

**Philippine Extractive Industries Transparency Initiative
69TH MULTI-STAKEHOLDER GROUP MEETING**

14 May 2021, Friday | 9:00 AM - 12:00 NN | Google Meet

Minutes of Meeting**Attendees**

Government	
Asec. Ma. Teresa S. Habitan	Department of Finance
Ms. Charmaine Bagacay-Odicta	Department of Finance
Ms. Febe J. Lim	Department of Finance
Engr. Romualdo Aguilos	Department of Environment and Natural Resources - Mines and Geosciences Bureau (DENR-MGB)
Dir. Araceli Soluta	Department of Energy
Dir. Anna Liza Bonagua	Department of the Interior and Local Government (DILG)
Gov. Dakila Carlo Cua	Union of Local Authorities of the Philippines

Industry	
Atty. Ronald Rex Recidoro	Chamber of Mines of the Philippines (COMP)
Atty. Francis Joseph Ballesteros, Jr.	Philex Mining Corp.
Atty. Odette Javier	Lepanto Consolidated Mining Co.
Atty. Maria Eleonor Santiago	Atlas Mining

Civil society	
Mr. Vincent Lazatin	Bantay Kita
Dr. Buenaventura Maata, Jr.	Philippine Grassroots Engagement in Rural Development Foundation, Inc.
Dr. Glenn Pajares	Sectoral Transparency Alliance on Natural Resource Governance in Cebu, Inc. (STANCe)

Mr. Chito Trillanes	Social Action Center - Ecology Desk, Diocese of Tandag, Surigao del Sur
Mr. Augusto Blanco, Jr.	Kaimunan Lumad Sang Compostela
Mr. Nelson Cuaresma, PhD	Concerned Advocates Saving Terrestrial & Marine Ecosystem (COASTLINE) Inc.
Prof. Ladylyn Mangada	UP Visayas
Ms. Aniceta Baltar	Concerned Citizens of Abra for Good Governance
Ms. Angelica Dacanay	Bantay Kita Secretariat

PH-EITI Secretariat
Mr. Eastword D. Manlises
Ms. Mary Ann D. Rodolfo
Ms. Mary Jane I. Baldago
Ms. Anna Leigh V. Anillo
Ms. Erycce Althea Antonio
Ms. Zoe R. Jimenez
Ms. Katherine Dennise M. Domingo
Ms. Rhea Mae G. Bagacay

Agenda

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Proceedings

I. Call to order

DOF Assistant Secretary Ma. Teresa Habitan chaired the meeting. There being a quorum, the meeting was called to order at 9:07 AM.

II. Approval of the agenda of the 69th meeting

The Chair sought for the approval of the agenda.

A civil society representative requested that a brief discussion of a planned new round of MICC mining audits be included in the agenda.

The Chair said that the item could be included under Other Matters.

A civil society representative motioned for the approval of the agenda. The motion was seconded and the agenda was approved.

III. Approval of the minutes of the 68th meeting

The Chair asked the Secretariat when the minutes of the meeting were circulated.

The Secretariat said that the minutes were sent two weeks before the 69th meeting.

The Chair gave the members another week to peruse the minutes and send comments or corrections, if any. If no comment is received, the minutes will be deemed approved.

IV. Matters arising from previous meetings

The Secretariat shared updates on the following matters arising from previous meetings.

NO.	ITEM	ACTION	IN CHARGE	STATUS	REMARKS
From the 69th MSG Meeting - May 14, 2021					
69.1	Civic space	The DILG, based on a list that will be provided by the civil society constituency, will notify specific LGUs regarding the intention of civil society organizations to participate in the deliberations of local development plans.	BK and DILG	Not yet started	
69.2	Eight PH-EITI Report	The Secretariat to submit, for the MSG's approval, the revised draft TOR for the SSM chapter of the Eight PH-EITI Report.	Secretariat		
From the 68th MSG Meeting - April 16, 2021					
68.1	Validation	The Secretariat to resend to the MSG the list of preliminary questions from the Validation team.	Secretariat	Completed	The list of preliminary questions has been sent to the MSG via the reference material for the 69th meeting.
68.2	Civic space	The Secretariat to propose the inclusion of the discussion of the key findings and recommendations of BK's shadow report on civic space in the agenda of the next MSG meeting.	Secretariat	Completed	The matter has been included in the agenda of the 69th meeting.
68.3	Mainstreaming	The Secretariat to form a technical working group to discuss mainstreaming plans, including proposed revisions to the terms of reference of the MSG, Secretariat, and independent administrator	Secretariat	Not yet started	

68.4	Eight PH-EITI Report	The Secretariat to submit to the MSG draft TORs for the consultancy requirements of the Eight PH-EITI Report	Secretariat	Completed	The draft TORs had been circulated to the MSG and are now being finalized based on MSG comments/inputs.
68.5	Small-scale mining	The Secretariat to inquire with the BSP regarding SSM production data	Secretariat	Completed	The Secretariat has requested a meeting with the BSP Mint and Refinery Operations Department, but the office has yet to grant the request. May 17 - The Secretariat had a meeting with the MROD.
68.6	Subnationalization	The Secretariat to form a technical working group that will thresh out issues on subnationalization and prepare a concept note on the creation of subnational EITIs. The concept note shall be presented in the MSG's meeting in June 2021.	Secretariat	Not yet started	

The complete record of MSG decisions and matters arising from meetings can be accessed at <https://pheiti.dof.gov.ph/msg-decisions-and-matters-arising/>.

V. Main Business

1. Executive Order (EO) No. 130, series of 2021

Information on the development and approval of the EO

The Secretariat provided the backgrounder for the EO that was issued on April 14. The Secretariat said that it had sought information from the MICC, FPPO, and the MGB on the matter. It also had a meeting with the MGB on May 12, where it was shared that the proposal to maximize mining opportunities originated from the MGB. The idea was developed around August 2020, about the same time the country is reeling from the economic impact of the ongoing COVID-19 pandemic. The idea was floated to support the government in its economic recovery efforts.

The proposal was then submitted to a group of DENR undersecretaries and assistant secretaries that deliberated on the matter. It was assessed that to really support economic recovery through mining opportunities, the moratorium on new mineral agreements provided for in Section 4 of EO No. 79, series of 2012 must be amended.

The MGB through the DENR officials wrote to Secretary Roy Cimatu to inform him of the mineral potential of the country, how the mining sector could help the government in its economic recovery efforts, and the steps to be taken in order to be able to implement the proposal. Secretary Cimatu agreed to the proposal, which he later discussed with the Finance Secretary. The two departments agreed to endorse the amendment of Section 4 of EO 79 through another executive order.

The Secretariat further shared that the MGB is working on a series of stakeholder consultations to improve the draft implementing rules and regulations (IRR) for EO 130. The session for mining companies is on May 19th, while the session for government agencies and civil society organizations is on May 20th.

The Secretariat also relayed that the MGB had said that no new mineral agreement is anticipated to be approved or entered into within the year as the IRR and guidelines are still being finalized, and interested companies will still have to comply with the requirements.

The following table shows the specific amendments by EO 130 to EO 79.

Executive Order No. 79, series of 2012	Executive Order No. 130, series of 2021
<p data-bbox="300 1234 821 1301"><i>Section 4. Grant of Mineral Agreements Pending New Legislation.</i></p> <p data-bbox="300 1339 821 1809">No new mineral agreements shall be entered into until a legislation rationalizing existing revenue sharing schemes and mechanisms shall have taken effect. The grantees of such permits shall have the rights under the said laws, rules, and guidelines over the approved exploration area and shall be given the right of first option to develop and utilize the minerals in their respective exploration area upon the approval of the declaration of mining project feasibility and the effectivity of the said legislation.</p> <p data-bbox="300 1848 821 2013">The DENR shall likewise undertake a review of existing mining contracts and agreements for possible renegotiation of the terms and conditions of the same, which shall in all cases be mutually</p>	<p data-bbox="853 1234 1382 1267"><i>Section 4. Grant of Mineral Agreements.</i></p> <p data-bbox="853 1305 1382 1843"><u>The Government may enter into new mineral agreements, subject to compliance with the Philippine Mining Act of 1995 and other applicable laws, rules, and regulations. The DENR may continue to grant and issue Exploration Permits under existing laws, rules, and guidelines.</u> The grantees of such permits shall have the rights under the said laws, rules, and guidelines over the approved exploration area and shall be given the right of first option to develop and utilize the minerals in their respective exploration area upon the approval of the declaration of mining project feasibility.</p> <p data-bbox="853 1881 1382 2013"><u>The DENR shall formulate the terms and conditions in the new mineral agreements that will maximize government revenues and share</u></p>

<p>acceptable to the government and the mining contractor.</p>	<p><u>from production, including the possibility of declaring these areas as mineral reservations to obtain appropriate royalties, in accordance with existing laws, rules, and regulations.</u></p> <p>The DENR shall likewise undertake a review of existing mining contracts and agreements for possible renegotiation of the terms and conditions of the same, which shall in all cases be mutually acceptable to the government and the mining contractor.</p> <p><u>The DENR and the Department of Finance shall undertake appropriate measures to rationalize existing revenue sharing schemes and mechanisms.</u></p>
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HOR Committee on Ways and Means proposed actions on the EO

The Secretariat related that on April 16, or two days after EO 130 was issued, the HOR Committee on Ways and Means (CWM) chair, Representative Joey Salceda, wrote to the Finance Secretary to share thoughts on the lifting of the moratorium on new mineral agreements, and to propose some actions specifically on the EO's provision mandating the DENR and the DOF to undertake measures to rationalize existing revenue sharing schemes and mechanisms. Rep. Salceda stressed the importance of passing a new fiscal regime on mining, which key features, the aide memoire implied, must include the institutionalization of EITI.

The Chair asked the members if there were any comments on the items presented by the Secretariat.

A civil society representative inquired on whether the Committee on Natural Resources was involved in the drafting of EO 130 since the declaration as mineral reservation of some areas is relevant to the said committee.

The Secretariat surmised that the CWM was only reacting to the amendments to EO 79 and at the same time being proactive on the ways forward. The Secretariat said that it has no idea whether the Committee on Natural Resources had any involvement or reaction to the issuance of the EO.

The Chair added that the Secretariat was only relaying information it gathered from the MGB and the details included in the aide-memoire from the chair of the CWM.

An industry representative raised concern over the possibility of the DENR declaring more areas as mineral reservations. This will definitely impact the competitiveness and viability of projects as when an area is declared a mineral reservation, this will automatically entail an additional 5% royalty.

As regards the aide-memoire, the same industry representative agrees that Cong. Salceda was just prompting Congress to have a counterpart action in relation to the EO. He thinks, however, that the Congressman's premise was a bit erroneous in the sense that Congressman Salceda stated that the MGB and the DENR will have technical eligibility to negotiate fiscal matters. The Congressman assumes that there will still be negotiation and that to prevent the government from getting a smaller share in revenue, there needs to be a baseline or a minimum amount from which DENR and MGB can negotiate. Nonetheless, he agrees with the Congressman that there should be a better fiscal regime.

The same industry representative shared that it has concerns on HB 6135 or the fiscal regime that Cong. Salceda is pushing. He said that the bill is proposing a decrease in the royalty on mineral reservation to 3%.

A civil society representative raised three issues/questions: (i) how were social and environmental issues considered in developing EO 130; (ii) the MSG representative from the MGB never mentioned the then ongoing development of EO 130 and this, the civil society representative said, indicates a lack of transparency on the part of the MGB; and (iii) while it is welcome news that Cong. Salceda is considering the inclusion of provisions institutionalizing the EITI in the proposed mining fiscal regime bill, why did the government fail to consult EITI or extractives stakeholders before issuing the EO. The members of the civil society constituency feel that they are not important and recognized.

The Chair acknowledged the issues raised and surmised that Cong. Salceda, as member of the legislature, was also probably also not consulted before the EO was developed. The Chair pointed out, however, that the anticipated approval of new mineral agreements raises concerns on the monitoring of revenues and benefits derived from extractive projects. Hence, EITI implementation is seen as more relevant now to ensure transparency and accountability in the extractives. The Secretary of Finance agrees with Cong. Salceda.

The Chair, then, requested the MGB representative to respond to the questions of the civil society representative.

The MGB representative related that their agency presented to the Secretary of Environment and Natural Resources the potential benefits of lifting the moratorium on new mineral agreements. The proposal was mainly to support the government in its post-COVID19 economic recovery efforts, but in addition, the MGB noted that new mining projects can spur local economic growth through the opening of related small businesses. New mining projects can improve road network infrastructure and accessibility like farm to market roads that companies implement through the SDMP.

If a new mineral agreement falls under an ancestral domain, there will be royalty as another revenue for the landowners.

The representative said that their agency will continue to participate in the discussions on the proposed new fiscal regime for mining, specifically in the deliberations of HB 6135 and SB 313.

As regards concerns on MGB's transparency, the representative tried to explain that the lifting of the moratorium on new mineral agreements is not a new initiative and is in fact the eventual endpoint of EO 79 Section 4. A TWG was created in 2012 to work on the new fiscal regime for mining, but the proposal back then was not passed. But MGB, as the steward of mineral resources, does not want the moratorium to stay the way it is just because Congress cannot pass a new revenue sharing scheme. The representative said that the PH-EITI is aware that the MGB over the years has really been pushing for the lifting of the moratorium.

The representative assured the body that even with the issuance of EO 130, the new fiscal regime for mining will still be pursued, and that strict implementation of environmental policies is ensured.

The Chair acknowledged the representative's response but stressed about the civil society's concern that they were not informed of the initiative beforehand, that even the chair was questioned by some members of the media but the questions were left unanswered because of lack of information.

The MGB representative stated that he is not entirely involved in the matter and that he was just passing the information.

Another civil society representative commented on the MGB representative's statement regarding the thorough assessment of the application of mining companies. He asked if the MSG members could get a copy of the assessment so that they can see the transparency of mining companies that will be operating in their areas.

The Chair suggested that the civil society representative's concern be raised during the upcoming consultation for the IRR of EO 130 on May 20th.

A civil society representative suggested that: (i) all constituencies of the MSG must be properly updated on EITI-related concerns so that all the sectors will have a space to share concerns; and (ii) there should be a discussion of how to monitor the development of mining contracts following the issuance of EO 130.

Another civil society representative responded to the benefits that the MGB representative mentioned as justification for the lifting of the moratorium. Those benefits existed even before the issuance of EO 79 and were meant to give the authorities time to reform the fiscal regime for mining. With the imposition of EO 130, and the lifting of the moratorium, there is no incentive anymore for the industry or the legislators to push hard on this much-needed reform.

The Chair opined that the issuance of EO 130 is not a hurdle for the fiscal regime reform and what is important is that the chair of the CWM is in action. She also reiterated that the PH-EITI is now recognized as a valuable entity because of EO 130.

2. *BK shadow report on civic space in the Philippines*

Key findings

The Secretariat recalled that BK submitted a separate report on civic space in the Philippines for consideration by the EITI International in the 2021 EITI Validation of the Philippines. The complete report, entitled, *A Rising Tide: Shadow Report on Civic Space in the Philippines* is accessible at <https://pheiti.dof.gov.ph/download/bantay-kita-shadow-report-on-civic-space-in-the-philippines/>.

Information on the research design, including framework, scope, methodology, and research site and population, is found on pages 7, 8, 74 and 75 of the report.

The following are the key findings of the report:

- In general, there is fear in publicly expressing opinions and positions against the government, although in local landscapes, this pertains more to the local government. Only in the case of one national informant where reprisals may have come from the national government. Another national informant had no direct experience but knew of other CSOs who did.
- In terms of access to information, including on EITI, in general, there is difficulty in accessing information, and the government, including EITI, are not proactive about making information available.
- There is now fear in holding assemblies and protests compared to the previous administration. And respondents experienced vilification for expressing their opinions, not only from the state, but from community members as well, online as well as offline.
- There is as of yet no difficulty in accessing funding, but new government issued circulars might change that. Locally, there is sometimes difficulty in accessing government-sponsored livelihood opportunities for civil society.
- The respondents have clearly felt the chilling effect of the Anti-Terrorism Act (ATA). One even said that ATA, once its effects are felt, would break their group up. The ATA has also made one coalition more cautious in their operations. Policy issuances, one informant said, could jeopardize the operations of CSOs.
- There are experiences of intimidation, harassment, and violent dispersal. A community barricade was violently dispersed, and the mitigating circumstance

was a letter from the Office of the Executive Secretary, citing a Department of Environment and Natural Resources (DENR) recommendation. A high-ranking official had also characterized CSOs as a national security threat.

- In general, there is now fear in convening meetings and gatherings. In one landscape, members backed out of a meeting for fear of the ATA, and they shared that the police monitor their meetings and even ask them why they congregate.
- Most respondents believed they were being surveilled. In one landscape, they shared that they were sure one person was assigned to monitor them. A national informant suspected that her phone had at point been bugged and that a suspicious person had taken photos of her home. She had also been told by a member of the Philippine National Police (PNP) that she was part of their watch list.
- In general, respondents were not aware of EITI. One participant who was aware had only been able to attend one meeting. An informant who is active in EITI said that the latter is generally an open space.
- For the respondent who has been involved in EITI, she recommends improving the way EITI is communicated. Participants from people's organizations would have difficulty fully engaging because of the language barrier and the technical nature of EITI. Other respondents again were either unaware or could not elaborate on this theme. All national participants were unaware.
- In general, respondents believe that the media have been persecuted and vilified, and, in one landscape, a media person was even killed. Some of them hesitate working with the media because it might endanger the latter.

Recommendations

- An information drive should be conducted by EITI for communities, many of whom are unaware of it. This drive should not be a one-off but an iterative activity. A regular radio program conducted in Tagalog or a lingua franca (Binisaya in Mindanao, for example) is one suggestion.
- For EITI activities to include (more) representatives from communities. Whilst EITI does already include community representation, it may not include communities which oppose operational projects.
- For EITI to promote the participation of civil society in the management of resources by the local government. Whilst laws like the Local Government Code provide for this, in reality, civil society can be marginalized. Corresponding safeguards must be put in place for such an engagement.

- For EITI and more solidarity groups to establish a regular presence in the communities. Already small in number, community-level organizations often feel that they are on their own in their struggles.
- Access to data, especially on benefits, including royalties, should be made available to communities. Respondents repeatedly cited being left in the dark and consultations conducted few and far between. An online portal that houses data could also be established.
- The government must facilitate discussions and disseminate information on the United Nations Guiding Principles on Business and Human Rights (UNGP-BHR) and a legally binding instrument (LBI) to regulate transnational corporations. Both instruments can serve as a common framework of engagement for all sectors concerned.
- For EITI to expand the parameters of its Protocol on Civil Society Engagement to be able to assess, in addition to engagement within EITI and natural resources governance, the state of civic space, in general.
- And building on the expansion of the Protocol on Civil Society Engagement, to expand the EITI Standard to include an assessment of the democratic space itself. Civil society and civic space are a feature of and subject to the dynamics of democratization. Authoritarian practices within a democracy can lead to institutional, legislative, and judicial capture, i.e. undemocratic practices in natural resources governance. Consistent with the role of EITI to safeguard civil society organizations engaging in EITI, a determination of the quality of civic space would be instructive in making a determination of a country's EITI standing.
- For EITI to expand its definition of civil society, to include a variety of actors, including informal associations, among others.
- Challenging policy issuances, in addition to laws, before the courts, can yield benefits. Judgements in cases mentioned in this report routinely rule in favor of civic freedoms. Legislative lobbying may also be harnessed to defund policies which encroach on civic space.

A civil society representative inquired whether there was a thorough validation of the sources from the ground.

Another civil society representative assured that the communities they are working on with the project have high authenticity in the feedback because they are well known and active in their areas in terms of natural resource governance.

Another civil society representative shared that in their area, civic space has really been shrinking. For instance, some civil society members of BK are no longer invited during municipal development council meetings because of their position on environmental issues. He wished to observe processes like public

scoping/consultation for the FPIC. However, he was declined because an NCIP representative said that there is no provision in the guideline that MSG members would be allowed to participate. The representative seeks actions to prevent the same scenario from happening again as they want to be able to express their side related to both proposed and existing mining operations in their area. The representative asked whether the DILG, BLGF, NCIP, and the ULAP could issue guidelines to allow members of the MSG to join development council meetings.

A government representative asked the civil society representative for the specific areas or LGUs where the MSG members would like to participate in local development council meetings so their agency could directly communicate with these LGUs.

The civil society representative took the suggestion positively.

The government representative requested a list of LGUs where the MSG members wish to participate in local development council meetings.

The civil society representative asked if it was also possible to request the NCIP and other government agencies to provide the civil society representatives the same kind of endorsement. For instance, civil society MSG members would like to participate in the FPIC process as they hear a lot of complaints that some steps or processes are not being observed.

A government representative agreed that there should be more involvement of the people in these processes. He asked whether there is a system or registry of CSOs so that they will recognize the CSOs they speak with.

A civil society representative said that he is not aware whether a CSO registry of sorts exists.

The Chair said that to address one recommendation of BK's shadow report, that is for EITI to promote participation of civil society in the management of resources by the local government, the LGUs should be informed who they are dealing with and the CSOs should be recognized.

A civil society representative agreed with the suggestion of the Chair. He said that it is a matter of balance within the LGU and CSO sides.

Another civil society representative shared two points: (i) that there is an ongoing updating of all NGOs and CSOs that are members of BK and the list can be given to the MSG; and (ii) that CSOs must be given the chance to be part of MMTs to enable the MSG to see the operations of mining companies since MMTs write regular reports. CSOs who wish to be part of MMTs, however, must have proper training on the technical requirements of MMT work.

A government representative agreed that CSOs that wish to participate in a technical body should go through training. He added that CSO members that originate from the

community level can best represent their sector as they are more adept at what is happening in their community.

VI. Other Matters

1. Roundtable discussion on gender

The Secretariat shared that a roundtable discussion (RTD) on gender is proposed to be held on May 31st. A draft concept note with indicative program has been presented to a technical working group on gender. The concept note will be shared with the MSG in the coming days.

The RTD is meant as a follow-up initiative to the gender scoping study that was published in November 2020. It is hoped to solicit insights or information on gender-responsive programs and activities by the government and companies that can be replicated in other areas. Further, the RTD is hoped to kickstart the development of a framework for a gender-responsive extractive sector.

MSG members are encouraged to join the RTD. Specific members will be requested to serve as discussants during the event.

The RTD will have two groups of participants: (i) discussants, and (ii) observers. The discussants are government agencies involved in EITI activities, LGUs with extractive operations, companies, and civil society and women's organizations.

The observers are representatives from the same constituencies who may listen in the proceedings but not directly involved in the discussions.

An industry representative said that he was surprised that there is a planned RTD on gender and that the discussion of the same and updates on the PH-EITI reports and Validation were lumped under "Other Matters". He opined that it is the MSG's core function to deliberate on these items and that these should have been taken up under Main Business.

The same industry representative also noted that the planned RTD on gender appears to be a bit out of place as there already has been a scoping study on gender and there are findings and recommendations that can now be pursued. He was surprised that the proposed activity wishes to look again into principles of gender inclusivity. To him, it does not seem a step forward. He suggests acting on the recommendations of the scoping study.

In response to the industry representative's first observation, the Secretariat explained that in the previous meeting, there was a suggestion to hold an entirely

separate meeting on EO 130. In the same meeting, the Secretariat made a counterproposal to include and allot ample time for the discussion of EO 130 in the agenda of a regular MSG meeting to avoid requiring MSG members to attend several meetings in one month. The compromise was that the discussion of EO 130 will be part of the main agenda and one hour will be allotted for the discussion. This is the reason why the usual Main Business items have been bumped off under other matters for this particular meeting.

On the industry representative's second concern, the Secretariat recalled that the MSG's work plan for 2021 includes as an activity the formation of a technical working group on gender precisely to lead the review of and implementation of recommendations of the scoping study on gender. The TWG that was created, however, deemed it useful for an RTD to be held to articulate further on the key findings and recommendations of the scoping study. The Secretariat said that it will defer to the wisdom of the MSG if it deems it that the RTD is unnecessary and that another activity should be done instead.

A civil society representative opined that the planned RTD is not a duplication of the scoping study that was published in November 2020. She emphasized that the goal of the RTD is to come up with a gender framework tailored for the extractives sector. This could be done if women and other stakeholders will be able to articulate further on gender principles that they believe are applicable to the extractives sector. The RTD also includes a session for sharing initiatives for women. The scoping study that was published, while useful, cannot answer all other questions on gender inclusion in the extractives and that is why having an RTD is complementary and useful. The proposed resource persons are also diverse in that they are coming from different parts of the country.

Considering the points that were raised, the Secretariat sought the MSG's decision whether to push through with the planned RTD, and if yes, what the focus and other details will be. If the RTD were to push through, the Secretariat can also adjust the concept and program based on the comments of the MSG.

MSG members confirmed via the chat box that they support the conduct of the proposed RTD on gender.

The Chair instructed the Secretariat to adjust the concept note to reflect the comments of the MSG.

2. Follow-up mainstreaming workshop

The Secretariat relayed progress updates on the mainstreaming feasibility study. The initial findings recommend that the MSG and implementing agencies agree on a mainstreaming roadmap and identify actions to be pursued within a specific time frame in order to effectively mainstream EITI data. As such, a mainstreaming workshop was arranged towards this purpose.

To recall, the MSG and implementing agencies already had an initial mainstreaming workshop in January 2019, and an MSG conversation on systematic and comprehensive disclosures was also held online in November 2020.

The follow-up mainstreaming workshop will be held online on May 21st (Friday), and will be facilitated by the consultant for the mainstreaming feasibility study.

MSG members are encouraged to join. Specific members have been requested to participate in the discussion.

3. *Updates on PH-EITI Reports*

7th Report production

Consistent with the 2021 work plan, a complete draft of the 7th Report must be submitted to the MSG for comments and provisional approval by mid-June. A final copy, incorporating MSG comments and inputs, is hoped to be published by the end of June or early July, just in time for the National Conference 2021 scheduled on July 29th.

The consultants have already provided the Secretariat with either a rough draft of or comprehensive update on their respective chapters.

The contextual information chapter already has a 14-page rough draft. Pending items or sections include a discussion on beneficial ownership, which shall depend on data collected from follow-up requests sent to companies that did not or only partially participated in the 6th Report. Another pending item is the discussion of data collected using the new and more comprehensive gender and employment form in ORE. The Secretariat took on the initial processing and analysis of the data, which shall then be verified by the consultant.

The reconciliation of revenue streams is almost done. The consultant has already shared the initial tables and figures with the Secretariat. Reconciliation of social payments and environmental funds, meanwhile, is still ongoing. The consultant has yet to share any reconciled social and environmental figures. The consultant is also still waiting for the NCIP's submission of data on IP royalty payments.

The chapter on industry outlook already has an initial 55-page draft.

Data gathering for the thematic report on SDMP is still ongoing. The consultant and the Secretariat still have to follow up on some respondents from the case study areas.

The Secretariat elaborated further on BO disclosure compliance for the 7th Report. It recalled that in the February meeting of the MSG, it was decided that BO information publication will remain voluntary.

The 7th and 6th Reports cover the same fiscal period for BO disclosure since SEC's MC No. 15 was only issued in 2019 and the first round of compliance was until 2020. So, for the BO information publication for the 7th Report, the PH-EITI will only be following up on the companies that were not able to complete their compliance for the 6th Report. Some of them provided their BO declaration forms but failed to submit BO waivers and secretary's certificate due to COVID-19 induced movement restrictions. Some companies requested extensions but were not able to submit on time. The Secretariat explained that it was not able to wait for these companies anymore as the 6th Report already needs to be published. Some other companies categorically declined consent to publication. For the 7th Report, the Secretariat will try to convince them or request them to reconsider their position.

Next, the Secretariat elaborated on the employment and gender data that will be included in the 7th Report. The Secretariat recalled that the scoping study on gender recommended to standardize or adapt the survey form that was used in the study and use it to gather comprehensive data from all companies. During the study, only 17 companies responded to the survey. In 2020, the Secretariat sought the MSG's approval of the revised employment and gender form and its adoption in the ORE tool. The 7th reporting cycle, therefore, included the adapted employment and gender form and all PH-EITI reporting companies were required to accomplish it. About 60 companies complied with the reporting requirement.

After the updates, the Chair asked the MSG for comments.

An industry representative raised concerns about the outline of the industry outlook chapter, which he said focuses on the current situation rather than on forward looking elements. He asked whether initial comments were conveyed to the consultant and if the consultant had in fact amended the outline to address the comments raised. The representative opines that the current industry outlook draft duplicates the supposed contents of the contextual information chapter.

The Secretariat confirmed that initial comments on the outline of the industry outlook chapters were relayed to the consultant. The Secretariat said it will review the submission and check whether the consultant has implemented the comments given.

The Secretariat then did a rundown of the 7th Report production timeline. The consultants were requested to provide updates or initial drafts that the MSG can already comment on, but complete drafts are expected by June 7th. On June 11th, the consultants will present to the MSG the salient findings of their respective chapters. The MSG will then be requested to provide comprehensive comments and give its provisional approval of the report if possible.

8th Report TORs

The Secretariat submitted for the MSG's comments and approval the TORs on the following chapters of the 8th Report:

- [Contextual information](#)
- [Reconciliation](#)
- [SSM report](#)

The Secretariat did not receive any comments on the draft TORs for the contextual information and reconciliation chapters. With no further comments or inputs received, the Secretariat requested the MSG to confirm approval of the draft TORs for the contextual information and reconciliation chapters.

An industry representative raised a concern over the contract prices, which, he said, are too low. He worried that moving forward, there may be difficulty in explaining why this year's contract is this low and then the following year it would be higher.

The Chair asked the Secretariat for an explanation.

The Secretariat explained that the situation could be viewed from a mainstreaming point of view, and which detail could be discussed during the planned mainstreaming consultation workshop in the following week. The Secretariat recalled that the MSG's initial idea of or agreement for a mainstreaming model still includes the annual publication of an EITI report. Under mainstreaming, however, EITI reporting needs to become more systematic, efficient, and less costly. A trend that the Philippines could also follow is to equip the Secretariat to slowly take on the job of the independent administrator.

For the eighth reporting cycle, the Secretariat will be working closely with the consultants, who have a shorter amount of time to produce the report. The Secretariat, however, will prepare the initial data that the consultant needs to reduce the work of the consultant.

The Secretariat agrees that the contract price was too low. This, however, is compliant with the guidance from the Department of Finance that no individual consultant shall be given a fee higher than PHP 100,000.00 per month.

A civil society representative asked how the contract prices for consulting projects are being determined.

The Secretariat explained that contract prices are being reckoned after the prevailing market prices and are subject to existing procurement laws and regulations. In previous years, the contract prices for EITI report production were higher as similar projects require consulting services with the same price tag. Recently, however, the PHP 100,000.00 monthly cap for PH-EITI consulting services requirements was implemented.

Another member of the Secretariat clarified that the cap is only applicable for individual consultants, not the entire project. If a project would require several consulting services, the cap will be applied to the individual consultants.

With no further comments, and following the clarification on the contract prices, the Chair deemed it that the MSG agrees on the approval of the TORs for the contextual information and reconciliation chapters.

The Secretariat, then, proceeded with the presentation of the specific comments received on the draft TOR for the planned chapter on small-scale mining. The following are the specific comments:

- Items (d) and (g) in the draft TOR may be a moot exercise when applied to SSM gold operations given the passage of RA No. 11256, which now exempts legitimate small scale mining cooperatives from the payment of income and excise taxes for gold sold to the BSP. For the informal SSM operations, i.e., not legitimate SSM operations under RA11256, it is doubtful that they sell their gold to the BSP. While PH-EITI can go through the motions of doing a pilot and having participating SSM gold operators submit a template, it will likely be full of zeroes for national taxes.
- The relevant sub-sector would be the small sand and gravel (SAG) quarry operators that obtain their permits from the LGU, and are obliged to pay the corresponding local taxes and fees. The assessment should therefore include an assessment of LGU capacity to report on SAG taxes and fees that they collect.
- Preliminary inquiries with BSP and BIR are in order to see if any SSM operator has in fact availed of the incentives under RA No. 11256. The BIR already issued the IRR for the law, and it should be easy to check with these agencies if actual availment has been made. If no one has availed of the benefits under RA11256 for CY2020, then requirement (i) in the draft TOR may be inapplicable.
- The TOR should already include language on the plan to have case study areas, but just leaving the number and locations blank.
- The biggest limitation to the number and location of case study areas will be the budget. PHP 361,000.00 may not be enough to fund five case study areas and a full-blown SSM diagnostic study at the same time.
- Case studies would require consultations with local stakeholders, preferably through field work.
- Requirement (e) on beneficial ownership disclosure and gener reporting might be premature.

- Assessment of the effectiveness of the implementation of RA No. 11256 may be fairly measured to a limited extent, but it may be soon to assess impact.
- An assessment of the effectiveness of current and proposed new processes for SSM application and governance might be premature.
- A narrative on local best practices that may help empower LGUs and P/CMRBs in monitoring and managing SSM data and operations would require consultations with local stakeholders, ideally through field work.

In response to some of the comments, the Secretariat shared the following information:

- In the previous meeting, it was suggested that data collection, even on a trial basis, still be pursued despite the implementation of RA No. 11256, as it is also important to have data on production, particularly for gold.
- As mentioned in the updates on matters arising from the previous meeting, the Secretariat has requested a meeting with the BSP Mint and Refinery Operations Department to check the availability of data on gold production. The office has already acknowledged but has yet to grant the request.
- In the previous meeting, the MGB said that it remains unable to collect production data as work is still focused on formalizing SSM operations. Some LGUs, however, are able to collect data.
- Also in the previous meeting, it was suggested that the entire application process for *Minahang Bayan* areas be reviewed. Hence, the inclusion of the objective in the draft TOR.
- There are also proposed legislations seeking to amend the Peoples' Small-scale Mining Act.
- The Secretariat, on May 12th, had a meeting with the World Bank regarding the project activities to be included in the anticipated EGPS grant. Discussions imply interest or preference for the project to include components on gender, IP royalties, and SSM/ASM. The World Bank has requested the Secretariat to share with them a copy of the draft TOR for the SSM report.

Considering the foregoing, the Secretariat recommended that the TOR retain the objective to assess existing and proposed processes for *Minahang Bayan* and SSM operations applications, and for the objective to be implemented through the [Regulatory Impact Assessment](#) (RIA) tool pursuant to [RA No. 11032](#) or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018, and the [CSC-ARTA-DTI Joint Memorandum Circular No. 2019-001](#) or the implementing rules and regulations of RA No. 11032. The [OECD](#) describes RIA as “a systemic approach to critically assessing the positive and negative effects of proposed and existing regulations and non-regulatory alternatives”. The Secretariat shared that the

Development Academy of the Philippines has recently had a [webinar](#) on RIA to promote a systemic and evidence-based approach to regulation-making.

The Secretariat further recommends that the MSG identify other priority objectives, activities, and requirements for the SSM report, or identify possible opportunities for partnership with local stakeholders to assist in data collection, considering the current limited budget for the project.

A civil society representative shared that a current project of Bantay Kita includes a scoping study on small-scale mining and quarrying in Abra. The framework for the scoping study follows the value chain of small-scale mines from start until the sale of gold. The representative suggested doing a value chain analysis for the small-scale mining study of the PH-EITI.

The Secretariat said that it considered looking into where SSM gold is sold but due to manpower and budget constraints, it was not included in the TOR anymore.

4. Updates on Validation

The Validation Team has sent preliminary questions/comments on the Transparency template. The questions are accessible at https://docs.google.com/spreadsheets/d/1Yg1Kg6nksCeOYEPnxL0cBwl0jA78_z3Pr2DoR_WsrZ4/edit?usp=sharing.

The consultants for the 6th Report have been requested to assist the MSG and the Secretariat to respond to the questions.

The Validation Team will share its initial report by the end of May 2021. Between now and then, the Philippines may address gaps in implementation, and the Validation process shall consider efforts and progress in addressing these gaps in the final report.

5. Concept notes for upcoming stakeholder engagement activities

National Conference (NatCon) 2021

NatCon 2021, scheduled on July 29th (Thursday), will be the platform for the launching of the following:

- Seventh PH-EITI Report [FY 2019]
- Mainstreaming roadmap / action plan (based on the results of the mainstreaming feasibility study)

Aside from the usual presentation of the key findings of the annual EITI reporting and reconciliation process, the conference may also have segments dedicated to the presentation of the key findings of the industry outlook report and the thematic report on SDMP.

There may be a demonstration of the new DBM portal for LGU shares in national wealth, and/or a general reporting of progress of specific implementing agencies in addressing stakeholder issues and recommendations.

There may be a reporting of midyear accomplishments and an overview of the lineup of activities for the rest of 2021, including capacity-building activities for stakeholders, and any plan/s to pursue recommendations of previous reports and/or the Validation process.

There will still be the annual Transparency Awards.

Should the MSG decide to resume legislative advocacy plans, a keynote speaker could be one of the legislators championing the institutionalization of EITI.

NatCon 2021 will be fully open to the public, and will still be held online via social media and/or videoconferencing for public health and safety considerations.

NatCon 2021 is planned to be held for a maximum of three hours only. The aforementioned proposed segments may be trimmed down, and will have to be woven together in a single theme. Another option is to schedule some segments as pre-program activities or special features immediately before the program proper.

The MSG may continue the practice of adopting the title of the EITI report for launching as the theme of the conference. The following are some of the suggestions of the consultants:

- Sustaining the Transparency Initiative in a Changing Landscape
- Building Resilience/Resiliency in Transparency
- Adapting the Transparency Initiative towards Resiliency
- Flexing Transparency in Broader Contexts
- Transparency at the dawn of COVID-19

Online Learning on Extractives (virtual roadshow / subnational engagements)

With the NatCon being opened to the public, the annual roadshow is planned to focus on communities that have not been reached by the PH-EITI before.

A maximum of five (5) learning sessions will be held, one each for five communities to be identified by the MSG.

The Secretariat recommends including communitie/s in BARMM, as an initial or follow-up effort to engage BARMM in the EITI process.

The learning sessions will be held in August. The program will be largely based on the program for NatCon, but will consider data, information, and capacity-building needs of members of the communities.

Writing fellowship for students

Drawing from the success of the 2017/2018 media fellowship program and its contribution to the 2021 EITI Validation of the Philippines, an online writing fellowship is proposed to be held for students or campus journalists.

The program will be offered to specific universities and colleges, and will be facilitated by a partner institution.

The program will contribute in achieving the MSG's medium-term strategic objectives to "strengthen and expand the linkages of EITI" and "develop [stakeholders'] capacities to effectively participate in natural resource governance". Further, the program will promote the utilization of PH-EITI data and data management tools.

The program is currently proposed to have 5-6 modules that will cover theoretical inputs on story building, extractives data and information sources, practices in writing stories on extractives, among other topics and activities. The modules will be implemented in several sessions spread in several days or weekends.

Participants will be given communication and internet allowance, but must have their own equipment for writing and research.

All participants will be required to develop and submit complete stories at the end of the program. The partner institution will provide coaching/consultation sessions to help participants build their stories.

Three stories will be featured during the Extractives Transparency Week in November 2021. Authors of the chosen stories will also be given cash prizes.

A civil society representative requested for an evaluation report of a previous engagement with the PPI that produced extractives-related articles. The representative wishes to find out whether the activity was effective.

The Secretariat shared that a copy of the final report and all approved and published articles are posted on the PH-EITI website. The Secretariat included the same in the Philippines' Validation dossier. During the Validation consultations, it was implied that the Validation team appreciated the published articles as they demonstrate use of EITI data.

The Chair said that it is equally important to check how journalists tackled extractives issues after the conduct of the fellowship and whether there were other articles written related to EITI or the extractives.

6. *MICC audit*

A civil society representative requested that the PH-EITI write the MICC regarding any information on the planned new round of mining audit. The representative wishes that there will be more transparency as to the timeline and guidelines of the audit. This, he said, will help build confidence in the audit process.

The Chair instructed the Secretariat to write the MICC regarding the matter.

7. Calendar of activities

The Secretariat flashed a list of upcoming events. The Chair, then, specifically encouraged civil society representatives to register for the May 20 MGB consultation for the IRR of EO 130.

VII. Setting of the next meeting

The 70th meeting will be held on June 11, 2021, Friday, 9:00 am to 12:00 nn. Provisional agenda, meeting link, and calendar invite will be sent by the Secretariat ahead of the meeting.

May 18 3 PM	PH-OGP Open Government Week <i>Mainstreaming and optimizing extractive disclosures through data management tools</i>	Open to the public
May 19 9 AM	MGB Presentation of the draft IRR of EO No. 130, s. 2021 <i>Session for mining companies</i>	By registration
May 20 9 AM	MGB Presentation of the draft IRR of EO No. 130, s. 2021 <i>Session for NGAs and CSOs</i>	By registration
May 20 3 PM	NRGI Overview of the tool for diagnosing corruption risks using EITI disclosures	MSG members are encouraged to join
May 21 9 AM	PH-EITI Consultation Workshop: Development of the action plan for the systematic disclosure of EITI in the Philippines	MSG members are encouraged to join
May 26 8 PM	EITI & PWYP EITI & Gender: Towards a more equitable future	Open to the public
May 31 2 PM	PH-EITI Roundtable Discussion on Gender and Sustainability in the Extractives	MSG members are encouraged to join

VIII. Adjournment

Without any other matters to be discussed, the meeting was adjourned at 12:12 pm.