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Philippine Extractive Industries Transparency Initiative
SPECIAL MULTI-STAKEHOLDER GROUP MEETING
23 March 2021 | 9:00 AM – 11:37 AM | via Google Meet

Minutes of the Meeting

Attendance

Government

1. Asec. Ma Teresa S. Habitan, DOF
2. Ms. Febe J. Lim, DOF
3. Ms. Charmaine B. Odicta, DOF
4. Engr. Romualdo D. Aguilos, DENR-MGB

Industry

1. Atty. Ronald Rex S. Recidoro, COMP
2. Atty. Francis Joseph G. Ballesteros, Jr., Philex
3. Atty. Odette A. Javier, Lepanto
4. Engr. Don Paulino, SPEX / PAP

Civil Society

1. Mr. Vincent T. Lazatin, Bantay Kita
2. Ms. Aniceta Baltar, Concerned Citizens of Abra for Good Governance
3. Dr. Buenaventura M. Maata, Jr., Philippine Grassroots Engagement in Rural Development Foundation, Inc.
4. Dr. Nelson Cuaresman Jr., COASTLINE
5. Mr. Chito Trillanes, Social Action Center – Ecology Desk, Diocese of Tandag, Surigao del Sur
6. Prof. Ladylyn L. Mangada, UP Visayas Tacloban
7. Ms. Angelica Dacanay, Bantay Kita

Guests

1. Ms. Maria Angela Monica Salud B. Mamuyac, DILG
2. AD Guillermo Ansay, DOE
3. Demujin Antiporda, DOE
4. Shan Barros, DOE
5. Earl Jan Nera, DOE

- 45 PH-EITI Secretariat
46 1. Eastword D. Manlises
47 2. Mary Ann Rodolfo
48 3. Mary Jane I. Baldago
49 4. Anna Leigh V. Anillo
50 5. Eah Antonio
51 6. Roselyn Salagan
52 7. Katherine Dennise Domingo
53 8. Zoe Jimenez

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55

56 **Agenda**

- 57 I. Call to order
58 II. Approval of the meeting agenda
59 III. Main Business
60 1. Contracts and licenses
61 2. Materiality of revenues and companies/projects for the year under review (FY
62 2018)
63 3. Applicability of requirements
64 4. PH-EITI Theory of Change
65 IV. Other Matters
66 1. Updates on the allocation mechanism for MGB and DOE collections
67 2. BO registry
68 3. Validation Dossier
69 4. Validation Consultation Schedule
70 V. Adjournment

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74 **Highlights**

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I. Call to order

78 DOF Assistant Secretary Ma. Teresa Habitan chaired the special meeting. There being a
79 quorum, the meeting was called to order at 9:10 a.m.

80

81 The Chair explained that the special meeting was convened to seek the MSG's confirmation of
82 statements, agreements, and/or actions related to the terms and scope of the Sixth PH-EITI
83 Report, which shall be the basis for the 2021 EITI Validation of the Philippines. The Chair
84 recapped that the secretariat circulated a document containing the provisional agenda and the
85 information the MSG needs to know about each agenda item to facilitate an efficient and faster
86 meeting.

87
88

89 *II. Approval of the meeting agenda*

90

91 The Chair asked the members if there were any item they wish to include in the agenda.

92

93 A civil society representative moved for the approval of the agenda.

94

95 An industry representative seconded the motion, and the agenda was approved.

96

97

98 *III. Main Business*

99

100 1. Contracts and licenses

101

102 MSG assessment of non-trivial deviations from policy and process of awarding and transferring
103 contracts

104

105 The secretariat reported that information gathered from meetings with the MGB and DOE
106 suggest that there have been no deviations from policy and process of awarding and
107 transferring contracts for the year under review (FY 2018). The secretariat request the MGB and
108 DOE to confirm the information.

109

110 The MGB and DOE representatives confirmed the statement. The DOE representative said that
111 there have been no changes in policy and process for FY 2018.

112

113

114 Contracts/licenses awarded, transferred, or amended in 2018 and after 1 January 2021

115

116 The secretariat, then, requested the MGB and the DOE to confirm whether there were new,
117 transferred, or amended contracts/licenses in 2018, and before and after 1 January 2021. The
118 secretariat reiterated that the Standard requires the disclosure of any new, transferred, or
119 amended contracts/licenses from 1 January 2021. The secretariat further noted that in the case
120 of the mining sector, there should be no new MPSAs approved, entered into, transferred, or
121 amended for/in 2021, considering the moratorium (EO No. 79, s. 2013) in place.

122

123 The MGB confirmed the information.

124

125 The secretariat requested the DOE to confirm the information that, so far, there are no new
126 petroleum service contracts and coal operating contracts approved, entered into, transferred, or
127 amended after 1 January 2021, but that there were petroleum service contracts transferred
128 and/or amended in 2018.

129

130 The DOE said that it has not transferred nor amended any petroleum service contract and coal
131 contract in 2018.

132

133 The secretariat sought confirmation on the information shared in a previous meeting with the
134 DOE technical personnel, that there were partial transfers of contacts/licenses in 2018.

135
136 The DOE said that there are applications for transfer but that the DOE has not yet approved any
137 of these as of the moment. Said applications are still being processed. The DOE also confirmed
138 that no new petroleum service contracts and coal operating contracts have been approved,
139 entered into, transferred, or amended after 1 January 2021.

140
141 A civil society representative asked when the contract or transfer becomes perfected.

142
143 DOE explained that in a petroleum service contract transfer, what is being transferred is the
144 participating interest. After the transaction between companies, the parties submit to the DOE
145 for approval of the transfer. The DOE said that such transfers are regulated and that the ERDB
146 director may approve such transfers. Transfers only become valid upon the approval of the
147 DOE. The DOE furthered that they are certain that no transfers were approved for 2019 and
148 2020. It said that it will double check whether there was a transfer approved by the DOE in
149 2018.

150

151

152 MSG commentary on the efficiency and effectiveness of procedures for awarding and
153 transferring licenses

154

155 The secretariat then asked the MSG's comments on the efficiency and effectiveness of
156 procedures for awarding and transferring licenses.

157 The Chair asked the MGB to give an overview of the procedures for awarding and transferring
158 licenses.

159

160 The MGB said that the deed of assignment is executed by both parties and is evaluated by the
161 regional office concerned. It is then endorsed to the MGB Central Office for endorsement to the
162 DENR. Once approved, the deed becomes effective.

163

164 The MGB said that the procedure for the awards is posted on the MGB website, under the
165 services being offered by the MGB, and under the mining application and contracts menu.

166

167 A civil society representative said that there is a black sand mining in Cagayan and asked
168 whether it was issued a license to operate.

169

170 The MGB said that the representative may be referring to an offshore contract—JDB
171 Resources—for black sand mining. The MGB said that company has a legitimate contract, an
172 MPSA, and is now in operation.

173

174 The same civil society representative asked when the MPSA was entered into.

175 The MGB representative could not recall when but said that it has completed its mining
176 feasibility in the previous year and has secured its ECC. The MGB said that it can be checked
177 on its website under contracts awarded.

178
179 The same civil society representative shared that based on consultations with community
180 partners, the community was not consulted about the black sand mining operation.

181
182 The MGB expressed doubt that there was no consultation done because the acceptance of the
183 local government, from municipal to provincial, is needed before the MGB proceeds with the
184 awarding of the contracts.

185
186 The Chair synthesized the discussion saying that the project has obtained proper approvals
187 based on the process outlined by the MGB but the observation on the ground is that the
188 consultation seems to not have involved as many stakeholders as possible. The Chair asked
189 the civil society representative to confirm the accuracy of the summary.

190
191 The civil society representative expounded saying that the information is from the Social Action
192 Center of the Archdiocese of Cagayan that communicated that they were surprised about the
193 mining operation. In addition, considering the flooding from the recent typhoon, locals attribute
194 the calamity to black sand mining.

195
196 The Chair said that the matter could be discussed in another forum as it raises questions on the
197 effectiveness of the procedures when feedback in the community indicates that they were not
198 consulted.

199
200 An industry representative said that gauging the effectiveness would be very difficult because of
201 the moratorium issued in 2012. He highlighted the efforts being done by the MGB to fast track
202 the application for licenses which includes the creation of a one-stop shop that facilitates the
203 processing of permits and interagency coordination for securing permits.

204
205 The MGB said that what it streamlined was the processes for the application of exploration
206 permits.

207
208 The DOE was then requested to give an overview of its processes in awarding contracts.

209
210 The DOE said that as long as the parties are legally, technically, and financially qualified, a
211 transfer could be done. The DOE then discussed the process flow for the Philippine
212 Conventional Energy Contracting Program (PCECP) for Petroleum Exploration as per
213 Department Circular 2017 – 0017.

214
215 There are two modes – 1) Application for pre-determined areas (PDAs) and 2) Application for
216 Nominated Areas.

217

218 For Mode 1, a launching ceremony shall officially unveil a set of PDAs offered by the DOE and
219 initiates a 180-day application process for these areas. Interested parties may purchase PDA
220 data packages and apply for these areas. The applicants are required to submit within the 180-
221 day application period the supporting qualification documents proving its legal, technical, and
222 financial qualifications and show proof of payment which amounts to PhP 200,000 per PDA. The
223 DOE will open all bids for all areas at 1:00 pm of the deadline, whereby completeness of
224 submission of each application shall be checked if it qualifies for further substantive evaluation.

225
226 Qualified applicants will undergo a 15-day evaluation process. The sole or highest-ranked,
227 passing applicant shall within five working days be recommended to the secretary for awarding
228 of a service contract. It will then be endorsed to the President for final approval. Contract signing
229 and awarding of the PSC shall be facilitated by the DOE. The applicant shall pay PhP
230 0.48/hectare.

231
232 For Mode 2, interested parties may at any time delineate nominate and publish their own Areas
233 of Interest (AOIs) subject to the DOE's approval, that may likewise be applied for by other
234 parties. The applicant shall delineate an AOI from any free or open areas in the country, and
235 shall submit to the DOE a request for Area Clearance with coordinate and map for the said
236 area. Upon issuance of Area Clearance, the applicant shall submit a Letter of Intent (LOI) to the
237 DOE, with a copy of the Area Clearance documents to nominate the said area before the
238 application process can ensue. Once DOE approves the LOI within 15 days, the applicant must
239 submit and comply with all application documents which include legal, technical, and financial
240 qualification documents, proof of payment (PhP 200,000.00 per area), and proof of publication
241 in two broadsheets of general circulation.

242
243 Once published, a 60-day "challenge period" shall be initiated in order for other interested
244 parties to submit counter-proposals until 11:00 a.m. of the deadline. Application requirements
245 for these parties include legal, technical, and financial qualification documents and proof of
246 payment (Php 1,000,000.00 per area). The DOE will open all bids for all areas at 1:00 pm of the
247 deadline, whereby completeness of submission of each application shall be checked if it
248 qualifies for further substantive evaluation. The rest of the process is the same with Mode 1.

249
250 After the presentation, the Chair asked the members for comments.

251
252 Going back to the matter of consultations for mining projects, a civil society representative made
253 the observation that the streamlining is based on administrative functions and emphasized that
254 the consultation parameters for compliance must be followed. The representative cited
255 instances that the municipality may endorse it but not the barangay or the *Sangguniang*
256 *Panlalawigan*. He also emphasized that the people should not be deprived of their constitutional
257 rights to be informed of the projects proposed in the area. He said that the approval process
258 may have sped up but the social acceptance component of the mining law and local
259 government code was not given as much importance.

260

261 The Chair acknowledged that there is a balance needed to be observed in pursuing ease of
262 doing business and having sufficient time to have stakeholder consultations.

263
264 The MGB agreed on the observation that the streamlining was more on the administrative
265 processes and not on the mandatory requirements for the application of permits.

266
267 The secretariat requested all agencies to regularly update the MSG and the secretariat about
268 any updates on policy and procedures pertaining to contracts and license awards moving
269 forward.

270
271

272 Government policy on contract disclosure

273
274 The secretariat presented the addendum to the 6th Report pertaining to government's policy on
275 contract disclosure. This includes the following:

- 276
- 277 • The Constitution declares as a policy of the State the “full public disclosure of all its
278 transactions involving public interest”, “subject to reasonable conditions prescribed by
279 law”.
 - 280 • The Constitution also broadly covers the matter of contract transparency under the right
281 of the people to information on matters of public concern, which is enshrined in the Bill of
282 Rights (Article III).
 - 283 • The Constitution provides that the citizen shall be afforded “access to official records,
284 and to documents, and papers pertaining to official acts, transactions, or decisions, as
285 well as to government research data used as basis for policy development... subject to
286 such limitations as may be provided by law.”
 - 287 • Executive Order No. 2, s. 2016 (EO 2) to operationalize, at least in the Executive
288 Branch, the aforementioned people's constitutional right to information and the state
289 policy on full public disclosure.
 - 290 • The EO provides access to information, records, documents, and papers pertaining to
291 official acts, transactions, or decisions, as well as to government research data used as
292 basis for policy development (Section 3).
 - 293 • However, EO 2 expressly states that access to information will be denied when the
294 information falls under any of the exceptions in the Constitution or in existing law or
295 jurisprudence (Section 4).
 - 296 • EO 2's legal presumption is in favor of access to information, whereby no request for
297 information shall be denied unless it clearly falls under any of the exceptions (Section 6).
298 It is the head of the office (or the officer duly designated by him/her in writing) which is in
299 custody or control of the information who shall determine the applicability of any of the
300 exceptions to the request, and this officer must exercise “reasonable diligence” to ensure
301 that no exception is used to deny a request for purposes of covering up wrongdoing
302 (Section 6).

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- The main agencies regulating the extractive industries, namely the DENR and the DOE, are covered by EO 2. They have complied with it by issuing their respective FOI Manuals guided by the EO as well as the Inventory of Exceptions.
 - On the matter of contracts related to the extractive industries, it is of note that the Inventory of Exceptions, under paragraph 5.i, includes “any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the Philippine Mining Act of 1995 and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates,” citing Section 94(f) of the said Mining Act.
 - The DENR did not append the Inventory of Exceptions to its own FOI Manual, although the agency is certainly bound to abide by EO 2. The DENR FOI Manual has a List of Exceptions (Annex “C”) with 27 items none of which explicitly mention mineral agreements or contracts.
 - The DOE annexed the Inventory of Exceptions in its own FOI Manual 5 (Annex “B”). It also annexed a separate List of Exceptions (Annex “C”) where the exceptions are enumerated for each of the Department’s bureaus. Exceptions for the Energy Resource Development Bureau (ERDB) include “all information/data/reports covered by the ‘Confidentiality Clause’ of the Coal Operating Contracts and Petroleum Service Contracts”. Exceptions for the other bureaus likewise included a general reference to the “Confidentiality Clause”.

323

324

325 After the presentation, the secretariat made a recommendation for the MSG to engage the
326 DENR-MGB in issuing a policy mandating mining contracts disclosure consistent with the DENR
327 DAO 2017-07. The secretariat added that, in practice, the MGB is already disclosing copies of
328 mining contracts through the PH-EITI Contracts Portal.

329

330 An industry representative said that it would be too burdensome for companies and said that the
331 proper entity to disclose such documents might be the MGB, citing consideration on the quality
332 of data.

333

334 The MGB agreed with the industry representative and said that the contracts are already made
335 available, except for small-scale mining. The MGB also acknowledged that asking the
336 companies for these would be redundant considering that the MGB can already disclose it.

337

338 A civil society representative proposed that the matter be given more time for the MSG to agree.

339

340 An industry representative asked the secretariat what the EITI International is looking for in
341 terms of contract disclosures.

342

343 The secretariat responded saying that the EITI International is looking for the description of
344 government’s policy on contract disclosure.

345

346 The same industry representative said that the relevant government policy may be that the MGB
347 putting up its open data portal such that the MSG making it mandatory would not be necessary.

348
349 As for oil, gas, and coal contracts, the DOE said that model contracts are available in its
350 website, adding that only the signatories change.

351
352 The Chair asked if oil and gas contracts are already in the Contracts Portal.

353
354 The secretariat confirmed that all contracts of projects covered by the 6th Report are already in
355 the portal. The secretariat also clarified that transfers and amendments to the contracts have to
356 be disclosed.

357
358 The Chair asked the DOE if there is any barrier for the publication of contract of the biggest coal
359 company in the Philippines.

360 The DOE representative said they will inquire if they can post on the DOE portal the contract for
361 coal. He also said that copies of service contracts have been provided to the PH-EITI.

362
363 The secretariat clarified that what DOE has submitted to PH-EITI are service contracts of
364 projects covered in the 6th Report, and that what is being requested is for the DOE to address
365 contract transparency in general, for future contracts to be disclosed, and that hindrances or
366 barriers for disclosure to be addressed. The secretariat pointed out that the model contracts for
367 coal and petroleum have confidentiality clauses. The secretariat asked whether such
368 confidentiality clauses are really necessary.

369
370 The Chair deduced that there are no coal contracts published in the portal and said that the lack
371 of coal operating contracts is a question yet to be answered.

372

373

374 MSG policy on annexes

375

376 The secretariat recommended to the MSG to engage the DENR-MGB in making it mandatory
377 for all operating mining projects, whether metallic or nonmetallic, to disclose through the PH-
378 EITI Contracts Portal the below-listed information/attachments/annexes along with the main
379 MPSA/contract. The secretariat clarified, however, that the documents are technically not
380 annexes/attachments to an MPSA as, strictly, there are no required annexes/attachments to an
381 MPSA. The following are mandatory requirements for MPSA application for
382 utilization/development. According to the MGB, some of the information in these documents
383 automatically form part of the terms and conditions of the MPSA.

384

- 385
- 386 • Location Map/Sketch Plan (1:50,000 NAMRIA topographic map) showing
387 coordination/boundaries (in tabulated form) with major environmental features/other
388 projects (prepared, sealed, and signed by a deputized Geodetic Engineer)
 - 389 • Three-year Work Program
 - Proof of technical competence in the form of:

- 390 ○ Bio-data and track records in mining operations/environmental management
- 391 ○ Sworn statement of the technical person/s who will undertake the implementation
- 392 of the work programs or employment contract/proof of availed service/s
- 393 ● Proof of financial capability
 - 394 ○ For an individual: SAL duly sworn in accordance with existing laws; latest income
 - 395 tax return; credit lines, bank guarantees
 - 396 ○ For corporation/partnership/association/cooperative: latest audited financial
 - 397 statements; annual report for the preceding year; credit lines/bank guarantees
- 398 ● Mining Project Feasibility Study
- 399 ● Complete and final exploration report pertaining to the area
- 400 ● Sworn Declaration of Total Area Coverage
- 401 ● Affidavit of Undertaking
- 402 ● Certificate of Environmental Management and Community Relations
- 403 ● Environmental Compliance Certificate
- 404 ● Environmental Protection and Enhancement Program
- 405 ● Final Mine and/or Rehabilitation and Decommissioning Plan
- 406 ● Social Development and Management Program
- 407 ● MGB-registered Secretary's Certificate attesting to a Board Resolution authorizing the
- 408 President to sign and execute documents in connection with the MPSA application
- 409 ● Area Status and Clearance
- 410 ● Certification from the Panel of Arbitrators concerned as to any adverse
- 411 claims/protest/opposition
- 412 ● NCIP Certification
 - 413 ○ For non-ICC/IP area: certificate of non-overlap or report on the field-based
 - 414 investigation
 - 415 ○ For ICC/IP area: certification precondition or memorandum of agreement by and
 - 416 among the applicant, ICC/IP concerned and the NCIP
 - 417 ○ For private lands: proof of ownership, such as certified true copies of
 - 418 original/transfer certificate of title, among others
- 419 ● Approved survey plan/application for order of survey
- 420 ● Prior approval or endorsement in the form of Resolution or certification by at least the
- 421 majority of the Sanggunian concerned
- 422 ● Appropriate environmental report on the rehabilitation of mined-out and/or mine
- 423 waste/tailings-covered areas and anti-pollution measures undertaken during the mining
- 424 operations
- 425 ● Certification from the concerned regional office that the mining/quarry claims are valid
- 426 and subsisting or report by the RO concerned re compliance with the terms and
- 427 conditions of the contact/agreement/permit

428

429

430 A civil society representative asked if the final mine rehabilitation decommissioning plan is a

431 prerequisite for the approval of the contract. He recalled that there was an instance in the past

432 when a mining company had an expired contract and had no FMRDP yet instead of being

433 penalized, the contract was extended. He emphasized that he is not blaming the Chamber but
434 stressed that there is an erring company that may tarnish the reputation of the Chamber.

435
436 The secretariat said that the FMRDP and certificate of non-overlap are mandatory requirements
437 for application. The secretariat requested MGB to confirm.

438
439 The same civil society representative wanted to know if the approval is ministerial on the part of
440 the reviewing agency. He shared that there once was a mother corporation that was paying IP
441 royalties but one of the assignees did not pay royalty.

442
443 An industry representative said that the list presented proposes MGB to also publish the bio
444 data and ITR of key officers of the company. The representative said it should be carefully
445 considered and expressed apprehension on the authority of the MSG to publish such
446 documents which may run counter to the Data Privacy Act.

447
448 The MGB representative said that these are voluminous documents being submitted before the
449 application is approved.

450
451 The secretariat acknowledged the concerns raised by the MGB and the industry representative
452 and said that it will defer to the wisdom of the MSG on the matter.

453
454 Still on MSG's policy on contract annexes, the secretariat recommended for the MSG to engage
455 the DOE in making it mandatory for oil, gas, and coal companies/projects to disclose the
456 following attachments/annexes to petroleum service contracts and coal operating contracts.

- 457
458
 - Technical description, including coordinates
 - Accounting procedures

460
461 The DOE confirmed that the DOE may disclose the two items mentioned.

462
463 The MGB asked to consider choosing the documents that are important to be disclosed.

464
465 The Chair said that while, in general, the MSG endorses the recommendations, the secretariat
466 should take the MGB's comments into consideration and be mindful of the fact that these
467 disclosures may at times be actually too voluminous. The Chair also cautioned that it is possible
468 to lose sight of information hiding behind bits and pieces of data. The Chair asked the
469 secretariat to consider which data is more important to be in the portal to remain navigable.

470
471 The secretariat took note of the instructions of the Chair and the comments and suggestions of
472 the MSG members.

473
474 A civil society representative asked for the point of reference in taking coordinates for technical
475 descriptions.

476

477 The MGB said that it has defined this as mineral land and said that it counts on the prior rights
478 agreement.

479
480 The DOE made further clarification pertaining to the disclosure of petroleum service contracts
481 stating a section in the Right to Access Information about privileged information relating to
482 national security which must be kept secret in the conduct of foreign affairs. It says it concerns
483 the dispute in the West Philippine Sea. The DOE asked for the MSG's stand on contracts that
484 pertain to disputed areas in the West Philippine Sea.

485
486 The Chair instructed the secretariat to also consider that information in requesting disclosures of
487 PSCs and COCs.

488
489 The secretariat took note of the concerns and said that it would coordinate further with the MGB
490 and DOE which documents would be practical and important to be disclosed.

491

492

493 MSG policy on exploration permits and contracts

494

495 The secretariat explained that the guidance on exploration contracts is for the MSG to balance
496 practicality and demand of disclosing such information. The secretariat also recalled that, in
497 previous meetings, the MSG cautioned about disclosures of exploration permits and contracts
498 that might not ultimately transition to production. This might not be useful in the long run as the
499 PH-EITI portals will be flooded with information that may not be relevant later on.

500

501 Considering the foregoing, the secretariat recommended for the MSG to engage the MGB in
502 annually disclosing an updated list of companies issued with exploration permits. The
503 secretariat noted that the MGB already discloses the list of exploration permits issued through
504 its Database Portal. The secretariat recommends, however, that the list be updated regularly
505 and be disaggregated by year of issuance (with the most recent issuances on top of the list),
506 and sorted by region, sector (metallic or nonmetallic), and commodity.

507

508 The MGB took note of the recommendation and said that the matter will be referred to the
509 relevant offices within the agency for the enhancement of the Database Portal.

510

511 For the oil, gas, and coal sector, the secretariat recommended for the MSG to engage the DOE
512 in annually disclosing an updated list of oil, gas, and coal companies with exploration contracts.
513 The disclosure must be disaggregated by year of issuance, region, sector (oil, gas, or coal), and
514 commodity. The may follow the format of the MGB's Database Portal.

515

516 The DOE said that it will raise the recommendation to the ERDB director and seek approval.

517

518

519

520

521 2. *Materiality of revenues and companies/projects for the year under review (FY 2018)*

522

523 Materiality of revenues

524

525 The secretariat said that the MSG has discussed and approved the materiality in 2019 but that
526 the EITI International is seeking confirmation and explanation on the materiality threshold used
527 in the reconciliation process. The IA has submitted a revised table and the new amount will be
528 Php 60,756,728,359 total government collections from extractive industry based on the reports
529 of the agencies. The secretariat also presented the disaggregated data per collecting agency.
530 The data includes payments from the top 20 non-metallic mines. It was noted that using the 5%
531 materiality threshold prescribed by the SEC Securities Regulation Code Rule 68 would exclude
532 more revenue streams. Because of this, the materiality threshold used is 2%.

533

534 The secretariat asked the MSG to confirm that the materiality threshold approved was 2%,
535 which was what is already being used since the first PH-EITI Report.

536

537 A civil society representative said that it may be good to continue using the 2% threshold so as
538 not to exclude other revenue streams.

539

540 The secretariat further clarified that even with the 2% threshold, some revenue streams are
541 actually supposedly not in scope. Such revenue streams were only scoped-in due to the nature
542 of payments.

543

544 The MSG confirmed the 2% threshold and the revenue streams that the independent
545 administrator reconciled for the 6th Report.

546

547

548 Material companies

549

550 The secretariat sought confirmation of previous discussions on the following items:

551

- 552 • For the mining sector, all operating metallic and nonmetallic mines, including those
553 suspended or under care and maintenance, are required to participate in the PH-EITI
554 pursuant to the DENR DAO 2017-07.
- 555 • All operating metallic mines are covered in the 6th Report.
- 556 • For the nonmetallic mines, only the top 20 in terms of production value were covered.
557 This is part of PH-EITI's effort to gradually mainstream EITI implementation in the sector.
- 558 • For oil and gas, only the material companies were covered.

559

560 The MSG confirmed the statements pertaining to material companies.

561

562

563

564

565 Materiality of SOEs

566
567 The secretariat explained that the EITI International recommends for the MSG to discuss the
568 materiality of state-owned enterprises (SOEs). The IA submitted a revised table on the
569 dividends paid by the companies to the government. The secretariat said that the EITI
570 International suggested, as in the case of PMDC, computing commitment fees and royalties
571 paid by operators to PMDC. The IA however argues that it is not the actual revenue of the
572 government. The revenues are reckoned on the dividends paid by the companies to the
573 government. The secretariat asked the MSG's confirmation that the IA's computation is correct
574 and that the revenues from SOEs are not material for the period under review.

575
576 Without comments, the MSG confirms the computation of the IA.¹

577
578

579 *3. Applicability of Requirements*

580
581 The secretariat asked the MSG to confirm the non-applicability in the Philippines of the following
582 requirements for the year under review (FY 2018):

- 583
- 584 • 4.2 - In-kind revenues,
 - 585 • 4.3 - Infrastructure provisions and barter arrangements,
 - 586 • 4.4 - Transportation revenues, and
 - 587 • 6.2 - Quasi-fiscal expenditures

588
589
590 The secretariat noted that as per the consultants for the Sixth PH-EITI Report, the identified
591 requirements remain non-applicable to the Philippine extractives sector for the year under
592 review (FY 2018).

593
594 The MSG confirmed the non-applicability of the mentioned requirements.

595
596
597

¹The actual dividend declaration of PNOC and PNOC-EC for 2018 is at 0.5% and 1%, respectively when compared to the total revenue streams and other taxes for the entire extractive industry reported by government agencies. The other payments to government, on the other hand is at .03%, 0.26% and 1.91% for PMDC, PNOC, PNOC-EC, accordingly. With these percentages, the government collections from the SOEs are not deemed significant for further reconciliation. However, PNOC-EC is part of the targeted companies for oil and gas sector; thus, the other payments to government were further reconciled. Refer to Section III, Reconciliation results, of this chapter for the details.

Royalty fees and commitment fees of PMDC for 2018 disclosed in page 30 of the report, amounted to PH₱23m and PH₱138m is 0.04% and 0.23% of the total revenue streams and other taxes reported by government agencies for the year 2018 and 0.21% and 1.25% of the total revenue streams and other taxes for the metallic mining sector. These are considered immaterial to conduct further reconciliation.

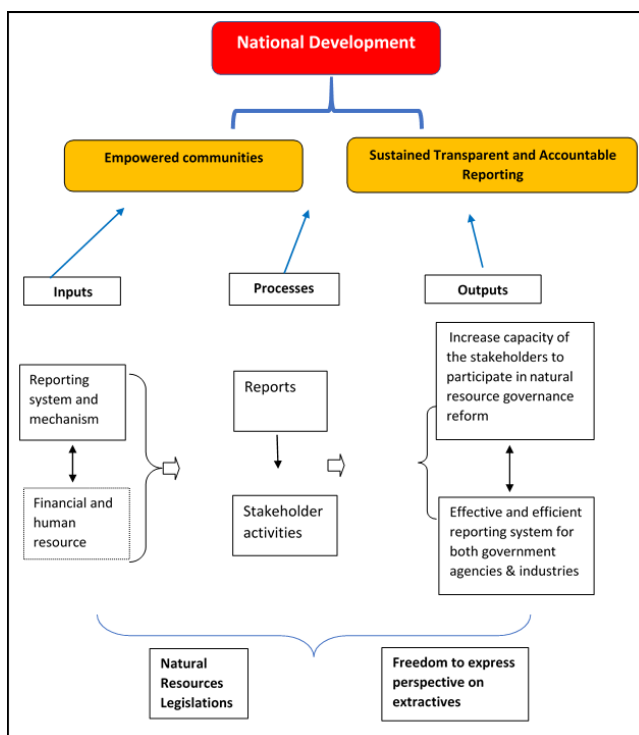
598 4. Theory of Change

599
600 The secretariat presented a proposed theory of change, which is a useful tool to weave together
601 goals and interventions that lead to effective change, and allow for a thorough evaluation of a
602 program/project being implemented.

603
604 The secretariat presented the theory of change adopted by the EITI International. It has input
605 indicators on the performance of the secretariat and the implementation of activities. Meanwhile,
606 the output indicators measure the quality of how the implementing country follows the
607 recommendations after the Validation. There are outcome indicators which include contributions
608 and results of the efforts done by the country.

609
610 Based on this model, the secretariat proposed a framework for developing a Theory of Change
611 for the PH-EITI. This framework is illustrated below.

612



613

614

615

616 The secretariat proposed to create a TWG to work on the theory of change and agree on a
617 framework appropriate to the context of PH-EITI. The secretariat also recommends the TWG to
618 review the root cause of issues in the extractive industries where reform is needed.

619

620 A civil society representative said that the MSG may need ample time review the proposal of the
621 secretariat and acknowledged that the theory of change calls for agents for change. He agreed
622 on the creation of a TWG.

623

624 Another civil society representative said that it might be better for the MSG to discuss the
625 framework in crafting the theory of change before the task is handed over to a team.

626
627 The Chair agreed and instructed the secretariat to take note of the representative's suggestion.
628 The Chair asked the secretariat to present the matter again in one of the next MSG meetings.

629
630 Another civil society representative suggested looking for samples of theory of change in the
631 extractive industries.

632
633 An industry representative and another civil society representative also agreed with a previous
634 suggestion to discuss the matter in a future MSG meeting before delegating it to a TWG.

635
636

637 *IV. Other Matters*

638

639 1. BO registry

640

641 The secretariat informed the MSG that following discussions from the 66th MSG meeting, a BO
642 registry for the extractive industries has been created and is already published on the PH-EITI
643 website.

644

645 2. Validation consultation schedule

646

647 The EITI International has sent the list of stakeholders to be consulted during the Validation.

648 The list includes:

649

- | | | | |
|-----|---------------------------------------|-----|--------------------------|
| 650 | • Civil Society MSG members | 661 | • DOE |
| 651 | • Bantay Kita | 662 | • DILG |
| 652 | • Chamber of Mines of the Philippines | 663 | • ULAP |
| 653 | • PAP | 664 | • DBM |
| 654 | • Non-chamber companies | 665 | • NCIP |
| 655 | • Asec. Ma. Teresa Habitan (DOF) | 666 | • SEC |
| 656 | • DOF | 667 | • World Bank |
| 657 | • BIR | 668 | • USAID |
| 658 | • BOC | 669 | • OGP |
| 659 | • MGB | 670 | • Local Government Units |
| 660 | • DENR | 671 | • Congress |

672

673 The secretariat said that it will propose a timeline for the consultations which is initially
674 suggested to be in the third and fourth weeks of April. The secretariat also informed the MSG
675 that the International Secretariat may request follow up meetings depending on the results of
676 each meeting.

677

678

679 3. Validation Dossier

680
681 The secretariat requested the MSG to review the Validation dossier before it is submitted to EITI
682 International by April 1. The secretariat said it will send a separate communication about the
683 validation dossier review and asked the MSG to inform the secretariat for any additional
684 document they wish to be included.

685
686 4. MGB and DOE Collections

687
688 The secretariat requested the MGB and DOE to discuss the allocation mechanism of each
689 agency for the revenues/shares/payments they collect.

690
691 The MGB said it only has one revenue which is the royalty payments for mineral reservations. It
692 said that the 90% of the collection goes to the Bureau of the Treasury for distribution to the
693 directly impacted communities. 10% of this goes to MGB and DBM through a trust fund. The
694 MGB submits a work plan and the approved budget for the development of mineral reservation
695 and only this amount is being withdrawn from the trust fund. Normally it is released after the first
696 quarter of the year.

697
698 For oil and gas, the Chair recalled that in an MSG meeting some years ago, it was presented
699 that proceeds of Malampaya are allocated to scholarships and DOE fund although the bulk of it
700 goes to the Treasury. The chair asked the DOE to confirm.

701
702 The DOE said it will get back to the MSG on the matter.

703
704 The MGB asked if all meetings with the international secretariat will be done online or in-person.

705
706 The secretariat said that all meetings will be done online.

707
708 A civil society representative raised another matter about the PH-EITI's correspondence
709 regarding Project DATA where endorsement letters to mayors and governors were channeled
710 through Bantay Kita. The representative asked if it could be sent directly to the mayors and
711 governors. He also requested the COMP to issue separate endorsement letters such that
712 companies at the local level will recognize local partners of Project DATA.

713
714 Another civil society representative asked how non-COMP members could be engaged in the
715 PH-EITI, citing that there may be non-chamber members in Caraga.

716
717 The Chair recalled that there used to be an MSG member who was not part of the chamber.

718
719 An industry representative said that the MGB has contact to all mining companies, including
720 non-chamber members.

721

722 The Chair asked the MSG about reactivating the position in the MSG that is supposed to go to a
723 non-associated company.

724

725 A civil society representative emphasized that whether member of the chamber or not,
726 extractive projects would still have an impact in the community. He said that the mining
727 companies and the CSO should sit and discuss transparency and accountability in its
728 operations on the ground. He opined that non-members of the chamber should not remain
729 beyond reach.

730

731 The Chair agreed with the industry representative that the MGB will be an all-encompassing
732 arm for the non-associated mines.

733

734 The MGB agreed with the Chair's statement.

735

736 The Chair suggested more coordination with the MGB to help ensure that non-associated mines
737 will also uphold the guidelines and standards of transparency.

738

739 A civil society representative asked to be connected to MGB regional offices to emphasize the
740 importance of participating in the PH-EITI and complying with the transparency standards.

741

742 **Having discussed all matters in the agenda, the meeting was adjourned at 11:37 a.m.**