

Philippine Extractive Industries Transparency Initiative
76TH MULTI-STAKEHOLDER GROUP MEETING
18 February 2022, Friday | 1:00 PM - 3:30 NN | Google Meet

Minutes of Meeting

Attendees

Government	
1. Asec. Valery Joy Brion	Department of Finance (DOF)
2. Ms. Febe Lim	DOF
3. Engr. Romualdo Aguilos	Department of Environment and Natural Resources - Mines and Geosciences Bureau (DENR-MGB)
4. Ms. Maricor Cauton	Union of Local Authorities of the Philippines
5. Dir. Araceli Soluta	Department of Energy

Industry	
1. Atty. Ronald Rex Recidoro	Chamber of Mines of the Philippines (COMP)
2. Atty. Joan Adaci-Cattiling	OceanaGold (Philippines), Inc.
3. Atty. Odette Javier	Lepanto Consolidated Mining Company
4. Atty. Francis Joseph Ballesteros, Jr.	Philex Mining Corp.
5. Mr. Edgar Benedict C. Cutiongco	NPG Pty Ltd
6. Atty. Kiril A. Caral	Shell Philippines Exploration B.V.

Civil Society	
1. Mr. Vincent Lazatin	Bantay Kita - Publish What You Pay Philippines (BK)
2. Ms. Angelica Dacanay	BK
3. Mr. Chito Trillanes	Social Action Center - Ecology Desk, Diocese of Tandag, Surigao del Sur
4. Dr. Glenn Pajares	Sectoral Transparency Alliance on Natural Resource Governance in Cebu, Inc. (STANCe)
5. Prof. Ladylyn Mangada	University of the Philippines - Tacloban
6. Dr. Nelson Cuaresma	Concerned Advocates Saving Terrestrial and Marine Ecosystems (COASTLINE), Inc.

PH-EITI Secretariat
1. Mr. Eastword Manlises
2. Ms. Mary Ann Rodolfo
3. Ms. Mary Jane Baldago
4. Ms. Anna Leigh Anillo
5. Ms. Zoe Jimenez
6. Ms. Katherine Dennise Domingo
7. Ms. Rhea Mae Bagacay
8. Mr. Albert San Diego
9. Ms. Roselyn Salagan
10. Ms. Rhoda Aranco
12. Ms. Andrea Denise Samson
13. Mr. Kian Ferrer
14. Ms. Dannica Rose Aquino

Agenda

	<i>Page</i>
I. Call to order	4
II. Approval of the agenda of the 76th meeting	4
III. Approval of the minutes of the 75th meeting	4
IV. Matters arising from previous meetings	4
V. Main business	5
1. Updates from the 52nd EITI Board meeting	5
a. Validation of the Philippines	5
2. Country reports	8
a. FY 2020	8
b. FY 2021	10
3. Draft MSG resolution creating a TWG for EO147(2013) amendments	13
VI. Other matters	15
1. Issues on tree cutting permits and the implementation of DENR DAO No. 2018-19 or the Guidelines for Additional Environmental Measures for Operating Surface Metallic Mines	15
VII. Summary of agreements	16
VIII. Setting of the next meeting	17
IX. Adjournment	17

Proceedings

I. Call to order

DOF Assistant Secretary Valery Joy Brion chaired the meeting. There being a quorum, the meeting was called to order at 1:01 PM.

II. Approval of the agenda of the 76th meeting

The Chair asked if there are reference materials available on the proposed discussion on tree cutting permits under Other matters. The Secretariat related that the concerned civil society representative had been requested to submit reference materials. The representative, however, explained prior to the meeting that he was only seeking clarifications on existing policies, hence no reference material was circulated.

In response, the Chair suggested making it a practice to circulate reference materials ahead of meetings such that other members can study the issues in advance and substantially contribute to the discussions.

The concerned civil society representative noted the suggestion of the Chair.

The Chair, then, sought the approval of the agenda. With no objection from the members, the agenda was approved.

III. Approval of the minutes of the 75th meeting

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

IV. Matters arising from previous meetings

MSG resolution creating a TWG on EO147(2013) amendments

In the 75th MSG meeting, the Secretariat proposed to resume the discussion on the proposed amendments to EO 147, s. 2013 to redefine the roles and expand the composition of the MSG. The draft resolution creating a TWG that will discuss the amendments in EO 147 will be covered in the main business.

Introduction of new representatives from the oil and gas sector

The Secretariat introduced the new representatives from the oil and gas sector. The regular representative to the MSG is Atty. Jose Ma. Emmanuel Caral, Vice President and Managing Counsel of Shell Philippines Exploration, and Secretary of PAP. The alternate member is Mr. Edgar Benedict Cutiongco, Country Manager of NPG Pty, and President of PAP.

Updates

The Secretariat shared the following updates to the MSG.

- **24 January 2022** - Assistant Secretary Valery Joy Brion's membership in the EITI Board has been confirmed. She is now the alternate representative for Southeast Asia.
- **22 February 2022** - Deadline of submission of proposals for the technical consultant for extractives beneficial ownership transparency in the Philippines.
- **24 February 2022** - The MSG is invited to participate in the EITI roundtable discussion on beneficial ownership (BO) transparency - Philippines and Indonesia. Atty. Joan Adaci-Cattiling of OGPI is one of the speakers. The registration page can be accessed at <https://bit.ly/BOTRTDRegistration>.

V. Main Business

1. Updates from the 52nd EITI Board meeting

a. Validation of the Philippines

The Philippines achieved a “moderate” score (80/100) in EITI implementation. The EITI Board decided on the Validation score of the Philippines in its 52nd meeting on February 16-17, 2022. The final overall and individual requirement scores are as follows:

EITI Requirements		Assessment		Assessment	
		Validation Team		EITI Board	
Component & Module	Requirements	Level of Progress	Score	Level of Progress	Score
Outcomes and impact					
Extra points	Effectiveness and sustainability indicators		3		3
Outcomes and impact	Work plan (#1.5)	Fully met	90	Fully met	90
	Public debate (#7.1)	Exceeded	100	Exceeded	100
	Data accessibility and open data (#7.2)	Fully met	90	Fully met	90

	Recommendations from EITI (#7.3)	Fully met	90	Fully met	90
	Outcomes & impact (#7.4)	Exceeded	100	Exceeded	100
Stakeholder engagement					
Multi-stakeholder oversight	Government engagement (#1.1)	Mostly met	60	Mostly met	60
	Industry engagement (#1.2)	Fully met	90	Fully met	90
	Civil society engagement (#1.3)	Mostly met	60	Partly met	30
	MSG governance (#1.4)	Fully met	90	Fully met	90
Transparency					
Overview of the extractive industries	Exploration data (#3.1)	Fully met	90	Fully met	90
	Economic contribution (#6.3)	Fully met	90	Fully met	90
Legal and fiscal framework	Legal framework (#2.1)	Exceeded	100	Exceeded	100
	Contracts (#2.4)	Mostly met	60	Mostly met	60
	Environmental impact (#6.4)	Not assessed	-	Not assessed	-
Licenses	Contract and license allocations (#2.2)	Mostly met	60	Mostly met	60
	License register (#2.3)	Partly met	30	Partly met	30
Ownership	Beneficial ownership (#2.5)	Mostly met	60	Mostly met	60
State participation	State participation (#2.6)	Mostly met	60	Mostly met	60
	In-kind revenues (#4.2)	Not applicable		Not applicable	-
	SOE transactions (#4.5)	Not applicable		Not applicable	-
	SOE quasi-fiscal expenditures (#6.2)	Not applicable		Not applicable	-
Production and exports	Production data (#3.2)	Fully met	90	Fully met	90
	Export data (#3.3)	Fully met	90	Fully met	90
Revenue collection	Comprehensiveness (#4.1)	Mostly met	60	Mostly met	60
	Barter agreements (#4.3)	Not applicable		Not applicable	-
	Transportation revenues (#4.4)	Not applicable		Not applicable	-
	Disaggregation (#4.7)	Fully met	90	Fully met	90
Revenue collection	Data timeliness (#4.8)	Fully met	90	Fully met	90
	Data quality (#4.9)	Fully met	90	Fully met	90
Revenue management	Distribution of revenues (#5.1)	Fully met	90	Fully met	90
	Revenue management & expenditures (#5.3)	Not assessed	-	Not assessed	-
Subnational contributions	Direct subnational payments (#4.6)	Mostly met	60	Mostly met	60
	Subnational transfers (#5.2)	Mostly met	60	Mostly met	60
	Social and environmental expenditures (#6.1)	Fully met	90	Exceeded	100
Overall Score		Moderate	83/100	Moderate	80/100

The Board decided that the assessment of requirement 1.3 on civil society engagement is “partly met”. However, the Board did not reach a consensus on the enforcement of the safeguard mechanism in accordance with Article 5 of Chapter 4 of the EITI Standard. The Board encourages the Philippines and all stakeholders to take urgent actions to implement the corrective actions. The Board will closely monitor and review progress in October 2022.

The final Validation result includes 10 corrective actions and 17 recommendations.

The Chair shared more information on what transpired during the two-day meeting of the EITI Board. The Chair said that a negotiation team was formed to push for the non-suspension of the Philippines. On the first day of the Board meeting on February 16 (Wednesday), the Board finally reached a consensus on the scorecard, with Requirement 1.3 assessed as only “partly met”, but there was no consensus as to the consequence of the assessment.. On the second day of the meeting, the Board still did not reach a consensus as to whether there will be a suspension or not. Instead, the Board agreed to defer the discussion to the Board meeting in October, after a review of the Philippines’ actions on 10 corrective actions issued along with the agreed Validation scores. In summary, there is no suspension for the Philippines at the moment.

A civil society representative read a formal statement in response to the Validation results:

“The CSO representatives in the multi-stakeholder group respect the decision of the EITI Board to rate PH-EITI as ‘Moderate’. At the same time, we appreciate the solidarity shown by CSO representatives on the EITI Board through their dogged efforts to make a strong case for Philippine CSOs and the narrowing civic space in the country. Despite their efforts, we note with concern that the EITI Board could not reach a consensus on the enforcement of the safeguard mechanism in Article 5, Chapter 4 of the EITI Standards.

‘We now look to our government and industry counterparts in the MSG to work with us to seriously address the issues raised by the EITI Board, most especially the breaches in the EITI protocol

on civil society participation – particularly on freedoms of expression, operation and association. We expect that the MSG will work to address these deficiencies to ensure that advocates, activists, and ordinary citizens, both in and out of the natural resource governance space, will have their civil and political rights fully respected. A multi-stakeholder initiative such as the EITI cannot be fully functional unless these rights are vigorously protected.”

An industry representative also issued a statement in relation to the Validation results:

“We take the Validation results seriously. The mining industry remains committed to fiscal transparency and in the multi-partite, participatory approach in discussing and disclosing the industry's socio-economic contributions.”

A civil society representative asked for the 10 corrective actions to be presented. The Chair suggested that these corrective actions be presented in the next MSG meeting. The civil society representative suggested that there be a committee that will focus on addressing the corrective actions, and another committee that will support the MSG in improving implementation for purposes of future validations.

The Chair suggested that progress in implementing the corrective actions be reported every MSG meeting.

A civil society representative suggested developing an action plan to address the corrective actions. The Chair agreed and added that there should be task leads for every corrective action.

2. Country Reports

a. 2020 Report

The Secretariat presented the progress of the 2020 Report. For Chapter 1, on Contextual Information, the consultant submitted a first draft on 13 January 2022. Several sections under the “Other EITI Requirements” part of the chapter will be produced by the Secretariat including:

- Recommendations from Previous EITI Reporting;
- Outcomes and Effects of EITI Implementation;
- PH-EITI Reporting and Mainstreaming Efforts; and
- MSG Assessment.

The Secretariat needs to provide several remaining data to the consultant, including the questionnaire on flexible reporting, and pertinent updates and narratives on the rest of the EITI requirements.

On Chapter 2, on Reconciliation, the consultant committed to submit a draft on Monday, 21 February 2022. Several data for reconciliation are still pending submission by the concerned government agencies, including some company taxpayers data. Several data still require supporting documents and further reconciliation by the IA, such as Safety, Health, Environmental, and Social (SHES) data, and BIR data.

On Chapter 3, on Small-scale mining study, requests for data and interviews with MGB central and regional offices, and provincial and municipal governments have been sent. DENR-MGB RO5 has already shared data on SSM but the consultant does not find the data “encouraging” enough to proceed with the case study. The consultant will conduct online interviews with representatives from MGB ROs, PENROs, and MENROs next week. The consultant seeks assistance in reaching out to Minahang Bayan petitioners. The following are the case study areas identified by the consultant according to the criteria presented during the 74th meeting.

CASE STUDY AREA (Region)	CASE STUDY AREA (Province)	CASE STUDY AREA (Municipality)	MINAHANG BAYAN PETITIONER/S
CAR	Benguet	Itogon	Loacan Itogon Pocket Miners Association
CAR	Mountain Province	Sagada	Northern Sagada Barangay Small Scale Mining Association, Inc.
V	Masbate	Aroroy	Rodel Lim Panes
V	Camarines Norte	Paracale	Sangguniang Bayan of Paracale, Camarines Norte

V	Camarines Norte	Labo	Magkamatao Small Scale Miners Association (MSSMA)
XI	Davao Oriental	Lupon	Matigdao Small-Scale Mining Producers Coop.

b. 2021 Report

The Secretariat presented proposals and sought the MSG’s decision on the following: titling of upcoming reports; approach to report production; publication of contextual information; reconciliation of revenue streams; and coverage of the report.

Titles of upcoming reports

For brevity, simplicity, and ease of recall, the Secretariat proposed that, moving forward, the fiscal year covered by a country report will be its main title. For instance, the 8th Report shall be simply referred to as the 2020 Report. The 9th Report will simply be called the 2021 Report. The minimal change would help eliminate the usual confusion experienced when citing a country report.

Conventional or flexible reporting

The Secretariat recommended adopting a flexible approach in EITI reporting. To recall, flexible reporting does not require data reconciliation but prescribes the inclusion of forward-looking data and information.

Contextual information

As a step towards systematic disclosure, the Secretariat proposed that, starting the 2021 Report, all data and information usually included in the contextual information chapter of country reports be simply published online either on the PH-EITI website, or a combination of information published on the PH-EITI website and portals of relevant agencies (MGB, DOE, NCIP, et cetera). The disclosures will be accompanied by analyses that will be written by the PH-EITI Secretariat, and reviewed and approved by the MSG.

Data and information that will be covered include any update on the legal and regulatory framework for the extractives, information on contracts, beneficial ownership disclosures, and data on production,

export, exploration, employment, gender, state-owned enterprises, and contribution to economy, among others.

Reconciliation

The Secretariat also sought the MSG's view on reconciliation and whether or not it would still be a feature of the upcoming 2021 Report. The EITI reporting landscape is changing, with data reconciliation as one of the elements of conventional reporting that is now being replaced with other mechanisms for data quality assurance. EITI opines that "[r]econciliation has never guaranteed data reliability. Data reliability depends on the efficacy of the underlying accounting and auditing systems." As such for the flexible and alternative approaches to EITI reporting, data reconciliation is no longer required.

Results of previous MSG discussions and stakeholder consultations on mainstreaming show that there is still a preference to reconcile extractives data in the Philippines. The MSG may opt, however, to consider reconciling only those data that present the highest risk of misstatement or any other irregularity.

Coverage

- All operating metallic and nonmetallic mines
- All oil, gas, and coal projects that meet the 2% materiality threshold
- All material revenue streams (those that meet the 2% materiality threshold or those considered as significant revenue streams even if collection that not meet the 2% threshold)

A civil society representative asked the difference between flexible and traditional reporting. The Secretariat reiterated that reconciliation is not required under flexible reporting but the MSG may still opt to do reconciliation if the members deem it necessary. The EITI, however, encourages countries to move forward to systematic disclosure to proactively and automatically disclose their data. The assumption is that government and company data already underwent quality assurance that another process to ensure accuracy is no longer necessary. The Secretariat added that the EITI finds no relevant additional value in reconciliation. The engagement of an independent administrator for reconciliation also remains a challenge for most implementing countries considering the cost of engagement. Instead, implementing countries are encouraged to find other ways to assure quality of data. Auditing of data can be done by COA, or companies can

also have their data be audited by their respective auditing firms. When submitting reports, there can also be a mechanism to attest to the accuracy of data, making data providers accountable for the data submitted.

A civil society representative asked if there are legal frameworks to assure the accuracy of data in the absence of reconciliation, and if additional people are needed to be hired. The Secretariat responded that MSGs have an option to hire an expert to perform risk assessment to check which revenue streams are prone to misstatement. The civil society representative added that the MSG wants to ensure accuracy of data. He said that if the MSG will do away with data reconciliation, there must be another mechanism that will give users assurance that data are accurate. The Secretariat noted the comment.

An industry representative said that he has strong reservations in doing away with reconciliation. The premise when the EITI was first offered to the industry is that there would be a third party certifying that the taxes being paid and the revenue the government receives are correct. If the MSG would do away with reconciliation, the government will not be able to stay true to that promise. To the industry, they place particular emphasis in the fact that variance in reporting remains small or none at all. It certifies that the mining industry is paying the correct taxes. The absence of changes in figures during reconciliation is very important. The industry representative strongly suggested maintaining reconciliation. There is no currently reliable source of data on mining revenues except for PH-EITI. If the MSG would rely on systematic disclosure, data will be scattered. There will be a chilling effect on researchers. The representative further suggested that there be a centralized database. He suggested harmonizing with the data being produced by MGB. PH-EITI should coordinate with the MGB, and come to an understanding why the figures are different.

The same industry representative added that there are executive issuances that the MSG might run against if reconciliation is discontinued. This includes EO 147 that requires mining companies to submit data. If the companies will not be required, the EO needs to be amended. Companies are being trained to submit their data, and if the

practice is discontinued, years of training will go to waste. The MSG currently has a very good line with companies and agencies, and if the reporting templates are discontinued, the MSG will have no hold with the companies anymore. He suggested maintaining the reporting templates, adding that there is no need to fix the current system if it is not broken.

The same industry representative said that he was not satisfied with the forward looking element aspect of the 2020 Report. He suggested engaging economists and industry experts who can actually look forward and can see trends, forthcoming prices, weaknesses, threats, and opportunities. Representatives from the government, industry, and civil society agreed with the points presented by the industry representative.

The Chair, then, sought the MSG's decision on the following:

- renaming of the reports,
- flexible approach to reporting,
- doing away with the textbook type production of the annual report's contextual information.

MSG members agreed with the proposals. The MSG also decided to retain data reconciliation for the 2021 Report.

3. Draft MSG resolution creating a TWG for EO147(2013) amendments

The creation of a new TOR for the MSG, Secretariat, and IA has been discussed during the following meetings:

- *Mainstreaming workshop in January 2019* - The amendment of EO147 was identified as a key activity for the revision of the MSG's roles and functions
- *59th meeting in July 2021* - it was identified that one of the milestones under EITI mainstreaming is the review and amendment of the roles and responsibilities of the MSG and the Secretariat.
- *68th meeting in April 2021* - the Secretariat recommended creating a TWG to deliberate on the new TOR for the MSG, Secretariat, and IA.

- *71st meeting in September 2021* - the MSG discussed and commented on the proposed amendments to EO 147

The revision of the TORs for the MSG, Secretariat, and IA is a specific deliverable under the DOF's Open Government Partnership (OGP) commitment which needs to be completed by 31 August 2022.

The amendment of EO 147 has been included in the Action Plan developed as part of the Mainstreaming Feasibility Study.

Based on the results of regular subnational engagements, stakeholders clamor for greater inclusivity and efficacy in tackling extractives governance and revenue management issues by expanding the MSG's composition to include representatives from other relevant government agencies, business sectors, and civil society organizations.

The role of the MSG and the Secretariat should be refocused and strengthened from data collection and publication to data analysis and greater involvement in the public discourse on and development of policies pertaining to extractives.

The creation of a TWG for EO147 amendments aims to facilitate discussions and activities towards the revision of the composition and the roles and functions of the PH-EITI MSG and Secretariat.

The draft MSG resolution is accessible [here](#). The draft executive order is accessible [here](#).

The Chair recommended having the amendments approved by the end of March 2022.

Upon approval of the resolution, the Secretariat proposes to identify members of the TWG among the MSG. The Secretariat shall coordinate with and invite concerned non-MSG agencies to participate in the TWG.

A civil society representative asked for the specific roles and responsibilities of the TWG, by which the Chair responded that the same are indicated in the draft resolution.

With no objection from the members, the resolution was approved. The signatories of the resolution will include the Chair, two industry representatives and one civil society representative.

VI. Other Matters

1. *Issues on tree cutting permits and the implementation of DENR DAO No. 2018-19 or the Guidelines for Additional Environmental Measures for Operating Surface Metallic Mines*

A civil society representative related that Marcventures Mining and Development Corporation (MMDC) applied for a special tree cutting permit for its mining project in the Municipality of Cantilan, Surigao del Sur with MPSA No. 016-93-X SMR. In August 2021, the Sangguniang Bayan of Cantilan received from MMDC the request for endorsement of the said application. The request invoked the DENR Department Administrative Order No. 2021-11, which authorizes barangay captains, mayors, and governors to endorse applications instead of the local sanggunian. Affected and concerned communities, however, noted that MMDC's mining project is in a protected area, and thus, requires the endorsement of the local Protected Area Management Board (PAMB).

The PAMB has been convened to deliberate on the special tree cutting permit application but community members have not yet received information on the result of deliberations.

Community members also allege that MMDC only has permit to cut trees in a total area of 200 hundred hectares, but drone shots acquired by community members show mismatch in the area applied for and the area that was disturbed. There is also no progressive rehabilitation taking place.

Community members are having a difficulty in monitoring the operations due to lack of manpower. They request assistance in verifying reports and clarification on government policy on special tree cutting permits for mining projects in protected areas.

The concerned civil society representative asked a government representative why they are having a hard time monitoring the issue. The civil society representative said that they can help with the monitoring if the problem is manpower.

The government representative responded to the issue of tree cutting permits and said that permits are issued by the DENR-Forest Management Bureau. The

DENR-Mines and Geosciences Bureau are only consulted for comments, and that the consultation is their only participation in the issuance of permits.

On the issue of DENR DAO No. 2018-19, the government representative said that the administrative order applies only for mining areas. And if the mining operation that is being raised happened before the DAO has been issued, the operation cannot be covered as an active mining area, as indicated in the DAO.

A civil society representative requested the government representative that a presentation of slides regarding the issue be shared to the body in the next MSG meeting.

The Chair proposed that the issue be settled between the civil society representative and the government representative. The Secretariat will then monitor the status of the issue and report to the MSG the progress of the concern.

VII. Summary of Agreements

- Reference materials for agenda items shall be circulated to the MSG ahead of meetings to allow the MSG time to familiarize themselves with the items for discussion or decision.
- The Secretariat shall include the statement of the civil society representative regarding the EITI Validation decision in the minutes of the meeting.
- The Secretariat will present the Validation corrective actions in the next MSG meeting, including an action plan to address the same.
- The MSG agreed to name country reports after the fiscal year covered.
- The MSG agreed to use a flexible approach in producing the 2021 Report and retain the reconciliation process.
- The Secretariat will review the basis for the use of the 2% materiality threshold, and will send clarifications online or present in the next meeting.
- MSG approved the resolution creating a TWG on EO 147 amendments. The Secretariat will resend to the MSG the resolution for reference on the roles and responsibilities.

- The Secretariat will submit to the Chair, for signature, communication letters inviting representatives to the TWG for EO 147 amendments.
- MSG agreed that the issue on tree cutting permits be settled between the concerned civil society representative and government representative. The Secretariat will coordinate with the representatives, monitor the status of the issue, and report to the MSG the progress of the concern.

VIII. Setting of the next meeting

The Secretariat proposed that the 77th MSG meeting be set on March 18, 2022 (Friday). The MSG approved the proposed schedule.

IX. Adjournment

With no other matters to be discussed, the meeting was adjourned at 3:14 pm.