of the Philippines, College of Law
23	Prof. Maria Aurora Teresita W. Tabada	Visayas State University
24	Ronald Allan A. Barnacha	Philippine Rural Reconstruction Movement (PRRM)/ North Luzon
26	Roldan R. Gonzales	GITIB, Inc.
27	Filomeno Sta. Ana III	Action for Economic Reforms (AER)/Bantay Kita
28	Agustin Docena	Samar Island Bio-diversity Foundation (SIBF)/Eastern Visayas Network of NGOs and POs, Inc. (EVNET)
30	Dr. Merian C. Mani	Romblon Ecumenical Forum Against Mining (REFAM)/ Romblon State University
32	Engr. Artemio F. Disini	Chamber of Mines of the Philippines (COMP)
33	Gerard Brimo	COMP
34	Nelia Halcon	COMP
35	Ronald S. Recidoro	COMP
36	Clarence J. Pimentel, Jr.	CTP Construction and Mining Corporation
37	Atty. Casiana N. Dalangin	CTP Construction and Mining Corporation
38	Primo L. Cuaton	CTP Construction and Mining Corporation
39	Sebastian C. Quiniones, Jr.	Shell Philippines Exploration BV (SPEX)/ Petroleum Association of the Philippines (PAP)

1	Daphne Villanueva	Christian Aid
2	Atty. Gay Alessandra V. Ordenes	Secretariat
3	Maria Meliza T. Tuba	Secretariat
4	Abigail D. Ocate	Secretariat
5	Mary Ann D. Rodolfo	Secretariat
6	Babes M. Ancheta	Secretariat
7	Christian Dave B. Galang	Secretariat

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10 **AGENDA:**

- 11 • Minutes of the 6th MSG meeting
- 12 • Individual comments of MICC members on the proposed Executive Order creating PH-EITI
- 13 • Discussion on election of co-chairs
- 14 • Other Matters

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17 **1. Call to Order:**

18

19 1.1. The Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (MSG)
20 meeting was called to order at 6:00 pm.

21

22 The proposed agenda was presented and subsequently approved by the body.

23

24 **2. Minutes of the 6th MSG Meeting**

25

26 2.1. While discussing items 7.1 and 7.2 of the minutes of the 6th meeting referring to subnational
27 implementation, an MSG member suggested that the Secretariat should inform the body regarding the
28 schedule of all EITI activities. It was reiterated and emphasized that all official communications should come
29 from the EITI secretariat.

30

31 2.2. Representatives of the business sector reiterated that they would like the EITI to just concentrate on its
32 specific role of disclosing payments and revenues. It was further stated that any other agenda such as
33 matters involving small-scale mining is not within their mandate as representatives of the companies in the
34 MSG.

35

36 2.3. The Secretariat was asked to clarify the relationship between PH-EITI MSG and subnational EITI
37 implementation.

38

39 2.4. The Secretariat elucidated the context of the subnational EITI implementation. It was explained that the
40 DILG is undertaking a project called Philippine Poverty Environment Initiative (PPEI). In its work plan,
41 subnational implementation of EITI is included as one component. During the DILG-PPEI's meeting last June,

1 where some MSG members were also in attendance, there was an agreement that to avoid duplication of
2 efforts, PH-EITI should collaborate with PPEI on similar activities as reflected in their work plans. Once such
3 common activity is subnational implementation of EITI.

4
5 Consequently, there were succeeding discussions on executing a Terms of Reference (TOR) defining the
6 roles of PPEI and PH-EITI in terms of how they can proceed with the collaboration.

7
8 A question was raised whether there is already a TOR between PPEI and EITI. The secretariat clarified that
9 there is no TOR yet.

10
11 2.5. Reacting to this matter, an MSG member stated that it is best for the MSG to just concentrate on its
12 mandate for it to be effective.

13
14 2.6. The representative of PPEI stated that one of the components of PPEI is to support EITI and one
15 identified activity is the subnational implementation. However, it was clarified that they are still laying the
16 ground work for their EITI related activities.

17
18 PPEI also clarified that they are not working on small-scale mining and that the local government units
19 (LGUs) involved in their project are those that are doing large-scale mining. They also shared that they
20 previously requested the EITI secretariat to defer until the next MSG meeting the discussion of the TOR
21 between EITI and PPEI.

22
23 2.7. A representative from the Civil Society Organizations (CSOs) also gave a background on the subnational
24 implementation of EITI. It was stated that the idea behind EITI is to make the stakeholders accountable. In
25 some countries where they cannot implement EITI at the national level, they started implementing EITI at
26 the subnational level or the local level. This means that they establish accountability between the
27 communities and their local governments, with the idea that the LGUs also get money from the extractive
28 industries and for the local government to engage the CSO on how they spend the money at the local level.
29 In the Philippines, when the EITI was introduced, it was Compostela Valley that picked up the idea. Given
30 this, nobody is in a position to stop their initiative. So what could be done now is to provide support to CSOs
31 that want to engage the local government in subnational implementation.

32
33 2.8. It was further clarified that the PPEI is a project of DILG to also introduce accountability among
34 communities, the mining companies operating in the area, and the local government. The CSO
35 representative added that way before the Philippines decided to apply in the implementation of EITI at the
36 national level, CSOs already have initiatives at the local level.

37
38 2.9 It was also stated that since the MSG cannot stop other local government units from implementing EITI
39 subnationally, it was decided that subnational implementation should just be considered as an activity that
40 is separate from the national implementation of EITI.

1 2.10. It was further pointed out by a CSO representative that subnational implementation is already part of
2 PH-EITI's work plan.
3

4 2.11. A representative from the business sector noted that in previous meetings, they already registered
5 their objection to the type of work that is going to be undertaken in subnational EITI, but noticeably, their
6 objection was not reflected in the minutes. They then reiterated their position that the MSG should just
7 focus on simple disclosure of what was paid and was what received by the government. Their reason is that
8 based on their experience, there was difficulty dealing with small scale industries.
9

10 2.12. In view of the point raised by the business sector, the Chair further clarified whether there was really a
11 unanimous decision on the issue of subnational implementation during the 5th MSG meeting.
12

13 The secretariat explained that the reason why the objection of the business sector on small scale was not
14 reflected was because the secretariat followed the previous agreement by the MSG that only final
15 agreements and resolutions, and not opinions and sentiments of MSG members will be reflected.
16

17 The Chair suggested that the context of this discussion should have been reflected because the way it is
18 presently written, it appears that there was a unanimous decision, but apparently, there were contending
19 positions.
20

21 2.13. One member of the MSG suggested that in future communications, subnational implementation may
22 be referred to instead as a DILG initiative.
23

24 2.14. The PPEI representative elaborated that the subnational conference held at the Eden Nature Park was
25 not organized by PPEI but by Bantay Kita and Union of Local Authorities of the Philippines (ULAP). It was
26 further clarified that the support of PPEI to EITI was already discussed in several meetings with Secretary
27 Elisea "Bebet" Gozun. Subnational implementation of EITI is just part of the activities of PPEI in support of
28 EITI. Other activities of PPEI include assistance to the Mines and Geosciences Bureau (MGB) in establishing a
29 database system for monitoring government shares from mining revenues.
30

31 The representative of PPEI also shared that in January or February 2013, the PPEI sent a letter to Secretary
32 Gozun listing all the activities and the transparency component of PPEI that will support EITI. The identified
33 activities of PPEI were also consulted with Secretary Gozun last year. It was added that the activities of PPEI,
34 including the subnational implementation, actually came from the work plan of PH-EITI.
35

36 2.15. An MSG member from CSO pointed out that there was a previous discussion during the last meeting
37 where the body defined the MSG's role in subnational implementation, and that is to give briefings on EITI
38 because they are in the best position to do so.
39

40 2.16. The business sector reiterated at this point that they did not want to be involved in small scale mining.
41

1 On this matter, the CSO representative clarified that small-scale mining is not the issue. It was further
2 explained that during the discussion, there was a consensus that the body supports the efforts of the local
3 government units, mining companies and CSOs on subnational implementation but this agreement has
4 nothing to do with small-scale mining. It just so happened that small-scale miners are in Compostela Valley
5 which is the pilot site for subnational EITI implementation.

6
7 The business sector then emphasized its understanding that EITI will not deal with small scale mining. It
8 recalled an earlier meeting with Sec Gozun where they agreed that EITI will only about large scale mining.

9
10 2.17. The body agreed that subnational implementation needs to be further clarified. However, there was a
11 consensus that small-scale mining will not be included in the EITI report. It was reiterated to the body that
12 what will be included in the first PH-EITI report are only large-scale metallic mining companies and oil and
13 gas.

14
15 2.18. A representative from CSOs again clarified that subnational implementation is not limited to small-
16 scale mining. Also included are all revenue streams of the local government coming from extractive
17 activities which may also include quarrying. It was made clear, however, that in case the CSO is able to
18 engage small scale miners, the EITI MSG has nothing to do with such efforts.

19
20 2.19. There was a suggestion from business sector that the body refrain from using the term subnational to
21 avoid confusion.

22
23 However, it was shared to the body that the word “subnational” is an international term used to refer to
24 local governments.

25
26 2.20. At this point the business sector summarized the practical components of the EITI process, namely,
27 that there will be a reports on what is paid, who pays and to whom payments are made. At the end of the
28 process, there will be a reconciler of these reported data.

29
30 2.21. The CSO clarified that subnational implementation is a replication of what is done at the national level.

31
32 2.22. The government suggested that subnational implementation may just be referred to as
33 implementation of EITI at the local level.

34
35 There was then a move to refer to the subnational efforts as a DILG initiative.

36
37 2.23. To clarify matters raised by the MSG members in the course of the discussions, it was moved that the
38 MSG members push for the orientation on the 2013 International EITI Standards since the body needs to
39 work within the new rules, and in these new rules, there are other information and data that are now
40 required for disclosure. It was also mentioned that it will be critical for the members of the MSG to
41 understand the new EITI rules and level off on how the body will proceed with the reporting.

1 2.24. An MSG member shared that when EITI was presented to the President, they only talked about
2 transparency and revenues and there was nothing discussed regarding expenditures. It was suggested that
3 other additional information such as social spending may be included in the second stage of reporting or be
4 reported in another form but not under the mandate of the EITI.

5
6 2.25. A CSO representative stated that there was a long discussion in the International EITI regarding the
7 new standards. It was explained that in the old rules, EITI has become very discretionary to other countries,
8 which is the reason behind the stricter standards set by the International EITI Board. The formulation of
9 these standards is beyond the control of the countries applying for EITI.

10
11 2.26. A representative from business raised the possibility of customizing the rules based on what works for
12 the country.

13
14 2.27. A CSO representative emphasized that it is important for the MSG to know the history of EITI, that the
15 rules evolve every year, that the international standards are set by the board and that we should comply. It
16 was observed that given the concerns raised during the meeting, it appears that there is really a need for
17 leveling off.

18
19 2.28. It was suggested to the body that the MSG members should focus on the 7 requirements enumerated
20 in the EITI Standards. Reference was made to Box 1 of the document EITI 2013 Standards.

21
22 2.29. The Secretariat clarified that aside from the enumeration of those requirements, there is a further
23 discussion in the same document regarding EITI requirements specifically on items number 3 and 4 such as:

- 24
25
- Contextual information about the extractive industries.
 - The production of comprehensive EITI Reports that include full government disclosure of extractive
26 industry revenues, and disclosure of all material payments to government by oil, gas and mining
27 companies.
28

29
30 It was mentioned that the new EITI Standards enumerate what should be included in the EITI report and
31 differentiate between information that are optional and required. To clarify the issue of whether the 2013
32 standards should already be adopted, the Secretariat suggested that the MSG members take this up with
33 the EITI International Secretariat during the joint mission in September. This way, it may be ascertained
34 whether there is still enough discretion on the part of the MSG to deviate from the said requirements.

35 Moreover, there was a suggestion to also clarify if PH-EITI has an option to apply the old rules since the
36 Philippines is just a new candidate country and the new EITI standards have been implemented only in
37 2013.

38
39 2.30. The Secretariat further pointed out that social expenditures and subnational transfers are mentioned
40 in the EITI standards.

1 2.31. The representative from the oil and gas sector shared that Shell is a member of EITI global board. It
2 was also opined that the MSG should be able to comply with the reporting requirements quickly because
3 the major companies already report to the government. It was further observed that reporting can later on
4 progress to include other information considering the MSG's very tight timeline.
5

6 2.32. A government representative emphasized that it is crucial to determine what information is
7 mandatory and what is merely encouraged. It was stressed that it is Important to do it one step at a time
8 since the country is just starting.
9

10 2.33. It was again moved that the body pursue the orientation from the International Secretariat so that all
11 MSG members be clarified with what is required for the PH-EITI to report.
12

13 A government representative raised the concern that waiting for the clarification of the International
14 secretariat when they come in September might have implications on the timetable for the signing of the
15 EO.
16

17 However, another government representative stated that the EO should not be affected because the MSG
18 should already establish its legal personality.
19

20 2.34. On the minutes of the 6th MSG meeting, an MSG member instructed the secretariat to specify the
21 provisions in the statement of commitment that support the following statement:
22

- 23 • 3.3. On companies providing information for EITI, the body agreed that there was no need for the
24 Department of Energy (DOE) and the Department of Environment and Natural Resources (DENR) to
25 issue new regulations since both departments were signatories to the statement of commitment
26 signed during the National EITI Conference in January.
27

28 2.35. Going back to the wording of Items No. 7.1 and 7.2 in the minutes of the 5th MSG meeting, it was
29 suggested that instead of revising the previous minutes, the minutes of the present meeting should just
30 state that there was a confusion regarding items 7.1 and 7.2 of the minutes of the 5th meeting. Further, it
31 must also be stated in the minutes of the present meeting that the Chamber of Mines objected to the fact
32 that their position against involvement in small scale mining was not reflected in the said minutes.
33

34 2.36. It was further suggested that instead of changing the minutes of the 5th and 6th meeting, the present
35 minutes should just reflect that henceforth, all discussions on subnational implementation will be referred
36 to as part of the DILG-PPEI transparency initiative. The rationale behind this suggestion is that we cannot
37 keep changing the minutes because that will create more confusion in the long run.
38

39 2.37. As for the draft waiver, the secretariat reported that there was a comment sent by a CSO member to
40 the e-group that the BIR should be invited when the MSG takes up the said waiver in its future meetings.
41

42 2.38. The Chair clarified that BIR has the final decision on the content of the waiver.

1
2 2.39. Another MSG member inquired as to the purpose behind inviting the BIR.

3
4 2.40. The CSO explained that this is in compliance with the EITI rule that all matters pertaining to EITI should
5 be discussed in the MSG. On the question of the purpose behind inviting BIR, the CSO explained that the
6 MSG wants to ask the BIR if on the basis of the waiver, the MSG can already satisfy the content of the EITI
7 report.

8
9 2.41. The body approved the minutes of the 6th MSG meeting with revisions as discussed.

10 11 **3. Individual Comments of MICC Members on the Proposed Executive Order Creating PH-EITI**

12
13 3.1. The Secretariat discussed the comments of the members of the Mining Industry Coordinating Council
14 (MICC) regarding the proposed Executive Order (EO). In addition, it was pointed out by the Secretariat that
15 during the last MSG meeting, there was already a proposal to further amend Section three (3) of the draft
16 that the body submitted to the MICC. It was suggested that instead of enumerating the government
17 representatives in the PH-EITI MSG, the President will instead be given the discretion to choose which
18 government offices will become members of the MSG.

19
20 3.2. The Secretariat noted that the suggested revision during the 6th MSG meeting was already reflected in
21 the updated version of the EO that was presented to the body.

22
23 3.3. The Secretariat also pointed out that it already incorporated the suggestion from the Department of
24 Transportation and Communications (DOTC), that the EO should clarify where the funds for EITI will come
25 from. Section 9 of the revised EO now states that funds will be coursed through the Department of Finance
26 (DOF).

27
28 3.4. The body agreed to the following changes in the proposed EO:

- 29
- 30 • WHEREAS, Executive Order No. 79 on institutionalizing and implementing reforms in the Philippine
31 mining sector mandates that extractive industries serve the greater good of the Filipino people in
32 accord with the principles of sustainable development;
 - 33
34 • WHEREAS, pursuant to EO 79, the Philippine government commits to participate in the Extractive
35 Industries Transparency Initiative (EITI) that sets international standards for transparency and
36 accountability in the extractive industries and government;
 - 37
38 • WHEREAS, the EITI requires the creation of a body that will perform all the necessary functions and
39 complete all the requirements of the EITI process;
- 40

41 3.5. The body also asked to add the following phrases in Section three (3) of the draft EO:

- Provided, further, that the local government units should be represented in the MSG.
- The Chairman shall be responsible for convening the MSG.

3.6. All other comments were merely noted by the MSG.

3.7 The Secretariat was tasked to formally respond to the members of the MICC to thank them for submitting their comments on the proposed EO.

4. Discussion on Election of Co-Chairs

4.1. The Secretariat recalled that the election of Co-Chairs was discussed during the previous meetings of the MSG and the issue was resurrected when the Secretariat was tasked to list down all the pending matters that have not been resolved yet by the MSG.

4.2. The body agreed to have Co-Chairs from both business sector and CSOs. It was agreed that the said sectors will be responsible in electing their Co-Chairs to the MSG and to inform the body of the results of their respective elections.

5. Other Matters

5.1. The Chair noted that incorporating the Freedom of Information Bill (FOI) may not be appropriate since the PH-EITI MSG has a clear mandate.

5.2. A representative from the CSO clarified that the body will not be endorsing any specific bill or legislation. There was a suggestion to remove the passage of the FOI Bill and just focus on the essence of access to information similar to other government policy statements.

5.3. The Chair suggested to pursue the signing of the EO first before having the MSG Resolution on access to information.

5.4. It was proposed that instead of discussing the FOI resolution, the MSG members start working on the disclosure of all the public documents related to the extractive industries. The body agreed.

5.5. The Secretariat shared to the body that the release of the AUSAID grant will be delayed and that the grant may not be released until mid-September. The Secretariat presented the expenses that were incurred for the training on reporting template development.

The breakdown of the budget is as follows:

- Government: Php 172,750
- British Embassy: Php 445, 300

1 The Secretariat noted that the Business sector covered the cost for their expenses.

2
3 5.6. The Secretariat again informed the body regarding upcoming trainings and workshop including
4 anticipated expenses. It was reiterated that there will be a joint mission that will be conducted by World
5 Bank and the EITI International Secretariat on September 26 and 27. The Secretariat mentioned that the
6 topics that will be discussed during the joint mission will depend on the suggestions and needs of the body.

7
8 The projected cost of the joint mission is Php 270,000. The Secretariat noted that the total amount was
9 computed based on the assumption that the joint mission will be held within Metro Manila. It was added
10 that the AUSAID already committed to shoulder Php 144,500 for this event.

11
12 5.7. A CSO representative clarified that the funds from the British Embassy that will be used for the training
13 on template development were actually realigned from the grant of British Embassy to the project of Bantay
14 Kita. It was further clarified that since AUSAID does not have the flexibility to finance EITI activities yet,
15 Bantay Kita requested British Embassy to realign their grant in order to fund EITI activities.

16
17 5.8. The Secretariat shared to the body that there was a suggestion from the International Secretariat to
18 conduct separate sessions for government, business sector and CSOs during the planned joint mission in
19 September.

20
21 5.9. There was a motion for the creation of an internal audit committee with representatives from
22 government, business sector and CSOs.

23
24 The Secretariat recalled that in the draft Internal Rules of PH-EITI MSG there was originally a provision
25 stating that the MSG will have an oversight on the funds of EITI. However, there was a suggestion from the
26 body while they were discussing the internal rules that instead of auditing the expenses the secretariat
27 should instead come up with financial reports every month.

28
29 5.10 An MSG member suggested that an internal audit committee is preferable. There was a clarification
30 made, however, that current funds are being coursed through Bantay Kita and not the government. In view
31 of this, the Secretariat asked for a clarification on who should be audited considering that Bantay Kita is the
32 one handling the funds. It was clarified that the suggestion for internal audit applies to funds that will be
33 given to PH-EITI when it already has a legal personality. Reference was made to Section 9 of the proposed
34 EO which states that PH-EITI shall have the authority to receive, disburse, and manage financial aid or
35 grants.

36
37 5.11. Further discussions on the motion to create an audit committee ensued. However, for lack of material
38 time, the body agreed to defer the discussion on this motion to the next MSG meeting.

39
40 **ADJOURNMENT**

41
42 There being no other matters to discuss, the meeting was adjourned at 8:00 PM.