

AS AMENDED

based on discussion and agreements
during the 37th MSG meeting, 4 November 2016

Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (PH-EITI MSG) Amended Terms of Reference

Background

Executive Order 79 on institutionalizing and implementing reforms in the Philippine mining sector signals the seriousness of government in ensuring that extractive industries in the Philippines serves the greater good of the Filipino people. Greater transparency in the payment of taxes and fees to government by extractive industries, and the proper acknowledgement of such payments by government at all levels, will assist in generating revenues from such industries for the benefit of the country and its citizens.

Recognizing this, the administration found it fit to participate in the **Extractive Industries Transparency Initiative (EITI)**, an international multi-stakeholder group that sets international standards for transparency in extractive industry payments and receipts. In EITI participating countries, companies are required to publish what they pay to governments and governments are required to publish what they receive from companies.

I. Objectives and Mission of PH-EITI

PH-EITI seeks to introduce greater transparency and accountability in the extractive industries in the way government collects and companies pay taxes and other revenues from extractive industries. Moreover, this can be achieved through a process of open dialogue among stakeholders.

The Philippine Extractive Industries Transparency Initiative Multi-Stakeholder Group (**PH-EITI MSG**) is a group that provides a platform for business and civil society stakeholders to engage government in the implementation of EITI in the Philippines. Through this, stakeholders are treated as partners in an inclusive decision-making process and are provided the opportunity to participate in the development, implementation, monitoring and evaluation of the PH-EITI Work Plan. To this end its mandate will encompass:

- **Ensuring sustained political commitment for the initiative and mobilizing resources to sustain its activities and goals;**
- **Setting the strategic direction required for effectively implementing the initiative in the Philippines;**
- **Assessing and removing barriers to its implementation;**
- **Setting the scope of the EITI process;**
- **Ensuring that the initiative is effectively integrated in the reform process outlined under EO 79 and any other related government reform agenda.**

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II. Principles of Engagement

Engagement between government, business and civil society stakeholders in the Group will be based on the following principles:

- **Local ownership and inclusive dialogue** – provide an environment where all participants can engage freely and openly;
- **Transparency** – provide all parties, as well as the general public, timely, access to relevant and verified information/data, subject to the limits set by law;
- **Accountability** – abide by the policies, standards and guidelines of engagement that may be agreed upon, and fulfil commitments;
- **Integrity** – adhere to moral and professional standards in fulfilling our commitments
- **Inclusivity** – freely appoint their own representatives, bearing in mind the desirability of pluralistic and diverse implementation;
- **Partnership** – cooperate, share responsibilities and uphold mutual respect to ensure that the objectives of the engagement are achieved;
- **Consultation, Capacity-Building and Empowerment** – enhance knowledge-sharing and continuing dialogue;
- **Respect for Internal Processes** – understand and abide by the limitations of stakeholders with respect to the nature of information to be disclosed and the extent of involvement based on institutional/legally imposed limitations;
- **Sustainability** – ensure continuing engagement by instituting progressive policies and operational mechanisms that will promote an environment of mutual trust; and
- **National Interest** – uphold the national welfare above the interests of organizations or individuals.

III. The Multi-Stakeholder Group: PH-EITI MSG

The PH-EITI MSG is a multi-stakeholder and inclusive decision making body that is led by government. It sets the direction, programs and activities of the PH-EITI. It will be supported by a Secretariat that will be organized and supported by national government.

Specifically, the **PH-EITI MSG** will have the following functions:

- Ensure the commitment of the different stakeholders to the implementation of EITI
- Define the strategic direction and scope of EITI in the Philippines
- In consultation with key EITI stakeholders, craft and publish a fully costed work plan;
- Establish a mechanism for the EITI reconciliation process;
- Select and appoint the Independent Administrator;
- Approve the Terms of Reference of the Independent Administrator, the PH-EITI work plan, annual country reports, and annual progress reports;
- Oversee the implementation of the PH-EITI Work Plan;
- Direct and supervise the secretariat in its various activities; and
- Through its members, conduct outreach to various sectors in support of the Work Plan

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- Communicate and build awareness about EITI, its objectives, the experience and gains of other countries in implementing this, and the progress of its implementation in the Philippines
- Review the Work Plan on a quarterly basis to assess its implementation and to adjust accordingly based on what has been accomplished

Issues to be discussed within **PH-EITI MSG** shall be limited to those related to EITI, unless otherwise agreed upon by consensus of the MSG.

IV. Composition of the PH-EITI MSG

PH-EITI MSG will be composed of the following:

- Five (5) Government Representatives will include senior officials from the following offices/ institutions:
 - The Department of Finance (DOF) as the lead on the implementation of EITI
 - Department of Environment and Natural Resources (DENR) as the agency mandated to supervise the sustainable development of the country's natural resources and ecosystems
 - Department of the Interior and Local Government (DILG) as the agency mandated to ensure public safety and strengthen the capability of local government units
 - Department of Energy (DOE) as the agency in charge of the regulation of oil and gas industries
 - Union of Local Authorities of the Philippines (ULAP), as the representative of local government units
- Five (5) Business Group Representatives
 - To be selected through a process initiated by business with the support of the PH-EITI Secretariat
- Five (5) Civil Society Organizations (CSOs) Representatives
 - To be selected through a process initiated by CSOs with the support of the PH-EITI Secretariat

Each organization shall designate a full and alternate representative to PH-EITI MSG. Each organization, upon the decision of its members and through its own independent process, can replace their representatives in the MSG anytime following their own governance mechanisms.

PH-EITI MSG will be chaired by the designated representative from the Department of Finance (DOF), who will be responsible for convening the group. In addition, the Chair will be responsible for organizing a secretariat, which will coordinate the PH-EITI's work and organize other related activities.

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An interim **PH-EITI MSG** shall initially be established to initiate the process of EITI application and facilitate the selection of business and civil society representatives. Business will be represented by members of the Chamber of Mines of the Philippines, and the Petroleum Association of the Philippines, while civil society will be represented by members of Bantay Kita.

V. Roles of the Members of the PH-EITI MSG

General Roles of the MSG members:

- Ensure an open and transparent functioning of PH-EITI
- Address confidentiality concerns in implementing EITI
- Communicate and provide linkages and facilitate dialogue with the different organizations and groups regarding related issues
- Help determine parameters of EITI implementation
- Be involved in communicating updates and results to their respective constituencies and to the general public
- Implement capacity building and other knowledge exchange activities for those less familiar with EITI

Role of Government Representatives:

- Provide political leadership and support such as creating a unit which will provide secretariat and technical support to PH-EITI
- Ensure the full participation of national government agencies and local government units in the implementation of EITI and create an enabling policy environment for the same
- Ensure the full participation of extractive companies
- Encourage the full participation of civil society
- Provide a legal basis for implementation of EITI as well as identify and address legal barriers and regulations that block the proper implementation of EITI
- Disclose government revenues and relevant data in an accurate and timely manner and at a level of detail to be agreed upon by the MSG

Role of Business Representatives:

- Help ensure the full participation of extractive companies
- Disclose payments and relevant data to government, IPs and other stakeholders in an accurate and timely manner at a level of detail to be agreed upon by the MSG
- Communicate with industry stakeholders developments on EITI

Role of CSO Representatives:

- Communicate and consult widely with a diverse set of stakeholders including those outside the steering group and build capacities on EITI
- Ensure full participation of relevant CSOs

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- Monitor the disclosures done by the government and extractive companies

VI. Terms of the Members of the PH-EITI MSG

The Chair shall be appointed by the Mining Industry Coordinating Council and shall serve until replaced by the MICC. DENR, DILG, DOE, and ULAP shall sit as permanent members.

All members of the PH-EITI MSG shall serve for a term of 3 years. Representatives may be re-appointed. It shall be the responsibility of each sector to ensure the continuity of representation and institutional memory within the MSG.

VII. PH-EITI MSG Meetings and Decision Making

The PH-EITI MSG will meet once a quarter or as often as necessary. The Chair will call and preside the MSG meetings while notices shall be sent out by the PH-EITI Secretariat a minimum of one week before the date of the meeting. The secretariat shall also handle the documentation and preparations of the minutes of the meetings. The highlights, agenda, minutes of the meetings and all supporting documents shall be circulated to the members of the group one week before the meeting. The members will also have one week to send their comments and no comment will be considered approval. Implementation of the decisions made by the MSG will be reported by the Secretariat and will be discussed in the subsequent MSG meeting.

For urgent matters where decision is needed, necessary information shall be circulated through email so that decisions can be made electronically, also by consensus.

At least three representatives each from the government, CSOs and business sector, shall represent the quorum of the PH-EITI MSG. The MSG will, in good faith, make decisions by consensus.