

# PH-EITI

Philippine Extractive Industries Transparency Initiative

## FORGING NEW FRONTIERS

### The Fifth PH-EITI Report (FY 2017)



# *Forging New Frontiers:* The Fifth PH-EITI Report (FY 2017)

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# LEGAL REFERENCES

## 1987 PHILIPPINE CONSTITUTION

### LAWS

<b>RA 7076</b>	People's Small-Scale Mining Act of 1991
<b>RA 7160</b>	Local Government Code of 1991
<b>RA 7638</b>	Department of Energy Act of 1992
<b>RA 7729</b>	An Act Reducing the Excise Tax Rates on Metallic and Non-Metallic Minerals and Quarry Resources, Amending for the Purpose Section 151 (a) of the National Internal Revenue Code, as amended
<b>RA 7942</b>	Philippine Mining Act of 1995
<b>RA 8371</b>	Indigenous Peoples' Rights Act of 1997
<b>RA 8749</b>	Clean Air Act of 1999
<b>RA 9003</b>	Ecological Solid Waste Management Act of 2000
<b>RA 9275</b>	Clean Water Act of 2004
<b>RA 10173</b>	Data Privacy Act of 2012
<b>RA 10963</b>	Tax Reform for Acceleration and Inclusion (TRAIN) Act
<b>Batas Pambansa Blg. 68</b>	Corporation Code of the Philippines

### PRESIDENTIAL DECREES

<b>PD 87</b>	Oil Exploration and Development Act of 1972
<b>PD 334</b>	Creating the Philippine National Oil Company, defining its powers and functions, providing funds therefor, and for other purposes
<b>PD 910</b>	Creating an Energy Development Board, Defining its Powers and Functions, Providing Funds Therefor, and for Other Purposes
<b>PD 972</b>	Coal Development Act of 1976
<b>PD 1174</b>	Amending Presidential Decree Number Nine Hundred Seventy Two, otherwise known as the "Coal Development Act of 1976"
<b>PD 1586</b>	Establishing an Environmental Impact Statement System including Other Environmental Management Related Measures and for Other Purposes
<b>PD 1857</b>	An Act Granting New Incentives to Petroleum Service Contractors, and for this purpose amending certain sections of Presidential Decree Numbered Eighty-Seven, as amended, otherwise known as "The Oil Exploration and Development Act of 1972"
<b>PD 1899</b>	Establishing Small-Scale Mining as a New Dimension in Mineral Development

## EXECUTIVE ORDERS

<b>EO 30, s. 2018</b>	Creating the Energy Investment Coordinating Council
<b>EO 79, s. 2012</b>	Institutionalizing and Implementing Reforms in the Philippine Mining Sector Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources
<b>EO 147</b>	Creating the Philippine Extractive Industries Transparency Initiative
<b>EO 192</b>	Providing for the Reorganization of the Department of Environment, Energy and Natural Resources, Renaming it as the Department of Environment and Natural Resources, and for other purposes
<b>EO 226</b>	Omnibus Investments Code
<b>EO 292</b>	Instituting the Administrative Code of 1987
<b>EO 689</b>	Transferring the Philippine Mining Development Corporation from the Office of the President to the Department of Environment and Natural Resources

## ADMINISTRATIVE ISSUANCES

<b>COA CIRCULAR NO. 2001-005</b>	New Government Accounting System
<b>DENR AO No. 99-56</b>	Providing guidelines for establishing the fiscal regime for Financial and Technical Assistance Agreements (FTAAs)
<b>DENR AO No. 2000-98</b>	Mine Safety and Health Standard
<b>DENR AO No. 2002-42</b>	Rationalizing the implementation of the Philippine environmental impact statement (EIS) system and giving authority, in addition to the Secretary of the Department of Environment and Natural Resources, to the Director and Regional Directors of the Environmental Compliance Certificates
<b>DENR AO No. 2003-38</b>	Guidelines for the implementation of Proclamation No. 297 – “Excluding a Certain Area from the Operation of Proclamation No. 369 dated February 27, 1931, and Declaring the Same as Mineral Reservation and as Environmentally Critical Area”
<b>DENR AO No. 2007-12</b>	Revising guidelines for establishing the fiscal regime of FTAAs
<b>DENR AO No. 2010-21</b>	Providing for a Consolidated Department of Environment and Natural Resources Administrative Order for the implementing rules and regulations of Republic Act No. 7942, otherwise known as the “Philippine Mining Act of 1995”
<b>DENR AO No. 2012-07</b> <b>DENR AO No. 2012-07-A</b>	Rules and Regulations to Implement Executive Order No. 79 dated 06 July 2012 entitled: Institutionalizing and Implementing Reforms in the Philippine Mining Sector Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral

## ADMINISTRATIVE ISSUANCES

	Resources
<b>DENR AO No. 2014-06</b>	Amendment to DENR AO No. 2012-07
<b>DENR AO No. 2015-03</b>	Revised Implementing Rules and Regulations of RA No. 7076, otherwise known as the “People’s Small-Scale Mining Act of 1991”
<b>DENR AO No. 2015-07</b>	Harmonization of the implementation of the Philippine Environmental Impact Statement System and the Philippine Mining Act of 1995 in Relation to Mining Projects
<b>DENR AO No. 2016-07</b>	DENR Manual of Authorities on Technical Matters
<b>DENR AO No. 2017-04</b>	Amendment of DENR AO No. 2016-07
<b>DENR AO No. 2017-07</b>	Mandating Mining Contractors to Participate in the Philippine Extractive Industries Transparency Initiative (PH-EITI)
<b>DENR AO No. 2017-08</b>	Guidelines in Operationalizing the Transition of the DENR’s Programs and Projects into Green Economy Models (GEM)
<b>DENR AO No. 2017-10</b>	Banning the open pit mining of mining for copper, gold, silver and complex ores in the country
<b>DENR AO No. 2017-18</b>	Suspension of the DENR AO No. 2017-04
<b>DENR AO No. 2018-13</b>	Lifting of the Moratorium on the Acceptance, Processing and/or Approval of Applications for Exploration Permit under DENR Memorandum Order No. 2016-01
<b>DENR AO No. 2018-18</b>	Establishing a Centralized Management and Coordinative Mechanism at the Regional Offices of DENR, MGB and EMB and Designating the DENR Regional Director as the Regional Executive Director Providing Overall Command of Regional Operations
<b>DENR AO No. 2018-19</b>	Guidelines for Additional Environmental Measures for Operating Surface Metallic Mines
<b>DENR AO No. 2018-20</b>	Providing for New Guidelines in the Evaluation and Approval of the Three-Year Development/Utilization Work Program
<b>DENR MO Nos. 2005-03 and 2005-13</b>	Basis for the cancellation of the mining tenements and subsequent transfer to PMDC for the latter’s diligence and marketing efforts.
<b>DENR MO No. 2016-01</b>	Audit of All Operating Mines and Moratorium on New Mining Projects
<b>DILG MC NO. 2010-83</b>	Full disclosure of local budget and finances, and bids and public offerings
<b>DILG MC NO. 2011-134</b>	Amending DILG Memorandum Circular No. 2010-83, Series 2010, titled Full Disclosure of Local Budget and Finances, and Bids and Public Offerings, as amended
<b>DOE Circular No. 2007-04-003</b>	Prescribing the guidelines and procedures for the transfer of rights and obligations in petroleum

## ADMINISTRATIVE ISSUANCES

	service contracts under Presidential Decree No. 87, as amended
<b>DOE DC 2014-02-0005</b>	Reiterating a transparent and competitive system of awarding service and operating contracts for petroleum and coal prospective areas, repealing for this Purpose DC 2011-12-0010 and DC 2012-02-003
<b>DOE DC 2017-09-0010</b>	To introduce the PCECP for awarding COCs.
<b>DOE DC 2017-12-0017</b>	To establish the Philippine Conventional Energy Contracting Program (PCECP) as an enhanced version of the Philippine Energy Contracting Rounds (PECRs).
<b>DOE-DILG CIRCULAR NO. 98-01</b>	Guidelines and procedures on the utilization of the share of national wealth taxes, fees, royalties and charges derived from energy resources
<b>DOF-DBM-DILG-DENR Joint Circular No. 2009-1</b>	Updated guidelines and procedures on the release of the share of local government units from the collections derived by the National Government from mining taxes
<b>DOF-DBM-DILG-DENR Joint Circular No 2010-1</b>	Revised guidelines and procedures on the release of share of local government units derived by the National Government from royalty income collected from mineral reservations
<b>NCIP AO 3-2012</b>	The revised guidelines on the exercise of free and prior informed consent (FPIC) and related processes
<b>BOE Circular No. 87-03-001</b>	To provide the guidelines and procedures for exploiting small deposits of coal not covered by P.D. No. 972.

## ABBREVIATIONS

<b>AEPEP</b>	Annual Environmental Protection and Enhancement Program
<b>AO</b>	Administrative Order
<b>ARMM</b>	Autonomous Region of Muslim Mindanao
<b>BED</b>	Bureau of Energy Development
<b>BIR</b>	Bureau of Internal Revenue
<b>BLGF</b>	Bureau of Local Government Finance
<b>BO</b>	Beneficial Ownership
<b>BOC</b>	Bureau of Customs
<b>BPC</b>	Bangladesh Petroleum Corporation
<b>BSP</b>	Bangko Sentral ng Pilipinas
<b>BTr</b>	Bureau of the Treasury
<b>CA</b>	Co-production Agreement
<b>CAR</b>	Cordillera Administrative Region
<b>CDOs</b>	Cease and Desist Orders
<b>CDP</b>	Community Development Program
<b>CENRO</b>	Community Environment and Natural Resources Officer
<b>CIDG</b>	Criminal Investigation and Detection Group
<b>CIP</b>	Carbon in Pulp
<b>CIT</b>	Corporate Income Tax
<b>CLRF</b>	Contingent Liability and Rehabilitation Fund
<b>CMSC</b>	Community Management Service Center
<b>CMTA</b>	Customs Modernization and Tariff Act
<b>CNOOC</b>	China National Offshore Oil Corporation
<b>COA</b>	Commission on Audit
<b>COCs</b>	Coal Operating Contracts
<b>COMP</b>	Chamber of Mines of the Philippines
<b>CSO</b>	Civil Society Organization
<b>CSR</b>	Corporate Social Responsibility
<b>DAO</b>	DENR Administrative Order
<b>DBM</b>	Department of Budget and Management
<b>DBP</b>	Development Bank of the Philippines
<b>DENR</b>	Department of Environment and Natural Resources
<b>DILG</b>	Department of the Interior and Local Government
<b>DMRA</b>	Diwalwal Mineral Reservation Area
<b>DMT</b>	Dry metric ton
<b>DOE</b>	Department of Energy
<b>DOF</b>	Department of Finance
<b>DP</b>	Decommissioning Plan
<b>DPA</b>	Data Privacy Act
<b>ECC</b>	Environmental Compliance Certificate
<b>EDCP</b>	Energy Data Center of the Philippines
<b>EDGE</b>	Extractive Disclosure Generator
<b>EICC</b>	Energy Investment Coordinating Council
<b>EIS</b>	Environmental Impact Statement
<b>EMB</b>	Environmental Management Bureau
<b>ENRDMT</b>	Environment and Natural Resources Data Management Tool
<b>EO</b>	Executive Order
<b>EP</b>	Exploration Permit
<b>EPEP</b>	Environmental Protection and Enhancement Program

<b>EPNS</b>	Energy Projects of National Significance
<b>ESB</b>	Energy Supply Base
<b>ESRE</b>	Electronic Statement of Receipts and Expenditures
<b>ETF</b>	Environmental Trust Fund
<b>EWP</b>	Environmental Work Program
<b>Execom</b>	Executive Committee
<b>FMR</b>	Final Mine Rehabilitation
<b>FMRDF</b>	Final Mine Rehabilitation and Decommissioning Fund
<b>FPIA</b>	Filipino Participation Incentive Allowance
<b>FPIC</b>	Free Prior and Informed Consent
<b>FTAA</b>	Financial or Technical Assistance Agreement
<b>GAA</b>	General Appropriations Act
<b>GEM</b>	Green Economy Models
<b>GDP</b>	Gross Domestic Product
<b>GOCC</b>	Government-Owned and Controlled Corporation
<b>GRDP</b>	Gross Regional Domestic Product
<b>GVA</b>	Gross Value Added
<b>HB</b>	House Bill
<b>ICCs</b>	Indigenous Cultural Communities
<b>ICSID</b>	International Centre for Settlement of Investment Disputes
<b>IEC</b>	Information, Education and Communication
<b>IPs</b>	Indigenous Peoples
<b>IPRA</b>	Indigenous Peoples' Rights Act
<b>IRA</b>	Internal Revenue Allotment
<b>IRR</b>	Implementing Rules and Regulations
<b>ISAG</b>	Industrial Sand and Gravel
<b>JOA</b>	Joint Operating Agreement
<b>JC</b>	Joint Circular
<b>JVA</b>	Joint Venture Agreement
<b>LGC</b>	Local Government Code
<b>LGU</b>	Local Government Unit
<b>MENRO</b>	Municipal Environment and Natural Resources Officer
<b>MGB</b>	Mines and Geosciences Bureau
<b>MICC</b>	Mining Industry Coordinating Council
<b>MMT</b>	Multi-partite Monitoring Team
<b>MOA</b>	Memorandum of Agreement
<b>MPP</b>	Mineral Processing Plant
<b>MPSA</b>	Mineral Production Sharing Agreement
<b>MR</b>	Motion for Reconsideration
<b>MRF</b>	Mine Rehabilitation Fund
<b>MRFC</b>	Mine Rehabilitation Fund Committee
<b>MSG</b>	Multi-Stakeholder Group
<b>MT</b>	Metric Ton
<b>MTF</b>	Monitoring Trust Fund
<b>MWTRF</b>	Mine Waste and Tailing Reserve Fund
<b>NAPC</b>	National Anti-Poverty Commission
<b>NCIP</b>	National Commission on Indigenous Peoples
<b>NDC</b>	National Development Corporation
<b>NEDA</b>	National Economic and Development Authority
<b>NG</b>	National Government
<b>NGA</b>	National Government Agency
<b>NGO</b>	Non-Government Organizations

<b>NIRC</b>	National Internal Revenue Code
<b>NPC</b>	National Privacy Commission
<b>NRDC</b>	Natural Resources Development Corporation
<b>OEA</b>	Office of Energy Affairs
<b>OP</b>	Office of the President
<b>ORE</b>	Online Reporting in the Extractives
<b>OTP</b>	Ore Transport Permit
<b>PAP</b>	Petroleum Association of the Philippines
<b>PCECP</b>	Philippine Conventional Energy Contracting Program
<b>P/CMRB</b>	Provincial/City Mining Regulatory Board
<b>PD</b>	Presidential Degree
<b>PDAs</b>	Pre-Determined Areas
<b>PECR</b>	Philippine Energy Contracting Round
<b>PH-EITI</b>	Philippine Extractive Industries Transparency Initiative
<b>PENRO</b>	Provincial Environment and Natural Resources Officer
<b>PEP</b>	Politically Exposed Persons
<b>PMA</b>	Philippine Mining Act
<b>PMDC</b>	Philippine Mining Development Corp.
<b>PMO</b>	Privatization and Management Office
<b>PMSEA</b>	Philippine Mine Safety and Environment Association
<b>PNOC</b>	Philippine National Oil Company
<b>PNOC EC</b>	Philippine National Oil Company Exploration Corporation
<b>PNP</b>	Philippine National Police
<b>PPEI</b>	Philippines Poverty Environment Initiative
<b>PSA</b>	Philippine Statistics Authority
<b>PSSMAs</b>	People's Small-Scale Mining Areas
<b>PSSMC</b>	People's Small-Scale Mining Contract
<b>PSSMP</b>	People's Small-Scale Mining Program
<b>RA</b>	Republic Act
<b>RCF</b>	Rehabilitation Cash Fund
<b>RD</b>	Regional Director
<b>REC</b>	Review and Evaluation Committee
<b>RED</b>	Regional Executive Director
<b>RO</b>	Regional Office
<b>SAG</b>	Sand and Gravel
<b>SAGF</b>	Special Account in the General Fund
<b>SB</b>	Senate Bill
<b>SC</b>	Service Contract
<b>SDMP</b>	Social Development and Management Program
<b>SEC</b>	Securities and Exchange Commission
<b>SEED</b>	Systematic Electronic Extractives Disclosure
<b>SEF</b>	Special Education Fund
<b>SHP</b>	Safety and Health Program
<b>SOE</b>	State-Owned Enterprise
<b>SPEX</b>	Shell Philippines Exploration B.V.
<b>TIMTA</b>	Tax Incentive Management and Transparency Act
<b>TRAIN</b>	Tax Reform for Acceleration and Inclusion
<b>TRT</b>	Technical Review Team
<b>3YD/UWP</b>	Three-Year Development/Utilization Work Program
<b>TSM</b>	Towards Sustainable Mining
<b>TWG</b>	Technical Working Group
<b>UNDP</b>	United Nations Development Programme
<b>UNEP</b>	United Nations Environment Programme



We, the members of the Philippine Extractive Industries Transparency Initiative Multi-Stakeholder Group, have reviewed this Fifth Country Report to our satisfaction and hereby approve and endorse the same to the EITI International Board.

Signed this 31<sup>st</sup> day of December 2018.



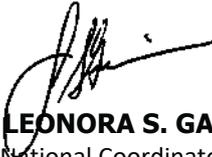
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# Chapter 1

## Contextual Information

As part of an annual reporting process and of a series constituting a growing body of extractives information in the Philippines, the Fifth Report should be read in conjunction with previous PH-EITI reports. This chapter of the Fifth Report focuses on updates and recent developments, particularly in the legal or regulatory framework and fiscal regime governing the mining, oil and gas, and coal industries. Matters that were already included in prior reports may be reiterated here, but only for emphasis or clarity. For the most part, reforms or changes done or ongoing as to relevant laws, rules, and policies are presented. The most recent data and information available, including about innovations in EITI implementation in the country, are similarly provided. Taken together with previous PH-EITI reports, this chapter gives a continuing account of the context of extractive industries in the Philippines.

The Fifth Report's theme, *Forging New Frontiers*, indicates the progress as well as the thrust of PH-EITI as it ushers EITI implementation into a new era of systematic disclosure and inclusive resource governance. *Forging New Frontiers* relates how PH-EITI has pushed the boundaries of extractives transparency by, among others, innovating transparency tools and expanding stakeholder base and engagement.

### I. Overview of the Extractive Industries

Since the Duterte Administration took office in mid-2016, greater transparency and accountability, more effective natural resource governance, and balanced economic and social development have been part of the government's strategic priorities, in line with the aspirations embodied in the Philippines' long-term development vision, "AmBisyon Natin 2040". This vision covers the extractive industries, not in the least through the continuing implementation of the Extractive Industries Transparency Initiative (EITI) in the country. As PH-EITI promotes transparency and accountability of all stakeholders in the extractives, the stricter enforcement of the laws governing the sector, including environmental and social standards, is likewise advanced. With industry compliance and the appropriate interventions or technologies, the negative impacts of extractive activities are seen to be reduced or mitigated, paving the way for these activities to be undertaken in more areas, which, in turn, would produce more economic and social benefits for local communities and the country as a whole.

In the mining sector, while uncertainty remains in certain policy areas (e.g., the now six-year-old moratorium on new mining projects imposed by Executive Order (EO) No. 79, the ban on open-pit mining, among others), the DENR gave transparency a big push by issuing in March 2017 Department Administrative Order (DAO) 2017-07, mandating all mining contractors to participate in PH-EITI. Implementation of the DAO has resulted in almost all mining companies submitting data to PH-EITI for the Fifth Report (FY 2017). It was also in 2017 when the DENR released the results of the audit it conducted on all operating mines under Memorandum Order 2016-01: Out of 41, only 13 passed the audit; of the 28 that did not pass, five were ordered suspended, while 23 were ordered for closure. Thirteen (13) companies appealed the suspension/closure orders. The audited mining companies were later audited again by multi-disciplinary teams of experts commissioned by the Mining Industry Coordinating Council (MICC), the inter-agency council created under EO 79 and co-

chaired by the Secretary of Finance and the Secretary of Environment. The DENR would reconcile the results of the MICC audit with its own 2017 audit. In November 2018, the DENR issued resolutions on the 13 appeals: Of the 11 ordered for closure, eight were to be suspended and three to be closed; of the two ordered for suspension, one passed the mining audit while the other one would remain suspended.

A number of other relevant issuances emanated from the DENR. DAO 2018-19 was issued in August 2018 to ensure sustainable environmental conditions at every stage of the mining operation and to minimize the disturbed area of a nickel mining project at any given time. DAO 2018-20 was simultaneously issued to provide standards for the evaluation, approval and monitoring of the Three-Year Development/Utilization Work Program that all mining operators need to submit to the Mines and Geosciences Bureau (MGB). To facilitate monitoring and enforcement of compliance of mining companies with environmental laws, rules and regulations, DAO 2018-18 established a unified coordinating mechanism at the regional and local levels that pools the efforts and resources of the regional offices of the DENR, MGB and EMB as well as the PENROs and CENROs. Noteworthy, too, is the continuing dialogues that the current DENR Secretary has had with mining stakeholders, industry and CSO representatives alike, to achieve convergence in the steps to be taken towards more environmentally responsible mining.

Meanwhile, industry and CSO stakeholders have been active on the reform front as well. On the part of industry, the Chamber of Mines of the Philippines (COMP) has taken the initiative to adopt and adapt the Towards Sustainable Mining (TSM) Assessment Protocols developed and being used by the Mining Association of Canada. With TSM, members of the COMP will have a system for evaluating, verifying, and improving their performance in meeting their environmental, social, and other obligations. As for civil society, environmental-justice-oriented CSOs have been helping to develop strategies that will assist mining communities in preparing for life after mining or making a “just transition” into ecologically sustainable livelihoods.

In the oil and gas sector, the major challenge for government and other stakeholders is securing indigenous energy resources needed to keep the economy moving and growing. The Malampaya gas field that presently provides about 40% of the power supply needs of Luzon, which island group generates around 72% of national GDP, is expected to drop to one-third of its current output in 2024 and to stop by 2029. Production in the oil wells of Galoc and Matinloc is also decreasing due to aging. Exploration for new and commercially viable wells has been stymied by rigidities in the permitting process, regional disputes in the West Philippine Sea, and conflicting interpretations of existing laws by different government entities. These constraints are being addressed by the DOE in partnership with other national government agencies and stakeholders in the oil and gas industry through innovation and initiative, international cooperation, and legal recourse.

In December 2017, the DOE issued Department Circular (DC) 2017-12-0017 to establish the Philippine Conventional Energy Contracting Program (PCECP) as an enhanced version of the Philippine Energy Contracting Rounds (PECRs). Under the PCECP, interested investors need not wait for the DOE to bid out pre-determined areas (PDAs) for exploration. They can, at any time of the year, nominate to the DOE areas that they are interested to explore and publish these in newspapers so that they may be subjected to a Swiss challenge. During the official launching of the PCECP in November 2018, the DOE offered to interested investors 14 PDAs for possible petroleum exploration. All the 14 areas are within the Philippines’ exclusive economic zone, and none are subject to territorial dispute with a foreign government.

Also in November 2018, the Philippines signed a Memorandum of Understanding (MOU) with China to set up a bilateral process through which the mechanics for joint cooperation in exploration may be discussed and embodied in a contract. The bilateral talks involve representatives from the

government as well as state-owned enterprises. The government panels are headed by the Minister/Secretary of Foreign Affairs and vice-chaired by the Minister/Secretary of Energy. With the signing of the MOU during the visit of Chinese President Xi Jinping to Manila and continuing dialogue between the Philippines and China, stakeholders are hoping that the suspension since 2014 of oil exploration activities under three petroleum service contracts in the disputed area can be lifted soon.

In the legal domain, the DOE, together with the Malampaya consortium led by SpEX, filed in September 2018 a Petition for Certiorari with the Supreme Court to review the Commission on Audit (COA)'s determination that corporate income tax is not included in the government share in the project. Arbitration cases regarding the same issue have also been filed by SpEX with the International Court of Arbitration of the International Chamber of Commerce in Singapore and the International Centre for Settlement of Investment Disputes in Washington D.C. The matter has arguably deterred potential foreign investors from considering petroleum exploration in the Philippines.

## A. Legal Framework and Fiscal Regime

The legal and regulatory framework for extractive industries, including licensing processes, fiscal regimes, subnational payments, state-owned enterprises, Indigenous Peoples' free, prior and informed consent (FPIC) processes, is thoroughly discussed in the First Report; while updates and developments relevant to the same are in subsequent reports, including this Fifth Report.

### *Constitutional Provisions*

The 1987 Philippine Constitution continues to be the bedrock of all laws governing the extractive sector in the Philippines. It is the fundamental law of the land, with provisions on the national economy and patrimony (ART. XII), the most germane of which is on the exploration, development, and utilization of natural resources, which is under the full control and supervision of the State (Section 2). The same section also provides for the small-scale utilization of natural resources by Filipino citizens, which Congress may, by law, allow.

Also pertinent are the Constitution's provisions on Local Government (ART. X), particularly on the entitlement of local government units (LGUs) to a just share in the national taxes (Section 6) and an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas (Section 7).

### *Mining Laws*

The Philippine Mining Act of 1995 (Republic Act No. 7942, or "RA 7942") remains to be the principal law that governs the mining industry, with the declared policy of promoting the rational exploration, development, utilization and conservation of mineral resources to enhance national growth in a way that effectively safeguards the environment and protect the rights of affected communities. DENR DAO 2010-21 comprises the Revised Implementing Rules and Regulations of RA 7942.

RA 7942 (with its implementing rules and regulations and guidelines) provides, among others, the definitions, rules, and procedures pertaining to exploration permit, mineral agreements, and financial or technical assistance agreement; government share, taxes and fees, and incentives (fiscal regime in relation to the National Internal Revenue Code, the Local Government Code, and the Omnibus Investments Code); transport, sale, and processing of minerals; and safety and environmental protection. It also has provisions on mineral reservations, ancestral lands, quarry resources, and small-scale mining.

The special law on small-scale mining is RA 7076 or the People's Small-scale Mining Act of 1991. DENR DAO No. 2015-03 comprises its implementing rules and regulations. Both RA 7942 and EO 79, which was issued in 2012 to institutionalize and implement reforms in the Philippine mining sector, refer to RA 7076 as the law that governs small-scale mining.

RA 7076 provides for, among others, the payment and distribution of taxes from small-scale miners. It requires small-scale miners to "pay all taxes, royalties or government production shares as are now or may hereafter be provided by law". It further states that the revenue to be derived by the government from the operation of the People's Small-scale Mining Program shall be subject to the sharing provided in the Local Government Code. RA 7076 also mandates small-scale miners to sell all the gold they produce to the Central Bank which shall buy it at prices competitive with those prevailing in the world market, regardless of volume or weight. The law also provides that custom mills may be established in mineral processing zones designated by LGUs upon recommendation of the P/CMRBs. Custom mills are supposed to be constituted as withholding agents for the royalties, production share or other taxes due the Government and register with the BIR as such. It is further provided that 15% of the National Government's share shall be used to create the People's Small-scale Mining Protection Fund.

Small-scale mining in the Philippines is discussed in more detail in Chapter 3 of this report.

### *Oil and Gas Laws*

P.D. No. 87 was issued on 31 December 1972 to amend P.D. No. 8 that had been issued on October 2, 1972 and to hasten the discovery and production of indigenous petroleum resources through the utilization of government and/or private resources, local and foreign, under arrangements which are calculated to yield the maximum benefit to the Filipino people and revenues to the Philippine Government for use in furtherance of national economic development, and to assure just returns to participating private enterprises, particularly those that will provide the necessary services, financing and technology and fully assume all exploration risks.

P.D. No. 87 or the "Oil Exploration and Development Act of 1972" mandates the government to undertake, directly or indirectly, petroleum exploration and production through grant of service contracts, subject to the existing private rights, to cover free areas, national reserve areas and/or petroleum reservations, as provided for in the Petroleum Act of 1949, whether on-shore or off-shore. In every case, the contractor must be technically competent and financially capable, as determined by the Petroleum Board, to undertake the operations required in the contract.

To further encourage Philippine participation in the development of the petroleum sector, a Filipino Participation Incentive Allowance (FPIA) of up to 7.5% of gross proceeds is allowed, depending on the aggregate participation in the contract by Filipino citizens and corporations.

The service contractor assumes the exploration risk and bears the costs of exploration and development. It is allowed to recover operating expenses up to 70% of gross proceeds. The contractors' share in the net proceeds, after deducting operating expenses and FPIA, cannot exceed 40%.

The contractor is required to pay income tax each year. Income tax and other taxes paid by or on behalf of the service contractor are included in the Government share. The Government share should not be less than 60% of the net proceeds.

P.D. No. 910 dated 22 March 1976 created the Energy Development Board to replace the Petroleum Board and to take over the functions of the Bureau of Mines and the DENR with respect to coal

bearing lands, geothermal energy, natural gas and methane gas. Section 8 provided that all fees, revenues and receipts of the Energy Development Board from any and all sources including receipts from service contracts and agreements as well as the government share representing royalties, rentals, production share on service contracts and similar payments on the exploration, development and exploitation of energy resources, shall form part of a Special Fund to be used to finance energy resource development and exploitation programs and projects of the government and for such purposes as may be directed by the President.

### *Coal Mining Laws*

P.D. No. 972 was issued as the Coal Development Act on 28 July 1976. Section 4 mandates the Government, through the Energy Development Board, its successors or assigns, to undertake the active exploration, development and production of coal resources or execute coal operating contracts. The areas covered includes public lands, any unreserved or unappropriated coal bearing lands, claims located and recorded by private parties areas covered by valid and subsisting coal revocable permits, coal leases and other existing rights granted by the Government for the exploration and exploitation of coal lands, government mineral reservations, coal areas/mines whose leases or permits are presently owned or operated or held by GOCCs and coal mineable areas operated or held by government agencies.

Under the existing sharing scheme of coal revenues, a Coal Operating Contractor may reimburse operating expenses not exceeding 90% of the gross proceeds from production in any year. Operating expenses in excess of the 90% or operating expenses incurred when no gross proceeds are recorded can be carried forward by the Contractor. In addition to the recoverable cost, the Contractor is entitled to a fee not exceeding 40% of the net proceeds. The Contractor is also entitled to a special allowance of not exceeding 30% of the balance of the gross proceeds after deducting all operating expenses or net operating income.

Small-scale coal mining can be undertaken under a separate program administered by the DOE, formerly the Office of Energy Affairs (OEA) and the Bureau of Energy Development (BED). In March 1987, BED issued Circular No. 87-03-001 to provide the guidelines and procedures for exploiting small deposits of coal not covered by P.D. No. 972. Residents of the area where the coal deposit is located could apply for a permit with the BED. The permit would cover a compact and contiguous area not exceeding five hectares with a geological coal reserve not exceeding 50,000 metric tons, within or outside areas under existing Coal Operating Contracts (COCs) previously approved by the BED. The permittee is accountable to the BED directly or through a duly designated supervising coal operator or holder of a COC who would also be purchasing the coal produced by the permittee. The BED share equivalent to 3% of the gross purchase price is to be remitted directly to the BED or through the supervising coal operator. Permits have an initial term of five years, renewable for additional five-year terms thereafter.

### *Local Government Code*

The Local Government Code of 1991 (LGC) or RA 7160 introduced a paradigm shift in relations between the national government and LGUs by giving the latter local autonomy.

The LGUs were given responsibility for the provision of basic services such as health care, social welfare, and agricultural extension. They were also tasked to provide or maintain infrastructure facilities intended primarily to serve the needs of their residents. With respect to ecological balance, the LGC states that LGUs shall share with the NG the responsibility for the management and maintenance of ecological balance within their jurisdiction. Devolved responsibilities include

enforcement of small-scale mining law, pollution control and other environment laws, subject to the supervision, control and review of the DENR.

The LGC also provided that NGAs and government-owned and controlled corporations (GOCCs) planning to implement projects with negative ecological impact should consult LGUs, non-government organizations (NGOs) and other stakeholders and get the approval of local legislative bodies.

To help them carry out their increased responsibilities, LGUs were given enhanced fiscal autonomy and powers to increase their own-sourced revenues. LGUs were also given the Internal Revenue Allotment (IRA) as their share in the internal revenue tax collections of the National Government. In addition to the IRA, the LGC also provides for LGUs to have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas. LGUs are to share the same with their inhabitants by way of direct benefits, in accordance with Section 294.

Section 290 of the LGC provides that LGUs shall have a share of 40% of the gross collections derived by the national government in the preceding fiscal year “from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of national wealth within their territorial jurisdiction”. Section 293, in conjunction with Section 286, states that the LGUs’ shares shall be automatically released and remitted to the concerned provincial, city, municipal or barangay treasurers, without need of any action on their part, within five days after the end of each quarter. The shares may not be subject to any lien or holdback by the NG for whatever purpose.

## B. Economic Contribution

The contribution of the extractive industries to the Philippine economy increased from 0.79% in 2016 to 0.85% in 2017. The gross value added (GVA) of the metallic and non-metallic mining industry and the oil and gas sector increased 17.7% from PhP114.3 billion in 2016 to PhP134.5 billion in 2017. The biggest increase of 31.5% was in non-metallic mining, followed by the 18% increase in oil and gas.

With the big increase in its output, the share of non-metallic mining to the country’s gross domestic product (GDP) grew from 0.29% in 2016 to 0.34% in 2017, exceeding slightly the 0.31% share of metallic mining. The share of oil and gas in GDP increased very slightly from 0.19% to 0.20%.

Table 1. Overview of extractive industries in 2017

2017	Production Value (PhP, bn)	Export Value (USD, m)	Share to total exports (USD, m)	GVA (PhP, bn)	Share to GDP	Employment	Govt Revenue (billion PhP)
Metallic Mining	107.7	4,285	6.4%	48.5	0.31%	204,000	7.2
Large-Scale Non-Metallic Mining	6.127	202.34	0.3%	54.0	0.34%		2.3
Oil and Gas	no data	395.621	0.6%	32.0	0.20%	402*	28.39
Total		4,882.96	7.3%	134.5	0.85%		37.8

Sources: PSA and Reporting templates of participating companies

\*Data extracted from reporting templates submitted by four participating oil and gas companies

The contribution of the extractive industries to Philippine exports also increased from 4.95% in 2016 to 7.3% in 2017. Exports of metallic and non-metallic mineral products and petroleum products rose 75% from US\$2.78 billion in 2016 to US\$4.88 billion in 2017. The biggest increase of 82% was in metallic mineral products, followed by the 40% increase in petroleum products and 31% increase in non-metallic mineral products.

With these increases, the share of metallic mineral products in total exports rose from 4.17% in 2016 to 6.4% in 2017. The share of non-metallic mineral products increased slightly from 0.27% to 0.3% and that of petroleum products from 0.5% to 0.6%. Although these increases are small, they show the export potential of these two sectors that have primarily been focused on meeting the needs of the domestic economy for construction materials and power generation.

Table 2. Gross value added in the extractive industries, 2012-2017  
(current prices, in million PHP)

	2012	2013	2014	2015	2016	2017
Copper mining	7,457	10,867	10,401	8,866	8,590	9,230
Gold mining	20,412	18,788	18,971	20,035	24,277	25,408
Chromium mining	165	130	249	86	141	84
Nickel mining	19,913	17,109	27,242	18,614	12,326	11,820
Other metallic mining	2,961	1,843	843	665	732	648
Stone quarrying, clay and sandpits	12,899	15,131	16,974	18,569	19,895	23,322
Other non-metallic mining	15,732	13,857	16,036	14,026	21,195	31,266
Crude oil, natural gas, and condensate	41,896	37,701	39,474	27,248	27,160	32,067
Gross value added in total extractive industries (mining, quarrying, oil and gas)	121,435	115,425	130,192	108,109	114,317	133,846
Share in GDP (%)	1.15	1	1.03	0.81	0.79	0.85

Source: PSA

## Employment

Data from the Philippine Statistical Authority (PSA) and the MGB indicate that employment in the mining and quarrying industry has gone down from around 219,000 in 2016 to 204,000 in 2017. This can be partially attributed to the orders for closure and suspension of 28 mining companies after the results of the technical audit conducted by the DENR were released in February 2017.

For employment in the oil and gas sector, the data submitted by four participating companies provide the most useful information since the data published by the PSA is too aggregated. The industry group named "Electricity, Gas, Steam and Air Conditioning Supply" includes many groups other than the producers of oil and gas. Total employment for the four oil and gas companies was 402 in 2017. In 2016, total employment for the three oil and gas companies that reported employment data was 384. For these three oil and gas companies, there was a net increase of seven.

## C. Revenue Contribution

### *Overview of Fiscal Regime*

The fiscal regime for the mining and oil and gas sectors is provided for in the laws governing each sector, in conjunction with laws of general application such as the National Internal Revenue Code, as amended, and the Customs Modernization and Tariff Act (CMTA).

As mentioned earlier, the government share in MPSAs comes from the excise tax on mineral products as set by the National Internal Revenue Code, as amended from time to time. For metallic minerals and non-metallic minerals and quarry resources, the excise tax was 2% of gross output at the time of removal. For coal and coke, the excise tax was PhP10.00 per metric ton. Effective January 1, 2018, the excise tax for metallic and non-metallic minerals became 4% of the actual market value of the gross output or the BOC valuation for determining tariff and customs duties, net of the excise and value-added taxes. This is due to the passage of R.A. No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law signed on December 19, 2017. For coal and coke, the excise tax is PhP50.00 effective January 1, 2018, PhP100.00 effective January 1, 2019 and PhP150.00 effective January 1, 2020 onwards. However, the excise tax on coal is only applied to imported coal, while domestic coal continues to be exempt from payment of the excise tax. The differentiated treatment of excise taxation of coal is due to the non-inclusion of P.D. No. 972 or the Coal Development Act of 1976 in the list of special laws expressly repealed under the TRAIN law. Section 16 of P.D. No. 972 exempts operators that produce domestic coal from paying all taxes except income tax.

The excise tax on mineral products is collected by the Bureau of Internal Revenue (BIR). The BIR also collects the corporate income tax (CIT) from companies that are not exempt from it. The CIT rates and income brackets were also changed by R.A. No. 10963. The BIR also collects withholding taxes from the following: foreign shareholder dividends, royalties to claim owners, and profit remittance to principal.

The Bureau of Customs (BOC) collects customs duties in accordance with the CMTA or R.A. No. 10863. The BOC also collects the 12% VAT on imported materials and equipment for the BIR. Both BIR and BOC are attached to the DOF.

As mentioned earlier, the Government's share from mineral reservations is in the form of royalty payments of 5% of gross revenues. This is paid to the MGB which is allowed by Section 5 of the Mining Act to utilize 10% of its collections for special projects and other administrative expenses.

For the oil and gas sector, it is the Department of Energy (DOE) that collects the government share net of the CIT and other taxes paid by or on behalf of the service contractor. This was generally held to be in accordance with the provisions of P.D. Nos. 87 and 910 until 2009 when the Commission on Audit asked the DOE to collect CIT from the Malampaya Consortium.

For their part, LGUs collect local taxes such as the local business tax, real property tax (basic) and real property tax for the Special Education Fund (SEF). The details on the collection of these taxes are prescribed in the 1991 Local Government Code.

In addition, Sections 86 to 88 of the Mining Act provide that LGUs may also collect Occupation Fees from holders of exploration permits, mineral agreements, FTAAAs and mineral reservations that are in onshore mining areas. Thirty percent (30%) goes to the province and seventy percent (70%) goes to the municipality. A chartered city keeps the full amount.

Indigenous peoples (IPs) are allowed to collect royalties from mining operations within their ancestral lands. This is according to the Mining Act and the Indigenous People’s Rights Act (IPRA). The royalty to be negotiated should not be less than 1% of the gross output of the extractive operations. The National Commission on Indigenous Peoples (NCIP) assists the IP communities in whatever ways are needed to handle their ancestral domain concerns.

For fiscal year 2017, government collected a total of Php 37.8 billion from the extractives sector. A bulk of the collections came from the oil and gas sector followed by the large-scale metallic mining sector and the large-scale non-metallic mining sector.

Table 3. Summary of taxes and fees per government agency, per industry sector, 2017

	Reconciled – Metallic mining	Reconciled – Non-metallic mining	Reconciled – Oil and gas	Total
BIR	5,395,334,169	1,874,096,832	10,405,844,028	17,675,275,029
BOC	34,273,994	15,457,597	-	49,731,591
DOE	-	-	17,896,333,951	17,896,333,951
LGU	761,990,673	397,457,635	-	1,159,448,308
MGB	854,480,492	-	-	854,480,492
NCIP	158,459,673	-	-	158,459,673
<b>Total</b>	<b>7,204,539,001</b>	<b>2,287,012,064</b>	<b>28,302,177,979</b>	<b>37,793,729,044</b>

## D. Social and Environmental Spending/Contributions

Section 57 of the 1995 Philippine Mining Act (RA 7942) mandates contractors to assist in the development of its mining community, the promotion of the general welfare of its inhabitants, and the development of science and mining technology. The details of the mandate are provided in DAO No. 2010-21 issued on 28 June 2010 to consolidate the Implementing Rules and Regulations (IRRs) for RA 7942.

Mining companies in the exploration stage are required to develop and implement a Community Development Program (CDP) using funds equivalent to at least 10% of the budget for their approved two-year Exploration Work Program. Companies that are already in the production stage are required to implement a Social Development and Management Program (SDMP) with an annual budget equivalent to 1.5% of its operating cost. Both SDMP and CDP should be prepared and developed in consultation and in partnership with the host and neighboring communities. A host community is defined to be the barangay(s) where the mining area is located while neighboring communities refer to the barangay(s) adjacent to the host community.

The SDMP activities should fall under one of three categories: (a) development of host and neighboring communities to promote the general welfare of their inhabitants; (b) advancement of mining technology and geosciences; and (c) information, education and communication (IEC) program on responsible mining and geosciences. The mandated budget allocation for these are 75%, 10% and 15%, respectively. The creditable activities under each category are enumerated in DAO No. 2010-21 and are summarized in Chapter 7 of the first PH-EITI report, together with details on the development, approval, implementation and monitoring of the CDP and SDMP.

RA 7942 also mandates contractors to undertake environmental protection and enhancement in all stages of mine life (exploration, construction/development, operation/production and closure/final mine rehabilitation). DAO No. 2010-21 requires mining companies to implement progressive rehabilitation of disturbed areas in all stages of mine life to reduce the environmental impacts of mining activities without waiting for the final mine rehabilitation/closure phase. The MGB defines “progressive rehabilitation” as the measures and actions taken to repair land disturbed during exploration, development and operation leading into a stable, productive self-sustaining condition, taking in consideration the beneficial uses of the land and the surrounding areas.

Contractors under exploration and development stages are required to implement an Environmental Work Program (EWP), with a budget based on at least 10% of the exploration cost. EWP refers to the comprehensive and strategic environmental management plan containing description of the expected and considered acceptable impacts during the exploration period and the corresponding environmental protection and enhancement strategies.

Contractors under production/operation stage need to implement comprehensive and strategic Environmental Protection and Enhancement Program (EPEP). The program should include rehabilitation and reforestation of disturbed areas, watershed development and conservation, control and mitigation measures for environmental impacts, among others. Details on the EPEP and EWP and the corresponding financial requirements may be found in Chapter 7 of the first PH-EITI report, together with the steps in the development, approval, implementation and monitoring of the programs.

To ensure funding for the EPEP, operating mining companies are required to establish and maintain a Mine Rehabilitation Fund (MRF). The MRF is deposited as a Trust Fund in a government depository bank. There are two kinds of MRF. The Monitoring Trust Fund (MTF) is used exclusively for the monitoring program approved by the MRF Committee and implemented by the Multipartite Monitoring Team (MMT). The Rehabilitation Cash Fund (RCF) is used by the company to comply with the approved rehabilitation activities and schedules, including research programs, in the EPEP and Annual EPEP. Upon mine closure, the Final Mine Rehabilitation and Decommissioning Fund (FMRDF) will be used to fund activities in the approved Final Mine Rehabilitation (FMR) or Decommissioning Plan (DP) for the succeeding years until the objectives of mine closure and rehabilitation have been achieved. Details on these funds as well as the Mine Waste and Tailing Reserve Fund (MWTRF) and Environmental Trust Fund (ETF) are presented in Chapter 7 of the first PH-EITI report. The MWTRF may be used to pay compensation for damages caused by mine waste and mill tailing. The ETF may be used to pay damages not caused by mining operations. The MRF, MWTRF and FMRDF collectively comprise the environmental guarantee fund mechanism known as the Contingent Liability and Rehabilitation Fund (CLRF) established under DAO 2010-21. The CLRF is administered by the inter-agency CLRF Steering Committee chaired by the MGB Director.

Section 63 mandates all contractors to strictly comply with all mines safety rules and regulations that may be promulgated by the DENR Secretary to maintain the safe and sanitary upkeep of mining operations and achieve waste-free and efficient mine development. These rules and regulations on mine safety and health standards are contained in DAO No. 2000-98. A Safety and Health Program (SHP) needs to be submitted before the start of every calendar year. All these programs and funding mechanisms are mandated by the Mining Act and reported to the MGB.

For their part, oil and gas companies are required to fund Community Assistance Projects to the municipalities considered as direct impact areas of their production and development projects. This is required as a condition for the Environmental Compliance Certificate (ECC) under the Environmental Impact Statement (EIS) System established by P.D. No. 1586 on 11 June 1978. For example, for the Galoc Field Development Project (SC 14C1), the municipalities of Linapacan, Culion and Busuanga are the direct impact areas. The projects to be funded are determined by the municipalities. These

can either be livelihood training programs, infrastructure such as school buildings, barangay health centers, water wells/distribution system, training centers. Each of the municipality is entitled to PhP1.2 million annually.

Mining and oil and gas companies also spend for social or environmental programs out of their own volition as concrete manifestations of their corporate social responsibility (CSR).

Corporate responsibility has been defined to be a way for companies to take responsibility for the social and environmental impacts of their business operations. According to Jen Boynton, vice president of member engagement at 3BL Media, "A robust CSR program is an opportunity for companies to demonstrate their good corporate citizenship ... and protect the company from outsized risk by looking at the whole social and environmental sphere that surrounds the company." For companies in the extractive industries, a well-thought out and implemented CSR program could be expected to yield good returns for the company in terms of community goodwill and social acceptance.

## II. Mining Industry

### A. Economic Contribution

As shown in Table 1, metallic and non-metallic mining contributed 0.65% of the Gross Domestic Product (GDP) of the Philippines in 2017. The average contribution for the period 2014 to 2017 is also around 0.65%.

On a regional basis, the contribution of mining to Gross Regional Domestic Product (GRDP) varies greatly from zero (e.g. in the highly urbanized National Capital Region) to as high as 14.7% for the year 2017. The table below shows the share of the gross value added (GVA) in metallic and non-metallic mining in each region to the GRDP of that region.

Table 4. Share of the GVA in mining and quarrying of each region to GRDP, 2014-2017  
(in current prices and in %)

Region	2014	2015	2016	2017
Philippines	0.72	0.61	0.60	0.65
National Capital Region	0.00	0.00	0.00	0.00
Cordillera Administrative Region	3.48	2.90	2.88	2.64
I - Ilocos Region	1.34	1.39	1.43	1.49
II - Cagayan Valley	4.26	3.41	3.73	4.59
III - Central Luzon	0.37	0.19	0.19	0.16
IVA - CALABARZON	0.13	0.16	0.16	0.15
IVB - MIMAROPA	21.42	15.35	13.86	14.70
V - Bicol Region	2.71	2.31	2.78	2.62
VI - Western Visayas	2.04	1.58	2.38	3.27
VII - Central Visayas	0.97	0.85	0.78	0.76
VIII - Eastern Visayas	0.16	0.14	0.15	0.13
IX - Zamboanga Peninsula	0.32	0.20	0.23	0.25
X - Northern Mindanao	0.25	0.27	0.29	0.33
XI - Davao Region	0.81	0.88	0.94	1.03
XII - SOCCSKSARGEN	0.17	0.18	0.18	0.21

XIII - Caraga	13.60	12.41	9.65	8.98
Autonomous Region in Muslim Mindanao	0.20	0.35	0.35	0.44

Source: PSA

Mining is most important in the GRDP of IVB-MIMAROPA, accounting for close to 15% in 2017. It is second most important in XIII-Caraga, producing around 9% of its 2017 GRDP. However, the importance of mining has declined in both regions. Its share of GRDP in MIMAROPA was over 21% in 2014 and in Caraga, it was 13.6% in 2014. This can be traced to the big drop in the world prices for metals particularly nickel from their highs in 2014. All three metallic mines in Region IVB produce nickel (Rio Tuba, Citinickel and Berong Nickel) and 14 of the 17 metallic mines in Region XIII. The biggest producers among the latter are Taganito Mining Corp., Carrascal Nickel Corp., CTP Construction and Mining Corp., and Hinatuan Mining Corp. The low prices reflect excess supply and weaker demand in the world markets.

The primary determinant of the importance of mining in the economic life of a region is the size and value of the mineral production in the region. Instead of looking at the peso value of the mineral output of each region, one can also look at the percentage of total mineral output that is produced in each region. The table below shows the percentage share of each region in the total GVA in mining and quarrying for the years 2014 to 2017.

Table 5. Gross value added in mining and quarrying by region, 2014-2017  
(in current prices, in %)

Region	2014	2015	2016	2017
Philippines	100	100	100	100
National Capital Region	0.00	0.00	0.00	0.00
Cordillera Administrative Region	6.2	6.3	6.1	5.3
I - Ilocos Region	4.1	5.2	5.6	5.4
II - Cagayan Valley	7.8	7.5	8.2	9.6
III - Central Luzon	3.3	2.0	2.2	1.7
IVA – CALABARZON	2.1	3.0	2.9	2.6
IVB - MIMAROPA	35.3	29.1	25.6	25.8
V - Bicol Region	5.5	6.0	7.5	6.5
VI - Western Visayas	7.9	8.0	12.4	16.0
VII - Central Visayas	6.1	6.9	6.6	5.8
VIII - Eastern Visayas	0.3	0.4	0.4	0.3
IX - Zamboanga Peninsula	0.6	0.5	0.6	0.6
X - Northern Mindanao	0.9	1.3	1.5	1.5
XI - Davao Region	3.2	4.6	5.3	5.6
XII - SOCCSKSARGEN	0.5	0.6	0.6	0.7
XIII - Caraga	16.1	18.3	14.2	12.1
Autonomous Region in Muslim Mindanao	0.2	0.3	0.3	0.4

Source of Basic Data: PSA

Looking at the total mining output or gross value added, IVB-MIMAROPA accounts for the biggest share among all the regions in the years 2014 to 2017. However, this share has declined from 35% in 2014 to 29% in 2015 and 25% in 2016 and 2017, for the reasons cited earlier.

Region XIII - Caraga accounted for the second biggest share in the years 2014 to 2016, averaging 16.2%. In 2017, Caraga's share declined to 12.1% and Caraga fell to third place behind VI-Western Visayas. Western Visayas was a far 3<sup>rd</sup> place at 8% in 2014 and 2015 and a close 3<sup>rd</sup> place at 12.4%

in 2016. Its share in total mining output increased to 16% in 2017 to garner 2<sup>nd</sup> place but this is mostly due to coal mining by Semirara Corporation.

Region II-Cagayan Valley, in which mining was the third most important in terms of GRDP, was in fourth place with its 9.6% contribution to total mining output. This had risen from 7.8% in 2014 to 8.2% in 2016. These mean that in relative terms, mining is more important to the region than the region is to mining but the region is also becoming more important to mineral production.

Other regions that contribute at least 5% of mining output in 2017 are V-Bicol (6.5%), VII-Central Visayas (5.8%), XI-Davao (5.6%), I-Ilocos (5.4%) and CAR (5.3%). Davao has been steadily increasing its share in mineral production, from 3.2% in 2014 to 4.6% in 2015 and 5.3% in 2016. The contribution of Ilocos Region had started at 4.1% in 2014 and jumped to 5.2% in 2015 and 5.6% in 2016.

Mineral production in a region is a function of the size and number of the mines that are operating in that region. The table below shows the numbers of metallic and non-metallic mines that are operating in each region as well as the mineral products that they produce.

Table 6. Number and products of operating mines per region as of December 31, 2017

Region	No. of operating metallic mines	Mineral Product	No. of operating nonmetallic mines*	Mineral Product
<b>CAR - Cordillera Administrative Region</b>	3	Gold (2) Copper (1)	1	Tuffaceous, Limestone, Shale, Silica Sand (1)
<b>I - Ilocos Region</b>	-	-	4	Limestone (3), Shale (1), Zeolite (1), Bentonite (1)
<b>II - Cagayan Valley</b>	3	Gold (1) Copper (1) Nickel (1)	-	-
<b>III - Central Luzon</b>	5	Nickel (4) Iron (1)	9	Limestone for Cement (6), Shale (3), Aggregates (1), Marble (1)
<b>IVA - CALABARZON</b>	-	-	22	Limestone for Cement (4), Marbleized Limestone (3), Shale (1), Basalt (11), Silica (2), Silica Clay (2), Volcanic Tuff (1), Aggregates (2)
<b>IVB - MIMAROPA</b>	3	Nickel (3)	1	Limestone (1)
<b>V - Bicol Region</b>	3	Gold (2) Iron (1)	3	Limestone (1), Shale Clay (1), Perlite (2)
<b>VI - Western Visayas</b>	-	-	-	-
<b>VII - Central Visayas</b>	1	Copper (1)	9	Limestone for Cement (3), Limestone (2), Marbleized Limestone (1), Basalt (1), Greywacke (1), Dolomite (1), Aggregates (1), Clay (1)
<b>VIII - Eastern Visayas</b>	4	Chromite (2) Iron (2)	-	-
<b>IX - Zamboanga Peninsula</b>	1	Iron (1)	-	-
<b>X - Northern Mindanao</b>	7	Nickel (7)	6	Limestone (3), Shale (4), Hydrated Lime (1)
<b>XI - Davao Region</b>	2	Gold (1)	4	Limestone for Cement (1),

		Nickel (1)		Limestone (3), Pozzolana (1), Volcanic Tuff (1), Silica (1)
<b>XII - Central Mindanao</b>	-	-	-	-
<b>XIII - Caraga</b>	17	Nickel (14)	-	-
		Gold (2)		
		Chromite (1)		
<b>Total</b>	<b>49</b>		<b>59</b>	

\*excluding coal

Source of Basic Data: MGB

It can be noted from the table above that XIII-Caraga has the biggest number of operating mines at 17. However, it ranks only third in terms of output and second in terms of the contribution of mining to GRDP, as shown earlier. MIMAROPA which ranks first in terms of both contributions to total mining output and regional economic output has only three nickel mines and one limestone quarry.

### *Employment*

In 2017, direct employment in mining and quarrying was estimated by the PSA and MGB at 203,000. The number has been steadily declining from around 250,000 in 2012 and 2013 to 240,000 in 2014 to 237,000 in 2015 and 220,000 in 2016. The share in total national employment has gone down from 0.66% in 2012 and 2013 to 0.62% in 2014 and 0.61% in 2015. In 2016 and 2017, the share was just 0.5%.

However, per the MGB, it is conservatively assumed that for every job in the mineral industry, about four indirect jobs may be generated in the upstream and downstream sectors.

Table 7. Employment in mining and quarrying per region and share to total regional employment, 2014-2017

Region	Employment (in thousands)				Share to total regional employment (in %)**			
	2014	2015	2016	2017	2014	2015	2016	2017
NCR	2	1	2	2	0.04	0.02	0.04	0.04
CAR	21	20	27	15	2.79	2.7	3.51	2.03
Region I	9	10	7	10	0.45	0.5	0.33	0.53
Region II	3	2	6	1	0.2	0.13	0.39	0.1
Region III	17	15	18	11	0.41	0.36	0.42	0.25
Region IV-A	6	5	6	10	0.12	0.1	0.11	0.17
Region IV-B	13	9	7	7	1.01	0.69	0.56	0.58
Region V	26	31	21	23	1.13	1.31	0.90	0.99
Region VI	11	7	9	5	0.35	0.22	0.27	0.16
Region VII	11	15	14	13	0.35	0.47	0.45	0.4
Region VIII	8	11	9	8	0.77	1.09	0.49	0.43
Region IX	5	6	5	8	0.35	0.4	0.30	0.59
Region X	6	6	9	5	0.3	0.3	0.43	0.28
Region XI	43	35	36	42	2.2	1.8	1.79	2.04
Region XII	4	3	4	4	0.23	0.17	0.21	0.21

Region XIII	52	58	38	36	4.7	5.3	3.46	3.33
ARMM	3	3	2	3	0.23	0.24	0.18	0.29

Source: PSA, Annual Labor and Employment Estimates

The average share of mining and quarrying in total regional employment has also been declining from around 1% in 2014 and 2015 to less than 0.9% in 2016 and less than 0.8% in 2017. However, four regions have shares to total regional employment that exceed 1%. These are Region XIII-Caraga (4.2%), CAR (2.7%), Davao (2.0%) and Bicol (1.1%). As mentioned earlier, Caraga has the most number of metallic mines at 17 and no non-metallic mine. CAR and Bicol region have three metallic mines each, with one non-metallic mine and three non-metallic mines, respectively. Davao has two metallic mines and four non-metallic mines.

Table 8 below shows that the mining companies participating in PH-EITI employed close to 25,800 people in 2017, of which 99.7 were local. Bulk of the local employees are non-IPs and males.

Table 8. Summary of employment data from participating mining companies for 2017

<b>LOCAL EMPLOYEES</b>							
<b>REGULAR</b>			<b>CONTRACTUAL</b>			<b>TOTAL</b>	
<b>IPs</b>	<b>Non-IPs</b>	<b>Sub-total</b>	<b>IPs</b>	<b>Non-IPs</b>	<b>Sub-total</b>		
2,161	12,587	14,791*	1,962	5,802	7,764	22,555	Males
239	2,151	2,393	50	731	781	3,174	Females
2,400	14,738	17,184	2,012	6,533	8,545	25,729	Local
<b>FOREIGN EMPLOYEES</b>							
<b>REGULAR</b>			<b>CONSULTANT</b>			<b>TOTAL</b>	
27			40			67	Males
0			3			3	Females
27			43			70	Foreign
						<b>25,799</b>	<b>TOTAL</b>

\*includes 43 not classified as IP or non-IP

Source: Reporting templates from participating mining companies

### *Production and Export*

In terms of value, production of metallic minerals was led by gold, nickel and copper, as in previous years. Gold accounted for 42% of the total value of metallic mineral production in 2017 while nickel (ore and nickel-cobalt sulfide combined) accounted for 39%. Copper concentrate contributed 18%.

The value of metallic mineral production in 2017 increased by 5.8% from PhP102.7 billion in 2016 to PhP108.6 billion with gold, nickel and copper registering slight increases. Silver, chromite, and iron ore decreased.

Table 9. Summary of Production Value in the Mining Sector, 2012-2017 (in million PhP)

Product	Unit	2012	2013	2014	2015	2016	2017
Gold		32,721	32,441	32,977	34,240	45,522	45,630
Silver		1,887	1,332	616	647	941	867
Copper Concentrate		15,546	22,358	22,758	18,921	17,760	19,305
Nickel (Direct Shipping Ore)		34,875	29,552	64,793	36,733	22,463	23,027
Nickel Metal Equivalent		-	-	-	-	-	-
Mixed Nickel- Cobalt Sulfide		11,158	11,469	20,311	17,471	15,852	19,641
Nickel Sulfide Metal Equivalent		-	-	-	-	-	-
Zinc Concentrate		-	697	-	-	-	-
Metallurgical Chromite Concentrate		221	175	337	114	183	172
Iron Ore		1,837	1,295	455	86	32	0
<b>Total, Metallic</b>		<b>99,037</b>	<b>99,319</b>	<b>142,247</b>	<b>108,212</b>	<b>102,753</b>	<b>108,642</b>
Bentonite clay		-	1	1	1	1	0.3
Coal		20,067	22,947	27,293		27,437	N.A.
Marble (unprocessed)		-	54	68	75	81	57
Salt (from sea water)		6,187	7,915	8,460		10,973	N.A.
Silica Sand	MT	26	45	51	58	75	N.A.
Sand and Gravel	Cu. M	12,043	16,981	19,065	20,358	27,276	N.A.
White Clay	MT		5	6	7	8	N.A.
For cement manufacture: Limestone	MT	4,953	6,806	7,660	7,613	3,430	3,793
Shale Clay	MT	208	272	314	354	232	205
Silica Sand	MT	62	96	111	127	93	33
Others		2,039	33,507	3,047	3,307	4,013	2,039
<b>Total, Non-metallic mining</b>		<b>45,585</b>	<b>88,629</b>	<b>66,076</b>	<b>31,900</b>	<b>73,619</b>	<b>6,128</b>

Sources for 2012-2016 Data: PSA and MGB

Source of Basic Data for 2017: MGB

In terms of volume, metallic mineral production continued to be dominated by nickel ore and other nickel products. Among non-metallic minerals, limestone used for the manufacture of cement is produced heavily.

Table 10. Summary of production volume in the mining sector, 2012-2017 (in thousand units)

Product	Unit used	2012	2013	2014	2015	2016	2017
Gold	KG	15	17	18	21	23	23
Silver	KG	49	40	23	30	34	32
Copper Concentrate	DMT	268	376	349	337	336	280

Nickel (Direct Shipping Ore)	DMT	25,134	25,489	33,574	32,567	24,653	23,351
Nickel Metal Equivalent	MT	-	287	405	418	296	315
Mixed Nickel- Cobalt Sulfide	DMT	41	46	87	89	79	88
Nickel Sulfide Metal Equivalent	MT	-	26	51	52	46	51
Zinc Concentrate	DMT	40	37				
Metallurgical Chromite Concentrate	DMT	37	26	47	16	26	21
Iron Ore	DMT	1,148	793	154	42	7	0
Bentonite clay	MT		3	3	3	3	1
Coal	MT	9,600	10,732	12,406		12,087	N.A.
Marble (unprocessed)	Cu. M		20	24	26	36	91
Salt (from sea water)	MT	775	993	1,016		1,239	N.A.
Silica Sand	MT	260	429	467	525	693	N.A.
Sand and Gravel	Cu. M	66,664	90,300	100,908	106,425	121,654	N.A.
White Clay	MT		18	19	21	26	N.A.
For cement manufacture: Limestone	MT	51,739	71,105	75,259	81,183	9,916	70,942
Shale Clay	MT	2,981	4,173	4,688	5,165	3,691	2,265
Silica Sand	MT	361	545	588	657	513	316
Others							

Sources for 2012-2016 Data: PSA and MGB

Source for Basic Data for 2017: MGB

As noted above, most of the non-metallic minerals mined in the Philippines are used for domestic purposes. Thus, they account for only around 5% of mineral exports, as shown in the table below.

Around 95% of mineral exports are metallic. These almost doubled from US\$2.35 billion in 2016 to US\$ 4.28 billion in 2017. Gold increased exponentially from US\$3 million to US\$1.1 billion. Copper metal increased more than ten-fold from US\$125 million to US\$1.27 billion. Data for nickel ore exports is included with other ores and concentrates in Other Metals so it is not possible to see its value.

Table 11. Exports of metallic and non-metallic mineral products, 2011-2017 (in million US\$)

	2011	2012	2013	2014	2015	2016	2017
Total, Metals	2,840	2,337	3,412	4,038	2,853	2,350	4488
Copper concentrates	337	244	443	569	599	527	370.13
Copper metal	1,212	505	642	462	381	125	1269.989
Gold	214	108	67	34	110	3	1116.58
Iron ore	63	86	113	119	117	107	61.25

agglomerates							
Chromium ore	8	8	15	6	4	6	6.95
Nickel	0	0.001485	0.068291	0	0	0	0.064927
Other metals	1,005	1,386	2,131	2,850	1,643	1,582	1460.24
Non-metallic mineral manufactures	177.02	144.94	203.68	326.81	176.93	154.43	202.34

Source: PSA

With the 82% increase in the value of metallic mineral exports, the share of mineral exports in total Philippine exports reached 6.53% in 2017, a big improvement from only 4.36% in 2016 and 5.15% in 2015. The 2017 export performance is close to the 7.03% share achieved in 2014.

The table below summarizes the export data provided by the PH-EITI participating mining companies. It presents a picture of the mineral products being exported and the countries that import them.

Table 12. Summary of export data, per ore and destination, 2017

Ore	Destination	In PHP	In US\$	Percentage
Chromite	China	254,976,509.00	5,060,132.00	
		254,976,509.00	5,060,132.00	0.33%
Copper	Japan	10,722,856,935.00	212,420,992.00	
	China and Japan	13,274,908,701.02	263,371,607.61	
	Japan and Korea	7,389,753,141.00	146,622,086.00	
		31,387,518,777.02	622,414,685.61	40.10%
Gold	Australia	3,137,082,144.01	62,239,099.00	
	Hong Kong	4,270,428,326.21	84,294,067.11	
	India	844,974,654.50	16,781,285.26	
	China and Hong Kong	5,528,645,730.00	109,722,499.75	
	India and Switzerland	2,303,458,763.00	45,667,823.50	
		16,084,589,617.72	318,704,774.62	20.55%
Nickel	China	18,857,879,453.47	373,638,765.52	
	China and Japan	11,151,776,146.31	221,385,442.68	
	Hong Kong, Japan, Singapore	541,290,061.57	10,692,319.07	
		30,550,945,661.35	605,716,527.27	39.03%
Grand Total		78,278,030,565.09	1,551,896,119.50	100%

Source: Reporting templates submitted by mining companies

## B. Revenue Contribution

Reconciled government collections from the large-scale mining sector - metallic and non-metallic, amounted to Php 9.5 billion bulk of which was collected by national government agencies with BIR collected 77% of total followed by LGUs accounting for 12% of total.

Table 13. Disaggregation of payments paid by the mining sector per government agency, 2017

Agency	Reconciled – Metallic mining	Reconciled – Non-metallic mining
BIR	5,395,334,169	1,874,096,832
BOC	34,273,994	15,457,597
DOE	-	-
LGU	761,990,673	397,457,635
MGB	854,480,492	-
NCIP	158,459,673	-
<b>Total</b>	<b>7,204,539,001</b>	<b>2,287,012,064</b>

## C. Social and Environmental Spending

Mandatory social and environmental expenditures of participating large-scale mining companies totaled Php 2 billion for fiscal year 2017 which is about 22% of reconciled mining revenues. Environmental expenditures or annual EPEP accounted for 59% of total followed by social spending or annual SDMP which accounted for 31% of total spending.

Table 14. Social and environmental spending by mining companies in 2017

Mandatory Funds and Expenditures	Reconciled Amount
Annual EPEP	1,226,660,354
Environmental Trust Fund - Actual expenditure	
Final Mine Rehabilitation and/ or Decommissioning Fund - Actual expenditure	
Mine Wastes and Tailing fees	2,301,414
Monitoring Trust Fund - Actual expenditure	151,538
Rehabilitation Cash Fund - Actual expenditure	4,020,000
Safety and Health Programs	195,368,841
Annual SDMP	
Social Development and Management (host and neighboring communities)	469,753,935
Information, Education and Communication (IEC)	110,344,116
Mining Technology and Geosciences advancement	64,880,741
Subtotal	
<b>Total</b>	<b>2,073,480,939</b>

## D. State Participation

The Philippine Mining Development Corporation (PMDC) is a government-owned and controlled corporation (GOCC) that was organized under the Corporation Code of the Philippines and registered with the Securities and Exchange Commission (SEC) in 2003. PMDC was initially set up to conduct exploration and mining operations in designated areas such as the Mt. Diwalwal Gold Rush area. However, because of the limited financial resources on the part of its GOCC stockholders, the PMDC changed its business model from being a miner/operator to a royalty business scheme. It acts more like the Privatization and Management Office (PMO) under the DOF which bids out government assets to the private sector but PMDC specializes in mining-related assets. Thus, the DOF-PMO turned over two mining assets with commercial potential to the PMDC. However, one of them is under suspension and the other one has technical issues and is under litigation.

The second set of mining assets transferred to the PMDC were 65 cancelled mining tenements all over the Philippines. DENR Memorandum Order Nos. 2005-03 and 2005-13 dated February 1, 2005 and August 5, 2005, respectively, were the basis for the cancellation of the mining tenements and subsequent transfer to PMDC for the latter's diligence and marketing efforts. PMDC collates and compiles all the technical and other relevant data available in government databases, offers the areas to investors for their own evaluation and business assessment, and then conducts public biddings in accordance with the Procurement Law. The highest responsive offer is then selected for award, after review by PMDC management and its Board of Directors. Twenty-two of these have been awarded, of which only two are in the production stage.

The third set of assets are mineral reservations and other designated mining areas. Pursuant to DENR DAO 2003-38 and a Memorandum of Agreement among the DENR, PMDC and Natural Resource Development Corporation (NRDC), PMDC had been designated as the implementing arm of the DENR in undertaking the mining and mineral processing operations in the 8,100-hectare Diwalwal Mineral Reservation Area (DMRA) located in the municipality of Monkayo, Compostela Valley Province. While the mining operations are undertaken by contractors, PMDC is still responsible for addressing the environmental, health, social and economic well-being of the occupants of the area numbering around 15,000 families, rationalizing the mining and mineral processing operations in the reservation for greater efficiency, and providing adequate environmental protection and mine rehabilitation measures.

In 2017, in line with these mandates and in response to the call of President Rodrigo Duterte to address the environmental problems caused by the proliferation of illegal small-scale miners in DMRA, the PMDC issued Cease and Desist Orders (CDOs) to the ball mill operators and Carbon in Pulp (CIP) plant owners and relocated them near the Mabatás Tailings Dam so that they can use this and avoid polluting the water bodies in the area. PMDC constructed the road network leading to the relocation site, in coordination with the concerned LGUs. PMDC also constructed a water system in the relocation site as part of its Corporate Social Responsibility (CSR) programs.

As of 31 December 2017, PMDC had authorized and paid up capital of PhP125m, 44% of which is held by the NRDC, 36% by the Philippine National Oil Company (PNOC), and 20% by the National Development Corporation (NDC), all GOCCs themselves. The NDC had put in the additional PhP25 million capital in 2005. NDC also gave a PhP25 million loan in 2005 and another PhP25 million loan in 2006. The uses and restructuring of the loans from NDC and a PhP50 million loan from the Development Bank of the Philippines (a government financial institution) were described in detail in the second PH-EITI report. The sources of PMDC's initial authorized capital stock of PhP100 million were discussed in the first PH-EITI report

In 2017, PMDC reported a comprehensive loss of PhP8 million. In 2016, it had managed to have a net income of close to PhP2.5 million. In both years, royalty fees were around PhP50 million, less than half of the PhP110 million in royalty fees collected in 2015, when net income of PhP40 million was earned. The royalty fees have all been from the Dinagat Nickel and Chromite Project - Parcel 1 (Loreto) and Parcel 2B (Libjo and Basilisa areas). The other projects of PMDC are still in the exploration stage and do not pay royalty fees yet. Annex A gives the status of the ongoing projects of the PMDC.

PMDC used to earn commitment fees from mining tenements for the privilege to explore/study the mining potential of the awarded areas. In 2012 and 2013, around PhP5.9 million and PhP4.9 million, respectively, were collected. In 2014 and 2015, close to PhP1.2 million and PhP1.3 million, respectively, were received from mining tenements. In 2016 and 2017, no commitment fees were collected since no new tenements were awarded. In 2018, commitment fees have been received from the new contractor in the Diwalwal Mineral Reservation Area. The DENR is in the process of identifying new projects or areas that it can turn over to PMDC for marketing and bidding out.

Table 15. PMDC Income and Revenues, 2012-2017

	2017	2016	2015	2014	2013	2012
Income (Loss)	(8,083,830)	2,494,975	40,295,067	62,992,912	53,769,166	15,347,434
Royalty Fees	50,035,511	50,472,089	109,914,866	134,458,778	125,688,674	77,187,769
Commitment Fees	0	0	1,288,000	1,188,000	4,892,857	5,839,286

Source: Audited Financial Statements of PMDC

In 2017, PMDC conducted a review of the 26 Joint Operating Agreements (JOAs) that were still in the exploration stage. After the review, 16 projects were cancelled. The status of the cancellation process for these projects is given in Annex B.

PMDC continued to pursue its CSR activities in 2017, focusing on the direct stakeholders of DMRA in Mt. Diwata, Monkayo, Compostela Valley. The table below enumerates the social programs undertaken for their benefit. A sex-disaggregated survey was also conducted in both Compostela Valley and Dinagat Islands.

Table 16. CSR activities of PMDC in 2017

Area/location	Social program
Compostela Valley	Monthly rice and meat subsidy to the Philippine National Police (PNP) and Armed Forces of the Philippines (AFP) stationed at DMRA
	Financial assistance for barangay activities
	Information, Education and Communication (IEC) activities and materials on responsible mining in the 4 DMRA barangays
	Participation in the LGU's "Serbisyo Caravan" including free legal services, business consultations and a seminar on cacao farming
	Conduct of a census on households in Mabatás Mineral Processing Area for future delivery of CSR projects
	Water system for Mabatás CIP plant and ball mill owners
	Conduct of a Sex- Disaggregated Survey
Dinagat Islands	Conduct of a Sex-Disaggregated Survey

Source: 2017 Annual Report of PMDC

## E. State of the Industry

### 1. Policy Reforms and Issuances

#### DAO 2018-20

On August 17, 2018, the DENR issued DAO 2018-20 to provide standards for the evaluation and approval of the Three-Year Development/Utilization Work Program (3YD/UWP) that all mining operators need to submit to the MGB on a regular basis. The 3YD/UWP should be consistent with the project's approved feasibility study, the terms and conditions of the mining contract, and relevant provisions of mining laws, rules and regulations. It should also provide a detailed description of the course of every phase of mining operation covering a three-year mining cycle within the term of a mining license. All these, together with the MGB Standard Monitoring Checklists on Mining Tenements, will form the bases for an efficient monitoring system.

#### DAO 2018-19

After a series of consultations with COMP and other mining industry stakeholders and in line with directives from the President of the Philippines to regulate mining operations towards sustainable development, the DENR also issued DAO 2018-19 on August 17, 2018. It provides new environmental policies that will ensure sustainable environmental conditions at every stage of a mining operation and minimize the disturbed area of a mining project at any given time. Considering that mining is a temporary use of land, mine rehabilitation work should be done in cycle with mining operations in a progressive and sustainably engineered manner. Through timely and proper management of the topsoil and subsoil, the negative impacts of mining can be reduced and the land ready for optimal use after mining operations have ceased.

For nickel mines, maximum disturbed areas were specified depending on the scale of the mining operation. Areas beyond the maximum have to undergo temporary revegetation or progressive rehabilitation immediately. The areas for revegetation or rehabilitation have to be clearly defined in the pertinent 3YD/UWP and Environmental Protection and Enhancement Program (EPEP). All contractors have to post an annual Performance Bond of five million pesos to guarantee compliance with this requirement. The bond shall be forfeited for failure to comply fully and shall be used for the initial implementation of the required revegetation or rehabilitation. Financial and non-financial penalties are prescribed for the first, second and third offenses. The latter is to be penalized by cancellation of the mining license and permanent disqualification of the contractor from acquiring mining rights and operating mining projects.

#### DAO 2018-18

On August 15, 2018, the DENR issued DAO 2018-18 to establish a centralized management and coordinative mechanism at the regional offices of the DENR and its two bureaus, the MGB and the Environmental Management Bureau (EMB). It designates the DENR Regional Director (RD) as the Regional Executive Director (RED) who shall have overall command of regional operations, including those of MGB and EMB, to enforce environmental laws, rules and regulations. The Regional Executive Committee (Execom) shall be composed of the DENR RED, the DENR Assistant Regional Directors, MGB Regional Director and EMB Regional Director.

On mining-related matters, the Regional Execom serves as a venue to discuss the following: (a) issues and updates on policies and guidelines involving administration and disposition of mineral lands and mineral resources such as issuance of area clearance; (b) issues and updates on MGB

permitting issuances such as EPs, Ore Transport Permits (OTPs), and mineral agreements; (c) enforcement and operational issues including potential political and social impacts of mining activities, environmental concerns, violations of mining companies, conflicts involving LGUs; and (d) other related policy matters involving enforcement of mining laws, rules and regulations.

DAO 2018-18 also authorizes the DENR RED, Assistant RD for Technical, Provincial Environment and Natural Resources Officer (PENRO) and Community Environment and Natural Resources Officer (CENRO) to police mining activities and to arrest offenders and confiscate/seize illegally-sourced mineral products and the tools and equipment used in illegal mining, in close coordination with MGB. Pursuant to Section 67 of RA 7942, the MGB Regional Director has the power to issue orders requiring mining companies to remedy any practice that violates safety or anti-pollution laws and regulations. In case of imminent danger to life or property, the MGB RD can summarily suspend mining or quarrying operations until the danger is removed or appropriate measures taken by the mining company.

In addition, the PENROs and CENROs shall provide additional manpower and technical support to the MGB Regional Offices in monitoring compliance of mining companies with environmental laws, rules and regulations to ensure attainment of the environmental protection objectives of the 1995 Philippine Mining Act. These environmental laws whose implementation and enforcement is led by the EMB include PD 1586 that established the Philippine Environmental Impact Statement (EIS) System, RA 6969 or the Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990, RA 8749 or the Clean Air Act of 1999, RA 9003 or the Ecological Solid Waste Management Act of 2000, and RA 9275 or the Clean Water Act of 2004.

#### DAO 2017-08

On March 15, 2017, the DENR issued Guidelines in Operationalizing the Transition of the DENR's Programs and Projects into Green Economy Models (GEM). Through DAO 2017-08, the DENR recognizes labor as a primary social economic force in promoting sustainable development. Green jobs are to be encouraged to accelerate the rehabilitation of degraded ecosystems and promote the protection of the environment. The DAO covers all development and rehabilitation activities in all the mining, forest and coastal areas or the ridge-to-reef ecosystems under the DENR. Programs covered include the Enhanced National Greening Program, Bamboo Plantation Program, Mangrove Rehabilitation Program, Mining Rehabilitation, Pollution Mitigation, Ecotourism Activities, Sustainable Coral Reef Ecosystems Management Program and Coastal and Marine Environment Management Program.

All interested households living within and adjacent to existing and potential project sites may join and group themselves into Community Enterprises. They can choose to be involved in any of the above-cited DENR programs. A Community Enterprise Focus Group Discussion will be conducted to identify the market for their product and how costs and benefits are to be distributed equitably. A Community Management Service Center (CMSC) will be organized to provide management and administrative support for the Community Enterprises.

#### DAO 2017-07

On March 10, 2017, the DENR issued DAO 2017-07 requiring all mining contractors to participate in the PH-EITI in accordance with the requirements set by the PH-EITI MSG. The DAO also directs the MGB and the EMB to disclose all information requested by PH-EITI in a timely manner. Failure to comply may result in suspension of the pertinent Environmental Compliance Certificate (ECC) and non-issuance of ore transport and/or mineral export permits. The MGB has also included EITI reporting in its monitoring checklist and scorecard. The issuance of DAO 2017-07 has led to almost

100% compliance of large metallic mining companies with the data reporting requirements of PH-EITI for 2017.

### DENR Suspension/Closure Orders and Review by MICC

On November 12, 2018, the DENR issued its resolution of the motions for reconsideration (MRs) submitted to it by 13 mining companies. Of the 13, 11 had been ordered for closure while two were ordered suspended. Of the two ordered suspended, Palawan-based Berong Nickel Corporation, a subsidiary of Consunji-led DMCI Holdings Inc. passed the mining audit. The other, Cebu-based Strong Built Mining Development Corporation, would remain suspended. Of the 11 ordered for closure, eight would be suspended while the closure order was confirmed for the remaining three.

The decisions were based on the audits conducted by the DENR and MICC. In August 2018, the Mining Industry Coordinating Council (MICC) had completed its audit report on 27 mining sites that had been ordered closed or suspended by former DENR Secretary Regina Paz Lopez in line with DENR Memorandum Order 2016-01. The DENR then harmonized the MICC audit report with the findings of the technical audit completed by DENR in February 2017. The MICC audit was conducted by a multi-stakeholder team or Technical Working Group (TWG) with the assistance of technical review teams (TRTs) that looked into the environmental, economic, social, legal and technical aspects of the mining operations. The TRTs were composed of independent experts from different fields, including some from the private sector.

As of October 2017, 14 of the 23 mining companies ordered for closure were operating. These 14 companies are located in the Dinagat Islands and Surigao. The nine other companies located in Zambales, Homonhon, Benguet and Bulacan were not operating.

Table 17. Status of Mining Companies Ordered for Closure

Location	Companies	Status	DENR Order 12 Nov 2018
<b>Benguet</b>	Benguet Corporation	Not Operating	
<b>Bulacan</b>	Ore Asia Mining and Development Corp.	Not Operating	Closure
<b>Zambales</b>	BenguetCorp Nickel Mines, Inc.	Not Operating	
	Eramen Minerals, Inc.	Not Operating	
	Zambales Diversified Metals Corp.	Not Operating	Suspension
	LNL Archipelago Minerals, Inc.	Not Operating	
<b>Eastern Samar</b>	Mt. Sinai Mining Exploration and Development Corp.	Not Operating	Suspension
	Emir Minerals Corp.	Not operating	Suspension
	Techiron Mineral Resources, Inc.	Not Operating	
<b>Dinagat Islands</b>	AAM-Phil Natural Resources Exploration and Development Corp.	Operating	Suspension
	Krominco, Inc.	Operating	Suspension
	Sinosteel Philippines H.Y. Mining Corp.	Operating	
	Oriental Synergy Mining Corp.	Operating	Closure
	Wellex Mining Corp.	Operating	Suspension
	Libjo Mining Corp.	Operating	Suspension
	Oriental Vision Mining Phils. Corp	Operating	
<b>Surigao del Norte</b>	Adnama Mining Resources Corp.	Operating	
	Claver Mineral Development Corp.	Operating	Closure
	Platinum Group Metals Corp.	Operating	

	Hinatuan Mining Corp.	Operating	
<b>Surigao del Sur</b>	Carrascal Nickel Corp.	Operating	Suspension
	Marcventures Mining and Development Corp.	Operating	
	CTP Construction and Mining Corp.	Operating	

Source: MGB

The mining companies whose MRs had been resolved by the DENR on 12 November 2018 may still file an appeal with the Office of the President (OP). The cases of the mining companies who had filed appeals directly with the OP in 2017 are still pending with the OP, except for Lepanto Consolidated Mining Corp. whose suspension was lifted by the OP in October 2017. Twelve companies had been ordered for closure (shown in the table above) and two companies remain suspended. These are OceanaGold Philippines and Citinickel Mines and Development Corporation.

### Minahang Bayan

The DENR has stepped up its processing of applications for Minahang Bayan or People's Small-Scale Mining Area (PSSMA) as they are referred to in RA 7076 or the People's Small-Scale Mining Act. This is to facilitate compliance with the law which states no small-scale mining activities should take place outside a declared PSSMA. Whereas only one Minahang Bayan has been declared per year since the issuance of the revised IRRs or DAO No. 2015-03 on 16 March 2015, seven were declared in 2018. This is shown in the table below.

Table 18. Declared Minahang Bayan as of 2018

Location/Region	Proponent	Commodity	Area (has)	Approval Date
Brgy. Manlana, Buenavista, Quezon, IV-A	Manlana Small-Scale Miners Association	Gold	332	1999-10-12
Brgys. Tinago, Pinanaan, Jaboyoan, Lahong Interior in Aroroy, Masbate, V	Rodel Lim Panes	Gold	334	2018-03-13
Brgy. Casalugan, Paracale, Camarines Norte, V	Sangguniang Bayan of Paracale, Camarines Norte	Gold	26	2018-09-17
Brgy. Malaya, Labo, Camarines Norte, V	Magkamatao Small Scale Miners Association (MSSMA)	Gold	73	2018-10-02
Brgy. Igcagay, Libertad, Antique, VI	MGB Regional Office No. VI	Silica/Quartz	54	2018-02-20
Brgy. Waso, Llorente, Eastern Samar, VIII	Waso and Binalay Small-Scale Mining Producers Association	Chromite	80	2015-12-18
Brgy. Maputi, Banaybanay, Davao Oriental, XI	Development Community Mining Livelihood Cooperative	Chromite	82	2016-01-28
Brgy. Pintatagan, Banaybanay, Davao Oriental, XI	Pintatagan Small-Scale Mining Producer Cooperative	Magnesite	71	2017-03-01
Brgy. Marayag, Lupon, Davao Oriental, XI	Matigdao Small-Scale Mining Producers Cooperative	Gold	81	2018-02-07
Brgy. Chua in Bagumbayan and Brgy. Bual in Isulan, Sultan Kudarat, XII	Provincial Government of Sultan Kudarat / Datu Jun K. Camsa	Gold	320	2018-03-14
Brgy. San Jose, Tubajon, Dinagat Island, XIII	Tubajon Peoples Small-Scale Mining Area/Provincial Government of Dinagat	Chromite	1,176	2009-12-02

Brgy. Bayugan 3, Rosario, Agusan del Sur, XIII	Masabong Village Small-Scale Miners Association	Gold	592	2012-09-12
Brgy. Del Pilar, Cabadbaran, Agusan del Norte, XIII	Small-Scale Miners and Mineral Processors of Del Pilar, Cabadbaran City, Agusan del Norte	Gold	20	2018-02-20

Source: MGB

At the same time, the DENR, under the leadership of Secretary Roy Cimatu, has been cracking down on illegal mining activities including illegal small-scale operations. A National Task Force Mining Challenge composed of officials of the DENR, the Philippine Army and the Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP) was launched in February 2018. Initial activities included the blasting of five mining portals near the Philippine Military Academy campus in Baguio City and 18 illegal mine tunnels in Tuba, Benguet.

The main concern of Secretary Cimatu has been the safety and welfare of the small-scale miners themselves since some of them use toxic substances and work and live in landslide-prone and other geohazardous areas. The risks were shown to be real when dozens of small-scale miners in Itogon, Benguet were killed by a landslide caused by typhoon Ompong in September 2018. Immediately after, Secretary Cimatu ordered the MGB to review all PSSMAs for geological hazards. For its part, the Philippine Mine Safety and Environment Association (PMSEA) has recommended the closure of all existing Minahang Bayan areas and suspension of the processing of new applications until the government amends its “ineffective” guidelines. More particularly, PMSEA recommends the institutionalization of a program that would enable big mining firms to work in coordination with the public sector and small-scale miners.

It should be noted that small-scale mining is the second biggest economic activity in the province of Benguet. There are around 23,000 small-scale miners and 70 associations or cooperatives. Around half of these are located in Itogon. To date, no Minahang Bayan has been declared in Benguet. As of September 2018, two sites in Benguet have submitted complete requirements for their Minahang Bayan application but neither one of them is in Itogon. The DENR is considering ways of helping applicants complete their application or of simplifying the application process.

### Pending Bills on Fiscal Regime

HB 8400 (An Act Establishing the Fiscal Regime for the Mining Industry) was passed by the House on Nov 12, 2018 and received by the Senate the following day. The bill seeks to impose royalties on all mining contractors in metallic and non-metallic operations, large-scale or small-scale, inside or outside mineral reservations. Royalty is imposed to compensate the State for the natural resources extracted during the mining process.

For mining contractors of large-scale metallic and non-metallic operations within mineral reservations, the royalty is 3% of gross output. Gross output is the actual market value of minerals or mineral products from one mining operation, without any deductions.

For large-scale metallic and non-metallic mining operations outside of mineral reservations, a royalty from 1% to 5% of the margin or ratio of income from mining operations before corporate income tax to gross output. Income from mining operations means gross output less deductible expenses such as mining, milling, smelting, refining, transport and handling costs; general and administrative expenses, expenses for environmental protection, social development and development of geosciences and mining technology, royalty payments to claim owners, continuing exploration and development costs, limited interest expenses, depreciation, amortization, taxes, duties, fees and charges.

For small-scale metallic or non-metallic miners, within or outside mineral reservations, the royalty is one-tenth (1/10) of one percent (1%) of gross output.

In addition to royalties, there is also a margin-based windfall profits tax on income from mining operations before corporate income tax from 1% to 10% for each taxable year. The 1% tax is applied when the margin is greater than 35% up to 40%. The 10% tax is applied when the margin is more than 80%.

HB 8400 contains a provision exempting mining contractors from the confidentiality clauses of the NIRC, as amended, to the extent of their participation in PH-EITI. Contractors for all metallic and non-metallic mining operations, large-scale or small-scale, are mandated to observe fiscal transparency and comply with the requirements of PH-EITI.

In the Senate, SB 1979 was filed by the Senate President. The bill seeks to impose the 5% royalty on gross output to mining operations outside mineral reservations in a graduated manner – 3% for the first three years after effectivity of the law, 4% on the 4<sup>th</sup> year and 5% on the 5<sup>th</sup> year and thereafter. Instead of the windfall profits tax, the bill seeks to impose an additional government share if the basic government share is less than 50% of the net mining revenue. Net mining revenue is gross output less deductible expenses. Basic government share includes all the national and local taxes paid and royalties given to indigenous peoples under contracts approved by the government.

When new legislation that rationalizes the fiscal regime in the mining industry has been enacted, the moratorium on new mineral agreements imposed under Executive Order No. 79 may be lifted.

#### Lifting of Moratorium on Exploration

When DENR Secretary Regina Paz Lopez issued DENR Memorandum Order 2016-01 on 8 July 2016 to order the audit of all operating mines, she also ordered a moratorium on the approval of new mining projects including those in the exploration stage. With the completion of the DENR audit of all operating mines, the moratorium on the acceptance, processing and/or approval of applications for Exploration Permits for metallic and non-metallic minerals was lifted by DENR Secretary Roy A. Cimatu through the issuance of DAO 2018-13 on 3 July 2018. The lifting of the moratorium was in line with the President's Economic Agenda, particularly on increasing competitiveness and ease of doing business to attract local and foreign direct investments to the country.

#### Draft Joint Circular on Facilitating Release of LGU Shares

A draft Joint Circular (JC) on "Enhanced Guidelines and Procedures on the Release of the Shares of LGUs in the Proceeds from the Development and Utilization of the National Wealth" has been prepared for issuance by DBM, DOF, DILG, DENR and DOE. The draft is the result of consultations and studies involving host/beneficiary LGUs, collecting and oversight agencies, mining and other natural-resource based companies, and local communities. The reforms embodied in the JC were strongly advocated by the Philippines Poverty Environment Initiative (PPEI), a collaborative programme of UNDP-UNEP and the Government of the Philippines with the DILG as implementing partner and DENR, DOE, DOF, DBM, NEDA and NAPC as collaborating agencies. The project ran from 2011 to 2018. In its 14 December 2018 meeting, the MSG decided to continue the PPEI's advocacy for the signing and implementation of the draft JC.

The JC covers the following proceeds from the development and utilization of National Wealth: forest charges collected by DENR, royalty income from mineral reservations paid to the DENR-MGB, excise tax on mineral products and other taxes on mining collected by the DOF-BIR and royalty income from energy resources production paid to the DOE.

The stated purposes of the draft JC are to make the process more expeditious and efficient and to enhance the level of transparency in the allocation and release of LGU shares in the proceeds from the development and utilization of the national wealth.

The SAGF is to be created by LGUs through a local ordinance. With the SAGF, LGUs will be in a better position to follow the prescribed uses of the funds specified in Sec. 294 of the LGC. Tracking of the actual uses of the funds will be made possible and these can be reported through the ENRDMT after it has been enhanced to capture the additional information that will be made available to the LGUs after the issuance of the draft JC.

For more expeditious and efficient release, the following are provided for:

1. Separate certification by BTr of amounts actually remitted by the collecting agency if the amounts shown in certification prepared by it are not fully validated by the Bureau of the Treasury (BTr);
2. Separate certification of actual LGU shares from prior years that did not have appropriation cover to be submitted by collecting agency to DBM for inclusion in the next General Appropriations Act (GAA); and
3. Release by DBM within 15 days after effectivity of pertinent GAA (down from 60 days under JMC 2009-1).

For more transparency in the allocation, release and utilization of LGU shares, the following are mandated:

1. All relevant information on the source and computation of an LGU's share from national wealth will be included in the certification prepared by the collecting agency and/or BTr for submission to DBM and in the Notice of Authority to Debit Account Issued (NADAI) to be given by BTr to the LGU. The information includes the types and sources of payment on a per company basis, specific types of revenue base, date of payment and exact place of extraction.
2. The beneficiary LGUs shall submit quarterly reports on fund utilization and status of program/project implementation to the DOF-Bureau of Local Government Finance through the Environment and Natural Resources Data Management Tool (ENRDMT) System, and to the BTr. The reports shall also be posted on the LGU's website within twenty (20) days from the end of each quarter, and in at least three (3) conspicuous public places in the locality. These are all in compliance with Constitutional and LGC provisions for transparency and accountability and consistent with the Full Disclosure Policy of the DILG.
3. The shares of the beneficiary LGUs shall be treated as a special account under the general fund (SAGF) of the LGUs to be utilized for programs and projects pursuant to Sec. 294 of the 1991 LGC.

The SAGF is to be created by LGUs through a local ordinance. With the SAGF, LGUs will be in a better position to follow the prescribed uses of the funds specified in Sec. 294 of the LGC. Tracking of the actual uses of the funds will be made possible and these can be reported through the ENRDMT after it has been enhanced to capture the additional information that will be made available to the LGUs after the issuance of the draft JC.

## 2. Overview of License Allocations

### a. License Allocations

#### Areas Open and Not Open to Mining

The 1995 Mining Act and its IRRs enumerate the areas that are open and not open to mining applications. A more comprehensive list of areas closed to mining, also called No Go Zones, was provided under EO 79 issued in 2012. A summary of these areas is found in the first and second PH-EITI reports.

#### License awarding or transferring procedures

The requirements and procedures for obtaining mining licenses vary slightly depending on the type of permit or agreement being applied for. These can be the Exploration Permit (EP), mineral agreement (MPSA, JVA or CA), or FTAA. Detailed information on the specific requirements may be found in the first PH-EITI report. The detailed narrative and flowchart of the license approval process is included in the second PH-EITI report.

Comparable to metallic mining, non-metallic mining will need to obtain an EP. All terms and conditions are similar except for the total term. For metallic mineral production, the maximum term of an EP is six years whereas the total term for non-metallic mineral production is four years. The procedures for approval of EPs were detailed in the second PH-EITI report.

Once exploration for metallic minerals is completed and successful, approval of a mineral agreement (MPSA, CA or JVA) or FTAA would be sought, depending on the area covered and the volume of production. The factors to be considered and the procedures were described in the second PH-EITI report.

Application for EP, mineral agreement or FTAA is allowed to be transferred or assigned subject to the approval of the Regional MGB Director concerned, taking into account the national welfare and interest. On the other hand, a holder of a granted EP, mineral agreement, or FTAA may transfer or assign its rights to another entity, subject to the approval of the MGB Director, DENR Secretary, or the President depending on the license being transferred or assigned. The processes and requirements for approvals, renewals, transfers, assignments or expansion of areas of MPSAs for metallic minerals were described in detail in the third and fourth PH-EITI reports.

After exploration for non-metallic minerals is completed and deemed successful, the permit to be obtained would depend on the type of non-metallic mineral to be extracted, removed, disposed and/or utilized. The specific permits granted for non-metallic mining are listed in the table below.

Table 19. Permits granted for non-metallic mineral production

Type	Description	Term	Area	Production
Quarry Permit	For the extraction of quarry resources on privately-owned land and/or public land for building and construction materials	5 years from the date of issuance and renewable for like period, but not to exceed a total term of 25 years	Covering an area of not more than 5 hectares	Production rate of not more than 50,000 tons annually and/or whose project cost is not more than PHP10m
Commercial Sand and Gravel (SAG) permit	For the extraction and removal of sand and gravel and other loose or unconsolidated materials which are used in their natural state, without undergoing processing	1 year from the date of issuance and renewable for like period	Covering an area of not more than 5 hectares	As specified in the permit
Industrial permit	SAG For the extraction and removal of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing	5 years from the date of issuance and renewable for like period, but not to exceed a total term of 25 years.	Covering an area of more than 5 hectares	Not applicable
Exclusive permit	SAG For the extraction and removal of sand and gravel and other loose or unconsolidated materials exclusive for personal use	Non-renewable period not exceeding 60 calendar days	Covering an area of not more than 1 hectare	Maximum volume of 50 cubic meters and provided that there will be no commercial disposition
Government gratuitous permit	For any government entity or instrumentality to extract quarry, SAG and other loose or unconsolidated materials needed in construction of building and/ or infrastructure for public use or other purposes over an area of not more than 2 hectares for a period coterminous with said construction	Coterminous with the construction state of the project, but not to exceed 1 year	Covering an area of not more than 2 hectares	No limitation, but an estimated volume needed should be indicated in the project proposal
Private gratuitous permit	For any landowner to extract, remove and utilize quart, SAG and other loose or unconsolidated materials from his/her land for personal use	Non-renewable period of 60 calendar days	Limited to the area privately owned provided there is proof of ownership	Not applicable
Gratuitous permit	guano For the extraction and utilization of loose unconsolidated guano and	As specified in the permit	Covering an area of not more than 5 hectares	Not more than 2,000 kg

Commercial guano permit	other organic fertilizer materials in any portion of a municipality where he has established domicile. The permit shall be for specific caves and/or for confined sites with locations verified by the DENR. Gratuitous guano permit is granted to an individual for personal use or to any government agency while a commercial guano permit is granted to a qualified person for sale or commercial disposition	As specified in the permit
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Gemstone gathering permit	A non-exclusive mining permit for the extraction, removal and utilization of loose stones useful as gemstones	1 year from the date of issuance and renewable for like period	Not applicable	Not applicable
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Except for Industrial SAG permits covering an area of more than 5 hectares, all applications for permits specific to non-metallic mining are accepted, processed and evaluated by the concerned Provincial/City Mining Regulatory Board (P/CMRB). Determination of administrative charges and fees will also be its responsibility. Processing of ISAG permit covering an area of more than 5 hectares is the responsibility of the MGB Regional Office.

The P/CMRB is chaired by the DENR Regional Director concerned or his/her duly authorized representative with the following as members:

- a. Provincial Governor/City Mayor or his/her representative as Vice Chair;
- b. Small-scale mining representative;
- c. Large-scale mining representative; and
- d. Department accredited environmental non-governmental organization representative.

The representatives from the private sector are nominated by their respective organizations and appointed by the DENR Regional Director.

### Technical and financial criteria used

Applications for mineral agreements are open to the following:

1. Filipino citizens
2. Corporations, partnerships, associations or cooperatives organized or authorized to engage in mining, provided the entity's capital is not more than 40% foreign-owned.

Corporations that do not have more than 40% equity foreign ownership are qualified to apply for EPs, MPPs, and MPSAs. Applicants for EPs, Mineral Agreements and FTAs must possess the technical and financial capability to undertake mineral resources development and must be duly registered in accordance with law.

There have been no significant changes in the license awarding and transferring procedures described in the first and second PH-EITI reports. Details on the technical and financial criteria used are also discussed in the second report.

## Information on the recipients of the licenses awarded or transferred

### *Exploration Permit (EP)*

#### EP Permits awarded

Following the MICC approval of MGB's adoption of the "No-Go Mining Zone Map", the MGB lifted its moratorium on the issuance of EPs and FTAA's in March 2014 through DAO No. 2013-11. Table 22 lists the EPs that were awarded in 2017.

Table 20. List of EPs awarded in 2017

No.	Holder	Tenement No.	Location	Region	Area (Has)	Commodity	Date of approval	Date of expiration
1	T.Q.G.T. Mineral Resources Devt. Corp.	EP 000001-2017-XI	Gov. Generoso & Mati, Davao Oriental	Region XI	4078.80	Chromium, Nickel, etc.	23 February 2017	22 February 2019
2	All-Acacia Resources Corp.	EP-000232-XIII	Mabuhay, Sison, Surigao del Norte	Region XIII	899.38	Gold, etc.	20 July 2017	19 July 2019

Source: MGB

No EPs were transferred or assigned in 2017.

### *Mineral Production Sharing Agreement (MPSA)*

In 2017, no MPSAs were approved, renewed, transferred, assigned or areas expanded.

As of date, the expansion of contract areas for 24 MPSAs have been approved. For the 20 approvals between 14 July 2015 and 27 June 2016, the order has been officially released. For the four that were approved on 28 or 29 June 2016, the orders have not yet been officially released, per the MGB. The details of the approvals can be found in Annex C.

### *Financial or Technical Assistance Agreement (FTAA)*

Similar to MPSA, there were no new FTAA's approved in 2017.

## Identified deviations from the applicable legal and regulatory framework governing license transfers and awards

There are no identified deviations with respect to the regulatory requirements that applicants need to comply with in terms of license applications or granting of awards. The permit applicants undergo the necessary procedures and must submit the required documents for the applications to be approved.

## Legal and practical barriers to comprehensive disclosure

The first PH-EITI report included a comprehensive discussion on constitutional provisions that deal with concepts of public disclosure, information and participation. The second PH-EITI report presented the relevant laws governing public disclosure in the mining industry.

It was noted in the second PH-EITI report that MGB maintains a list of all approved mining permits/contracts in its website and includes the following information:

1. Permittee/Contractor
2. Contact information
3. License reference number
4. Location
5. Area
6. Commodity
7. Date of approval
8. Date of expiry

However, the MGB's list does not include information about the date of application and the coordinates of the license area. It was recommended that MGB also include these information in the register and for it to be accessible by the public via the agency's website. As a response, the MGB has designed and implemented the Central Database System, as discussed in the Ongoing Reforms section.

The dates of application are, for the meantime, obtained from the MGB Regional Offices and are listed in Annex D. However, there are five mining licenses without dates that could be retrieved or provided based on existing or available records. Also, coordinates of the licensed areas were lifted from the signed contracts and are presented in Annex E. The contracts are accessible as well at [contracts.ph-eiti.org](http://contracts.ph-eiti.org).

## Efficiency and effectiveness of these systems

The Mining Tenements Management Division of MGB receives numerous applications for mining permits/licenses which need to be processed within the required timeline, including those applications that are still under appeal. However, due to the limited manpower resources available, the processing of these requests could be delayed, which may result in a backlog of pending applications from various stakeholders. As of date, there have been no significant changes in the streamlining of the process.

## Summary of information on mining permits

The comprehensive lists of licenses (i.e. EPs, MPSAs, FTAAAs, ISAGs) are shown in Annexes I to L. As confirmed by the MGB, the date of approval indicated on the list of existing licenses is the effective date of the respective contracts.

### *Exploration Permits (EP)*

As of October 2017, there are 22 existing EPs covering a total land area of 38,977 hectares. These are composed of the 2 EPs granted in 2017, 17 granted in 2016, two granted in 2015 with pending renewal application and one granted in 2014. Details are in Annex F.

Nine of the country's regions have existing EPs. Region II (Cagayan Valley) and III (Central Luzon) have the most number of EPs, with four and six, respectively. Majority of EPs (13 out of 22) have gold and copper as their potential commodities, covering as well the biggest land area (refer to graph below). Other commodities covered by EPs include chromite, silver, manganese, nickel, cobalt, iron, and platinum.

#### *Mineral Production Sharing Agreement (MPSA)*

Through the years, a total of 348 MPSAs have been awarded. As of October 2017, 313 are still existing including including 2 mining lease contracts converted into MPSAs and 6 that have been suspended. The 313 MPSAs cover 599,013 hectares with 233,294 hectares in Luzon, 106,112 in Visayas, and 259,606 in Mindanao.

There are also eight MPSAs that are expired, ten cancelled with motion for reconsideration, nine cancelled, 6 consolidated with other mining tenements and two relinquished. The areas covered are presented in table below. Details on the 348 MPSAs may be found in Annex G.

Table 21. Status of Mineral Production Sharing Agreements in the Philippines as of 31 October 2017

	<b>No. of MPSAs</b>	<b>Area (in ha)</b>
Existing	305	583,319.25
Expired	8	8,409.97
Mining Lease Contracts through conversion into a MPSA	2	2,486.58
Suspended	6	13,207.38
Cancelled MPSA with motion for reconsideration	10	13,101.99
Cancelled	9	6,474.75
Consolidated with other mining tenements	6	-
Relinquished	2	254.96
<b>Total</b>	<b>348</b>	<b>627,254.88</b>

Source of Basic Data: MGB

#### *Financial or Technical Assistance Agreement (FTAA)*

A total of six FTAA's covering a total land area of 112,518 hectares have been approved. However, one was cancelled on July 6, 2011. The five existing FTAA's cover 100,136 hectares. Two of the five, OceanaGold (Philippines), Inc. and FCF Minerals Corporation, are under commercial operation. The rest are either under development or exploration. Refer to Annex H for the list of existing FTAA's.

#### *Industrial Sand and Gravel (ISAG)*

There are 57 existing ISAG permits as of October 2017 with a total land area of 717 hectares. The complete list of existing ISAG permits may be found in Annex I.

### 3. Overview of Contracts and Exploration Activities

As of October 2017, there are 313 existing MPSAs, five existing FTAA's and 22 EPs. Their regional distribution and land area coverage are shown in the table below.

Table 22. Number of Mining Tenements existing as of October 2017

Region	Mineral Production Sharing Agreement		Financial or Technical Assistance Agreement		Exploration Permits	
	Number	Land Area (Has)	Number	Land Area	Number	Land Area
Cordillera Administrative Region	10	14,594.07			2	1,980.93
I - Ilocos Region	15	18,428.73	1	9,588.24		
II - Cagayan Valley	7	58,890.80	2	15,957.51	4	3,190.49
III - Central Luzon	38	51,284.49			6	15,320.44
IVA - CALABARZON	35	21,806.52				
IVB - MIMAROPA	17	40,229.63	1	46,050.65		
V - Bicol Region	29	28,060.09			2	5,729.11
VI - Western Visayas	16	29,920.43				
VII - Central Visayas	36	24,744.60			1	844.01
VIII - Eastern Visayas	19	51,447.31				
IX - Zamboanga Peninsula	14	46,433.39			1	932.20
X - Northern Mindanao	7	2,396.46			2	3,212.76
XI - Davao Region	17	63,258.32	1	28,539.68	1	4,078.80
XII - Central Mindanao	5	17,439.37				
XIII - Caraga	48	130,078.99			3	3,688.18
<b>Total</b>	<b>313</b>	<b>599,013.21</b>	<b>5</b>	<b>100,136.08</b>	<b>22</b>	<b>38,976.92</b>

Source: MGB

Mining companies with projects inside ancestral domains of Indigenous Peoples (IPs) have to first get their Free Prior and Informed Consent (FPIC) before they can be allowed to operate. The companies also have to enter into a formal and written agreement with the IP communities concerned. Details of the processes for obtaining these approvals and agreements were presented in the first PH-EITI report. The table below lists the companies with existing agreements with IP communities and the regions in which they are located.

Table 23. Mining Companies with MOAs with IP Communities

Region	IP	Company	Contractor/Assignor
CAR	Ibaloi/Kankanaey	Philex Mining Corporation	
IV-B	Palaw'an	Rio Tuba Nickel Mining Corp	
IV-B	Tagbanua/Palawano	Citnickel Mines and Development Corp	
IV-B	Tagbanua	Berong Nickel Corporation	
IX	Subanon	TVI Resource Development Phil., Inc.	
IX	Mansaka	Apex Mining Company, Inc.	
XIII	Mamanwa	Taganito Mining Corporation	
XIII	Manobo	Philsaga Mining Corp.	

XIII	Mamanwa and Manobo	SR Metals, Inc.	
XIII	Mamanwa and Manobo	TVI Resource Development Phil., Inc.	Minimax Mineral Exploration Corporation
XIII	Mamanwa and Manobo	Marcventures Mining and Dev. Corp	
XIII	Manobo	Carrascal Nickel Corporation	
XIII	Mamanwa	Adnama Mining Resources, Inc	Oriental Synergy Mining Corp.
XIII	Mamanwa	Platinum Group Metals Corp.	Surigao Integrated Resources Corporation
XIII	Mamanwa	Greenstone Resources Corp.	

Source: NCIP

### III. Oil and Gas Industry

#### A. Economic Contribution

It can be seen from Table 1 that the direct contribution of the oil and gas sector to GDP was 0.20% in 2017, just as it had been in 2016 and 2015. In 2014, it had been much higher at 0.31%. It can be observed from Table 26 that oil production in the Galoc field hit its peak in 2014. Since then, production has been declining due to the normal depletion of the existing wells. Production dropped by 23% from 2014 to 2015, by 17% from 2015 to 2016 and then by 25% from 2016 to 2017. New wells have been drilled and the results being evaluated to assess their commercial viability. The big drop in the production of North Matinloc was caused by the temporary cessation of drilling starting in April 2017.

Table 24. Domestic Production of Oil, 2012-2017 (in billion barrels of oil, bbl)

Source	2012	2013	2014	2015	2016	2017
Total, Oil	1,637,548	1,883,834	3,078,684	2,409,746	2,013,556	1,532,534
Nido	73,720	84,463	79,114	71,147	53,646	55,789
Matinloc	70,631	66,279	69,827	70,716	72,745	65,326
North Matinloc	10,533	10,029	8,865	8,362	9,122	2,586
Galoc	1,482,664	1,723,063	2,920,878	2,259,521	1,878,043	1,408,834

Source: DOE and PSA

Table 25. Domestic Production of gas, 2012-2017 (million cubic feet of gas)

Source	2012	2013	2014	2015	2016	2017
Total, Gas	134,491	123,866	130,316	122,527	140,398	138,497
Malampaya	134,491	123,866	130,316	122,527	140,398	138,497

Source: DOE and PSA

After consecutive declines in the value of Philippine exports of petroleum products since 2013, a 40% increase was attained in 2017 because of high international demand for fuel oil and petrochemical products such as propylene, mixed xylene, and benzene. Exports of these products more than offset the decline in sales of oil from the Galoc field, condensate and naphtha.

Table 26. Exports of oil and gas, 2011-2017 (FOB in million US\$)

	2011	2012	2013	2014	2015	2016	2017
Petroleum products	647.75	465.05	843.16	445.72	313.84	282.11	395.62

Source: Foreign Trade Statistics, PSA

The indirect contributions of the oil and gas sector are much more significant and some are intangible, foremost of which is energy security. Before the Malampaya Gas Project started producing enough gas to generate around 2,700 megawatts of electricity, the Philippines was almost totally dependent on imported oil and coal for its power generation needs. In addition to the risks involved in procuring the necessary supplies, there were also the risks arising from the fluctuations in world prices and the foreign exchange rate. Both risks could lead to spikes in inflation and its dampening effect on the real levels of consumption and production. With the domestic production of gas and oil, the Philippines attained a higher level of energy independence and more insulation from world oil price shocks and other turbulence in international energy markets. With natural gas being a cleaner fuel, environmental benefits are also being realized.

Table 27 below shows that the oil and gas companies participating in PH-EITI employed 402 people in 2017, of which 99% were local. Bulk of the local employees are non-IPs and males.

Table 27. Summary of employment data from participating oil and gas companies for 2017

LOCAL EMPLOYEES							
REGULAR			CONTRACTUAL			TOTAL	
IPs	Non-IPs	Sub-total	IPs	Non-IPs	Sub-total		
0	201	201	0	45	45	246	Males
0	147	147	0	5	5	152	Females
0	338	338	0	50	50	398	Local
FOREIGN EMPLOYEES							
REGULAR			CONSULTANT			TOTAL	
3			0			3	Males
0			1			1	Females
3			1			4	Foreign
						<b>402</b>	<b>TOTAL</b>

Source of Basic Data: Reporting templates from participating oil and gas companies

## B. Revenue Contribution

Reconciled revenues from the oil and gas sector amounted to Php 28.3 billion with government share from oil and gas production accounting for 63% of total while the remaining 37% was collected by BIR. Overall, the oil and gas sector contributed 75% of total government revenues from the extractives sector in 2017.

Table 28. Summary of taxes and fees paid by oil and gas sector, per government agency, 2017

	Total Reconciled Amount
BIR	
Corporate income tax	7,983,752,446
Withholding tax - Profit remittance to principal	2,422,091,582

DOE	
Government share from oil and gas production	17,896,333,951
<b>Oil and gas, Total</b>	<b>28,302,177,979</b>

## C. State Participation

The Philippine National Oil Company (PNOC) Exploration Corporation (EC) is a subsidiary of the PNOC, a GOCC created by Presidential Decree No. 334 on 9 November 1973 to help ensure a stable supply of petroleum products for the country. Formerly the Exploration Department of the PNOC, the PNOC EC was incorporated on 20 April 1976 to take the lead in exploration, development and production of the country's oil, gas and coal resources. As of 31 December 2017, PNOC EC's contributed capital was PhP2.02 billion, 99.79% of which is owned by the PNOC. The remaining 0.21% is owned by public stockholders. There was no change in the level of ownership during 2017. There have also been no changes in the rules and practices regarding the financial relationship between the government and PNOC EC since the fourth PH-EITI report which contains details on these.

PNOC EC has operating ownership in three SCs, namely, SC 37 Cagayan Basin, SC 57 Calamian, and SC 59 West Balabac, It had operating ownership of SC 47 Offshore Mindoro until DOE approved its relinquishment on 10 March 2016.

PNOC EC is a non-operating partner in five other SCs, namely, SC 38 Malampaya Gas Project, SC 58 West Calamian, SC 63 East Sabina, SC 74 Linapacan, and SC 75 Northwest Palawan.

Table 29. Equity share of PNOC EC in petroleum service contracts, as of 31 December 2017

Contract area	PNOC EC ownership/ partnership interest	Operator	Acreage (in sq. km.)
SC 37, Cagayan Basin	100%	PNOC EC	360
SC 38, Malampaya Gas Project	10%	SPEX	830
SC 47, Offshore Mindoro (relinquished)	97%	PNOC EC	10,480
SC 57, Calamian	28%	PNOC EC	7,200
SC 58, West Calamian	50%	Nido Petroleum Philippines Pty. Ltd.	13,440
SC 59, West Balabac	100%	PNOC EC	14,760
SC 63, East Sabina	50%	Nido Petroleum Philippines Pty. Ltd.	10,560
SC 74, Linapacan	5%	PXP Energy Corp. (formerly Philex Petroleum)	4,292
SC 75, Northwest Palawan Basin	35%	PXP Energy Corp. (formerly Philex Petroleum)	6,160

Source: DOE

PNOC EC's natural gas operations are centered on its participating interest in SC 38, or the Malampaya Deepwater Gas-to-Power Project. The Malampaya Gas Project is jointly owned by PNOC EC (10%), SPEX (45%) and Chevron Malampaya LLC (45%) (also referred to as the Consortium). SPEX, being the operator of the Consortium, performs monthly calculation of cost recovery and revenue allocation, after which it disburses the share of PNOC EC and Chevron Malampaya to DOE. The Malampaya Project is the Philippines' largest upstream energy infrastructure project. Commercial gas and condensate production at SC 38 started in January 2002.

PNOC EC also holds four COCs, namely: COC 41 (Malangas), COC 122 (Isabela), COC 185 (Buug-Malangas) and COC 186 (Diplahan-Imelda). PNOC EC has a 100% stake in all its COCs. As part of

its coal operations, PNOC EC also trades coal from other sources through its coal terminal in Malangas, Zamboanga Sibugay.

PNOC EC is also engaged in international oil trading, supplying petroleum products to other countries. In 2017, it delivered 29.35 thousand MT of petroleum products to Bangladesh Petroleum Corporation (BPC).

Until 1 January 2018 when PNOC took over, PNOC EC was also operating the Energy Supply Base (ESB) in Mabini, Batangas which provided berthing, cargo handling, storage and warehousing facilities to its energy and commercial clients.

The revenues generated by PNOC EC from the above operations and investments are shown in the table below. Despite the low world price of oil in 2017, PNOC EC's total revenue reached PhP4.37 billion, 12.3% higher than 2016 revenues. This was made possible by the additional sales of gas from Malampaya to the Avion and San Gabriel power plants in the second half of 2017. The bulk of PNOC EC's revenues, 92.4%, comes from its 10% share in the Malampaya Gas Project.

Table 30. PNOC EC Revenues, 2015-2017 (in PhP millions)

Year	Malampaya Project	Coal Operations	Energy Supply Base	Head Office	Oil Trading	Total
2015	4,002.65	448.83	265.17	22.33	7.25	4,746.23
2016	3,430.25	207.73	232.38	20.81	3.07	3,894.24
2017	3,941.68	165.71	157.01	106.14	1.81	4,372.35

Source: PNOC EC 2017 Annual Report

Earnings per share was PhP0.55 in 2017. Dividends per share was PhP0.3031. Total dividends declared and paid in 2017 was PhP610 million.

According to its 2017 Annual Report, PNOC EC continues to spend its retained earnings and other available funds for its upstream exploration activities such as the preparation for G&G surveys for SC 37, seismic data processing for SC 59, evaluation of overseas blocks and exploration drilling of the Gotas North Limb within COC 41. These investments are very much needed to prepare for the expected decline in the production of gas in Malampaya as it approaches its eventual depletion by 2027 to 2029.

While not mandated by law to provide benefits to its host communities, PNOC implements various social programs for the long-term benefit of the communities within its business areas. These programs include livelihood or entrepreneurial training, health and wellness, scholarships, and school improvement. Specific activities conducted in 2017 are shown in the table below. There were no public infrastructure works or fuel subsidies.

Table 31. CSR Activities of PNOC-EC, 2017

Area/Location	Social Program/Activities
Zamboanga Sibugay	Livelihood Program – entrepreneurship training including bookkeeping and business planning for 70 women in 7 barangays
	Health and Wellness Program – 2-day medical and dental outreach for at least 400 patients from 4 municipalities
Isabela	Livelihood Program – training on bread and pastry baking for 25 women beneficiaries in Brgy. Balintocac, Santiago City
	Scholarship Program – continuing support for 42 scholars

Batangas	Livelihood Program – Entrepreneurship Appreciation Seminar for 30 women beneficiaries from 3 barangays
	Wellness Program – Senior Citizens Day event for at least 230 senior citizens
	School Program – spearheading of the Brigada Eskwela clean-up for the Calamias-Mainaga-San Francisco Elementary School in Mabini, Batangas; renovation and updating of the school's audiovisual and e-library rooms, donation of computers and other equipment

Source: PNOC-EC 2017 Annual Report

## E. State of the Oil and Gas Industry

### 1. Policy Reforms and Issuances

#### Creation of the Energy Investment Coordinating Council (EICC)

E.O. No. 30 creating the EICC was issued by the Office of the President on 28 June 2017. The mandate of the EICC is to harmonize, integrate and streamline regulatory processes, requirements and forms for Energy Projects of National Significance (EPNS). There would be an inter-agency EICC Secretariat to provide administrative and technical support to project proponents, serve as a repository of documents, and conduct of web-based monitoring of the status of the EPNS. The EICC would prepare rules governing the resolution of inter-agency issues and create inter-agency subcommittees as needed.

In addition to being in consonance with the policy thrust and implementation of the Philippine Energy Plan, an EPNS should possess any one of the following significant attributes: capital investment of at least PhP3.5 billion, complex technical processes and engineering designs, impact on the environment, infrastructure requirements, contribution to the country's balance of payments and economic development. Agencies are to process EPNS without awaiting any action from other agencies. EPNS need to be processed within 30 days from complete submission of documentary requirements. Otherwise, permit needs to be issued five working days after the lapse of 30 days.

### 2. Overview of License Allocations

#### Areas open for exploration and production

##### *Oil and Gas*

As mentioned earlier, P.D. No. 87 "mandates the government to undertake, directly or indirectly, petroleum exploration and production through grant of service contracts, subject to the existing private rights, to cover free areas, national reserve areas and/or petroleum reservations, as provided for in the Petroleum Act of 1949, whether on-shore or off-shore".

##### *Coal*

P.D. No. 972 mandates the Government to undertake the active exploration, development and production of coal resources or execute coal operating contracts. The areas covered includes public lands, any unreserved or unappropriated coal bearing lands, claims located and recorded by private parties areas covered by valid and subsisting coal revocable permits, coal leases and other existing rights granted by the Government for the exploration and exploitation of coal lands, government mineral reservations, coal areas/mines whose leases or permits are presently owned or operated or held by GOCCs and coal mineable areas operated or held by government agencies.

## Types of agreements and their specific requirements

### *Oil and Gas*

Service contracts are agreements through which the government exercises its right to explore, develop and utilize petroleum resources through entities qualified to perform such work as Independent Contractors. Service contracts for petroleum exploration and development have been awarded through the Philippine Energy Contracting Rounds (PECRs) overseen by DOE's Review and Evaluation Committee (REC). The REC is a body established by Department Circular (DC) 2011-12-00010 and DC 2014-02-0005 issued by the DOE.

On 27 December 2017, the DOE issued DC 2017-12-0017 to adopt the Philippine Conventional Energy Contracting Program (PCECP) for awarding petroleum service contracts (PSCs). In addition to the offering of pre-determined areas (PDAs) to interested applicants, applicants are now allowed to nominate and publish the areas of their interest for the consideration of the REC. This means that the application process is ongoing year-round and interested applicants need not wait for the DOE to identify and announce PDAs for public bidding. To get the best possible terms for the government, the nominations will be subject to a Swiss challenge.

The following are the general and documentation requirements under the PCECP for PSCs.

#### General requirements:

1. Applicant may be any local/foreign individual company or group of companies forming a joint venture/consortium, organized or authorized for the purpose of engaging in petroleum exploration and development.
2. If an applicant is a joint venture/consortium, it shall submit a copy of the joint venture agreement. The Operator must meet all legal, technical, and financial requirements, and submit the application on behalf of the joint venture/consortium.
3. Members (Non-Operator) of the joint venture/consortium, on the other hand, shall be legally and financially qualified. The working capital of each member of the joint venture/consortium shall be pro-rata based on its participating interest in the proposed work program and budget.

#### Documentation requirements include the following:

1. Geological and geophysical evaluation of the contract area applied for including petroleum potential analysis;
2. Proposed work program that discusses different exploration strategies and methodologies to be employed in delineating petroleum resources with subsequent manpower complement and minimum expenditure for each proposed activity with respect to the area or areas specified in the proposal;
3. Economics and development concepts of possible petroleum discoveries;
4. Overview of upstream petroleum-related projects;
5. Schedule of works and manpower requirements;
6. Particulars of the technical and industrial qualifications, eligibilities and work-related experiences of the applicant and its employees;
7. Particulars on the experiences, achievements, and track records of the applicant and its employees related to technical and industrial undertakings;
8. Operational organization, including expertise and experience; and
9. Minimum working capital (Liquid Assets less Current Liabilities) is 100% of the financial commitment for the first contract year of the proposed work program and budget.

### *Coal*

Coal Operating Contracts (COCs) are granted to private parties to undertake the active exploration, development and utilization of coal resources on behalf of the government. Like PSCs, COCs also used to be awarded after public bidding through the PECR. On 8 October 2017, the DOE issued DC

2017-09-0010 to introduce the PCECP for awarding COCs. The new guidelines took effect on 23 October 2017, 15 days after publication.

The general and documentation requirements for COCs under the PCECP were enumerated in the Fourth Report.

### License awarding or transferring procedures

The procedures for awarding PSCs and COCs under PCECP depend on the mode of application. For the first mode of applying for PDAs being offered by DOE, the process is similar to that under the PECP. For the new mode of nominating and publishing areas of interest, the review and approval process begins with the opening up of the nomination to Swiss challenge by interested parties and evaluation of the competing bids.

### Information on the recipients of service contracts awarded or transferred

#### *Oil and Gas*

In 2017, no new service contracts were awarded in 2017. There were 22 existing active petroleum service contracts. Annex J provides details on the contracts and indicates their status. Of the 22 existing contracts, only the three that became effective in the 1970s and the three in the late 1980s and early 1990s are already in the production stage. The last two service contracts, SCs 74 and 75, were made effective in August and December 2013, respectively.

The 5<sup>th</sup> Philippine Energy Contracting Round (PECR5) for the exploration of potential coal and petroleum areas in the country was launched in May 2014. Eleven areas, nine in Luzon, were offered for petroleum exploration and 15 areas in Mindanao for coal exploration. The three areas awarded for petroleum exploration are shown in the table below.

Table 32. Areas awarded for petroleum exploration under PECR5

Area	Location	Acreage	Applicant
Within Philippine territory			
Area 4	East Palawan	416,000 hectares	Ratio Petroleum Ltd.
Area 5	East Palawan	576, 000 hectares	Colossal Petroleum Corp.
Area 7	Recto Bank	468,000 hectares	Colossal Petroleum Corp.

SC 76 for Area 4 was signed by President Rodrigo R. Duterte during his official visit to Israel in September 2018. It is the first SC to be signed during his administration. SC No. 76 covers Area 4 of East Palawan and was awarded to Ratio Petroleum Ltd., an Israeli firm.

Although Colossal Petroleum had submitted bids for Areas 5 and 7, it has not pursued the awarding of the service contracts to them, mostly because of its concerns regarding the income tax issue raised by the COA with regards to the Malampaya Gas Project. In November 2018, the DOE Secretary announced that the DOE is contemplating disqualifying the company if it does not submit its work plan within a time frame to be agreed upon.

#### *Coal*

As of June 2017, there 70 active coal operating contract holders. Thirty of these were in Development/Production (DP) and 40 were in the exploration stage. However, 10 of these 40 are

awaiting conversion to DP. The names of the companies and other details about the COCs are in Annex K. The last four COCs were awarded in 2015, of which three were awarded under PECR5.

### Efficiency and effectiveness of these systems

As mentioned earlier, the PECR had served as a competitive auction of prospective on shore and offshore oil and gas blocks and provided a transparent system of awarding petroleum contracts. The newly launched PCECP aims to fast-track the development of the country's indigenous sources by providing interested companies with the option of bidding for pre-determined areas or nominating areas that they are interested in developing. The nomination would then be subject to counter-offers or a Swiss challenge. Criteria for selecting the highest ranking applicant have also been set to include the work program, legal, technical and financial qualifications. To speed up the whole process, DOE has been developing an online application and monitoring system.

### Identified deviations from the applicable legal and regulatory framework governing license transfers and awards

There are no identified deviations with respect to the regulatory requirements that applicants need to comply with in terms of license applications or granting of service contract awards. The permit applicants undergo the necessary procedures and must submit the required documents for the applications to be approved.

## 3. Overview of Contracts and Exploration Activities

### *Contracts*

Extractive contracts in the Philippines contain standard provisions that specify the obligations of the parties, terms and conditions, and any additional privileges. The first PH-EITI report provided a detailed discussion on the national government's policy on the disclosure of contracts and licenses that governs the exploration and development of oil, gas and coal resources.

In 2015, PH-EITI launched an open database of mining, oil and gas contracts in the Philippines, where contracts of all companies participating in the Philippine EITI process are disclosed. These contracts and their supporting documents may be accessed at [contracts.ph-eiti.org](http://contracts.ph-eiti.org).

### Legal and practical barriers to comprehensive disclosure

As noted in the second PH-EITI report, the DOE maintains lists of SCs and COCs that include the following information:

1. Service Contract No.
2. Name of contractor/operator
3. Effective date
4. Expiration date, including stage/sub-phase of exploration
5. Location
6. Area (in hectares)

However, the list of SCs posted on the DOE website does not include the expiration date, current status and area. The list of COCs in the DOE website does not include the expiration date and area. Thus, these missing information had to be obtained directly from the DOE. Also, the DOE list of SCs still lacks information on the coordinates of the license area, date of application, and the commodity being produced. As noted in the second PH-EITI report, it has been recommended that DOE maintain

a more complete summary of information regarding SCs and COCs and update the same at least annually. The same complete and updated summary should be posted on DOE's website. In the meantime, the coordinates of the license areas of the service contracts were lifted from the signed service contracts and are presented in Annex L. To address the above concerns, the DOE is currently updating the website of the Energy Data Center of the Philippines.

### Arbitration Cases between Shell and GoP

Arbitration hearings before the International Court of Arbitration of the International Chamber of Commerce in Singapore started in September 2018. This is in connection with the PHP53.14 billion in taxes that COA says the Malampaya consortium owes the government. SPEX filed a similar case in July 2016 with the International Center for Settlement of Investment Disputes. Some details of the case were presented in the fourth PH-EITI report.

In September 2018, SPEX and its consortium partners, together with the DOE, also asked the Philippine Supreme Court to review the finding of the Commission on Audit that the corporate income tax cannot form part of the government share in the Malampaya Gas Project. This is after the COA's decision to deny the consolidated Motion for Reconsideration filed by the consortium.

The resolution of the cases is deemed by energy stakeholders to be crucial in the inflow of investments for development of natural gas resources which are needed in view of the expected depletion of the Malampaya gas by 2027-2029.

### *Exploration*

#### Suspension of oil exploration activities due to Force Majeure in SCs 58, 72 and 75

As of November 2018, the DOE is still working with the Department of Foreign Affairs on the lifting of the suspension issued on SCs 58, 72 and 75 in December 2014 because of disputes between China and the Philippines concerning the West Philippine Sea. SCs 58, 72 and 75 fall within the disputed area of the West Philippine Sea, which was the subject of a United Nations (UN) arbitration process where the international tribunal ruled in favor of the Philippines. Without final notice for resumption, oil exploration activities within the areas remain suspended.

#### MOU with China on Joint Oil and Gas Development

On 20 November 2018, the Philippines Foreign Affairs Secretary and Chinese Foreign Minister signed a Memorandum of Understanding (MOU) witnessed by Philippine President Rodrigo Duterte and Chinese President Xi Jinping during the latter's two-day state visit in the Philippines. The "MOU on Cooperation on Oil and Gas Development" is an agreement to enter into bilateral talks to endeavor to come up with a cooperation arrangement within 12 months. There would be an inter-governmental joint steering committee with the respective foreign secretary and minister as co-chairmen and the energy secretary and minister as co-vice-chairman. There would also be an inter-entrepreneurial working group with the China National Offshore Oil Corporation (CNOOC) designated as the Chinese enterprise. PNOOC EC has been designated as the Philippine enterprise.

The MOU has been reported to specifically state that it does not create rights or obligations under international or domestic laws. It is not yet legally binding. Acting Chief Justice Antonio Carpio publicly stated<sup>1</sup> that he believes that the MOU had safeguards to ensure that the sovereignty of the

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<sup>1</sup> "Carpio sees Phl sovereignty safeguards in MOU with China", Philippine Star, 26 November 2018

Philippines would not be compromised. He said that he would not have any objection if China comes in through service contractors because those service contracts expressly recognize that the exploration area falls within Philippine sovereignty or sovereign rights.

The Filipino chairman of PXP Energy Corporation which holds almost 80% operating interest in SC 72, one of three SCs affected by the suspension of oil exploration activities, expressed hope that the signing of the MOU would lead to some positive steps that can be taken towards carrying out the exploration work program that had been submitted as part of its application and award<sup>2</sup>.

### Pre-determined Areas Offered through PCECP

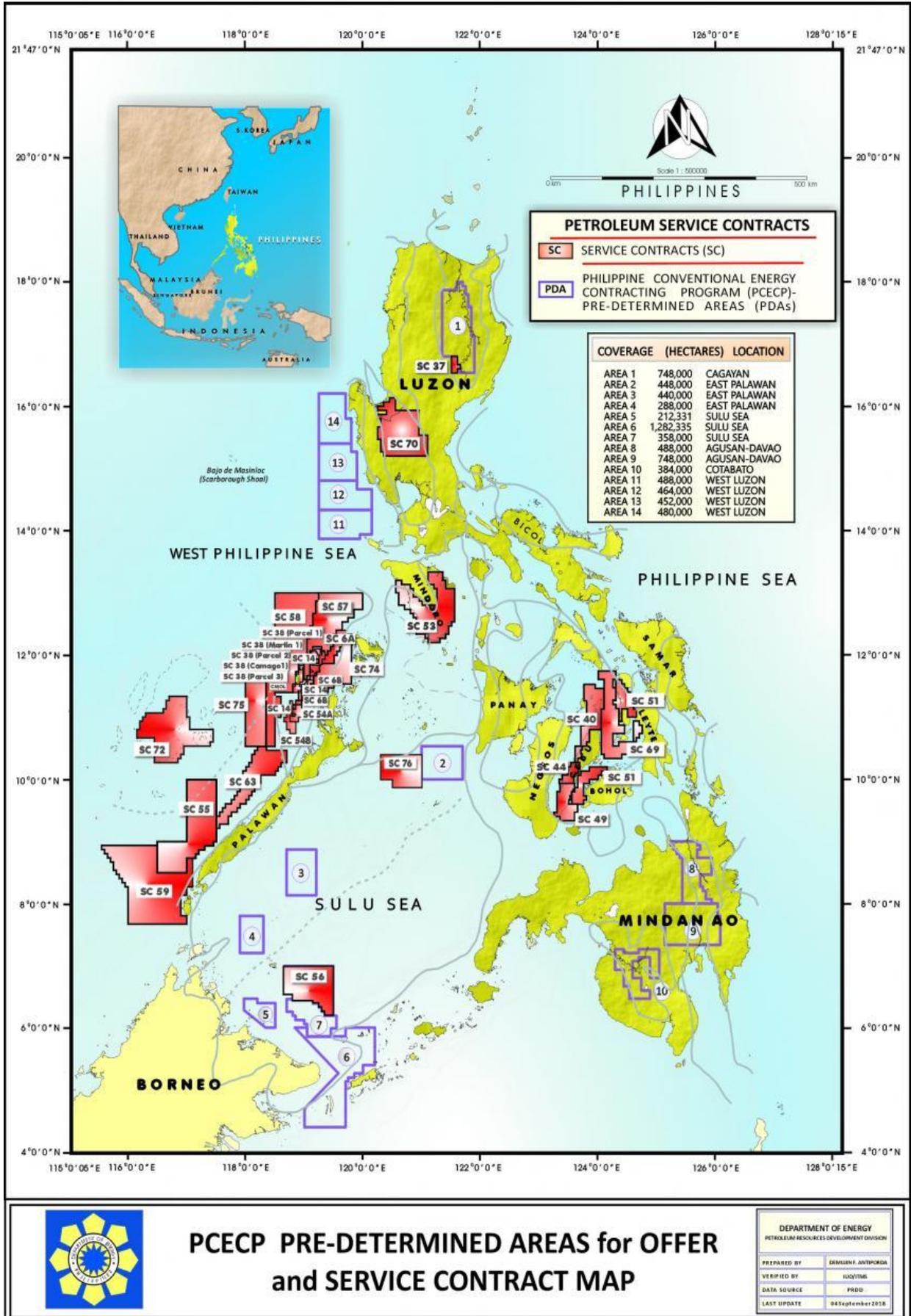
During the official launching of the PCECP on 22 November 2018, the DOE offered to interested investors 14 pre-determined areas (PDAs) for possible petroleum exploration. In his speech, the Energy Secretary Alfonso Cusi said that the PCECP was an intensified approach that would help the Philippines catch up with its neighbors in pursuing upstream petroleum activities. This is especially important since the country's demand for oil and gas continues to rise with a growing population and expanding economy while the production from existing oil and gas wells is declining as they reach the end of their economic life.

All the 14 areas being offered to investors are within the Philippines' exclusive economic zone and none are subject to territorial dispute with a foreign government, as can be seen in the map below. The first area covers onshore blocks within the Cagayan Basin in Northern Luzon. Areas 2 to 4 are offshore blocks in the East Palawan Basin. Areas 5 to 7 are offshore blocks in the Sulu Sea while Areas 8 to 9 are onshore blocks in the Agusan-Davao Basin. Area 10 is an onshore block in the Cotabato Basin while Areas 11 to 14 are offshore blocks in the West Luzon Basin, off Central Luzon and CALABARZON.

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<sup>2</sup> "MVP hopeful Phi-China deal to jumpstart exploration projects", Philippine Star, 22 November 2018

Figure 1. Map of Petroleum Predetermined Areas (PDAs) offered under PCECP



## IV. EITI Implementation in the Philippines

### A. Institutionalization of EITI

The institutionalization of EITI in the Philippines has been made part of Philippine Development Plan 2017-2022. Accordingly, Philippine EITI institutionalization has been proposed in two bills filed with the current 17<sup>th</sup> Congress of the Philippines. In the Senate, Senator Joel Villanueva filed Senate Bill (SB) No. 1125 on 5 September 2016. In the House of Representatives, Representative Ramon Vicente Rocamora filed House Bill (HB) No. 4116 on 18 October 2016.

Both bills propose the creation of a Multi-stakeholder Group (MSG) at the national level in order to oversee the implementation of EITI in the Philippines. The MSG will have representatives from the Government, extractive industries, civil society organizations and Indigenous Peoples. Government representatives will include senior officials from concerned agencies (e.g. DENR, DOE, DILG, DBM, DOF including BIR and BLGF), representatives of local governments (e.g. presidents of leagues of various LGUs) and representatives from the Senate and House of Representatives. In HB 4116, MSGs would also be created at the provincial level in provinces where extractive industries are located.

PH-EITI shall submit an annual report to the President and Congress by April 30 of each year. The annual report shall comply with the international standards of EITI and include additional reporting requirements as agreed upon by the MSG. The PH-EITI shall cover the mining, oil and gas, and coal sectors. In SB 1125, such other sectors as the MSG may determine and deem necessary would be included. In HB 4116, all operating mines are proposed to be included, regardless of materiality. In HB 4116, the annual report shall cover not only the report of payments and revenues but also a report and audit of contracts and monitoring reports and civil society's assessment of the PH-EITI process.

PH-EITI shall closely monitor the payment and utilization of taxes, fees, surcharges, and similar charges made by extractive companies and/or contractors. All fiscal payments and mandatory expenditures by contractors shall be disclosed while national government agencies and LGUs are required to report on how these payments were utilized.

To facilitate and compel disclosure, the confidentiality provisions of applicable laws including Section 270 of the NIRC and Article 18 of the Omnibus Investments Code would not be made applicable to extractive companies or contractors insofar as their participation in the PH-EITI process is concerned. Failure to participate in PH-EITI would be a ground for suspension of the contractor's permit to operate and blacklisting for future projects. A fine of PhP500,000 would also be imposed by the responsible regulatory agency (e.g. MGB or DOE) on contractors who unreasonably delay submission of the PH-EITI reporting template.

Both pending bills propose the creation of the PH-EITI Office under the Office of the President. The PH-EITI would be headed by a Chairperson to be appointed by the President of the Philippines. A National Coordinator would be selected by the MSG. The MSG would also approved the staffing pattern and compensation scheme for the PH-EITI Office.

Congress is expected to provide in the General Appropriations Act adequate funding for PH-EITI implementation including participation of relevant stakeholders from non-government organizations. Said amount is to be equivalent to one to two percent of the gross proceeds of the sectors covered by the PH-EITI.

As of report date, SB 1125 remains pending with the Senate Committees on Environment and Natural Resources, Ways and Means, and Finance. HB 4116 is also still pending with the House Committees on Natural Resources and Appropriation. In March 2018, the bill was referred to stakeholders, including the DOF and DBM, for submission of their respective position papers. The PH-EITI MSG, through the DOF, had submitted a position paper on the bills. Several members of the MSG (representing their respective sectors) and the national coordinator also participated in at most three hearings on the House bill.

Outside the foregoing legislative proposals, EITI implementation in the Philippines has been significantly established by virtue of EO 147 and through an active MSG and organization that has been consolidated over the years. While EO 147 does not permanently institutionalize PH-EITI, the EO's implementation has made EITI a specific line item under the DOF budget in the General Appropriations Act or the national budget since 2015. Moreover, certain agency issuances already recognize PH-EITI as a regular government requirement. For instance, the DENR issued DAO 2017-017 in March 2017, directing all mining contractors to participate in PH-EITI in accordance with the requirements set by the MSG. The MGB and Environmental Management Bureau (EMB) were similarly mandated to disclose all the information requested by PH-EITI in a timely manner. DAO 2017-017 further provides that the failure of the mining contractor to comply with the disclosure requirements shall cause the suspension of their Environmental Compliance Certificate (ECC) and non-issuance of Ore Transport and/or Mineral Export Permits until such time that said contractor has complied with PH-EITI requirements. The MSG has agreed that compliance with PH-EITI consists in submitting: (i) a signed BIR waiver, (2) data through the Online Reporting in the Extractives (ORE) Tool, and (3) other information or documents required by the process and the IA. The DENR through the MGB has implemented and enforced DAO 2017-07, resulting in better company participation in PH-EITI.

## B. Mainstreaming EITI

The EITI Standard states that “The data (required by the EITI) can be disclosed in the form of an EITI Report or constitute publicly available information and data gathered or cross-referenced as part of the EITI process”. The latter option allows for the possibility of mainstreaming the disclosure of information required by the EITI.

According to the EITI Mainstreaming Toolkit, “mainstreaming EITI disclosures means that government agencies and companies integrate, or systematically disclose, information covered by EITI requirements. When countries mainstream, EITI Reports are used as a tool to address gaps in information, if/when needed... Systematic disclosure means that government agencies and companies - which would have otherwise provided information to an EITI Report through reporting templates - start providing these disclosures ‘at source’, in their own publications and websites.”

The disclosures required by the EITI Standard are summarised in the Terms of Reference for a mainstreaming feasibility study as well as in the Mainstreaming Tool. The latter is an Excel file that contains a list of all the required disclosures under the EITI Standard. It can be used to assess which disclosures are already being made available to the public outside of the EITI process by either government entities or extractive companies; whether they are reliable, comprehensive, detailed enough, and published or updated in a timely manner; and what are the gaps from the EITI Standard. The national secretariat, together with the MSG, can then formulate a plan to fill in the gaps. The gaps need not be filled in all at the same time.

It is expected that the reconciliation of revenues and payments done in EITI by an Independent Administrator (IA) would be more difficult to replicate outside of the EITI process. However, should the concerned MSG believe that routine disclosure is performed in enough detail and is subject to a

*“... credible, independent audit applying international standards ...”* (EITI Standard, p. 26), that MSG can apply to the EITI Board for also mainstreaming the final step, the quality assurance of financial disclosures. The application would have to be backed up by a feasibility study.

Norway is a good example of mainstreaming. It was accepted as EITI compliant in March 2011 and was the first OECD country to implement the EITI Standard. It is also the first country to mainstream EITI in government and corporate reporting systems. Starting in 2018, Norway no longer published a separate EITI report. It simply put the reconciled data in [www.norwegianpetroleum.no](http://www.norwegianpetroleum.no), a website jointly run by the Ministry of Petroleum and Energy and the Norwegian Petroleum Directorate. All the information that can be found in an EITI report is on the website including government revenues from petroleum activities, investments, employment.

Based on the country examples cited in the Mainstreaming Toolkit, the Environment and Natural Resources Data Management Tool (ENRDMT) developed by PH-EITI in partnership with the Bureau of Local Government Finance (BLGF) of the DOF and the DILG, appears to be the closest candidate for mainstreaming EITI in the Philippines. The ENRDMT is a web-based system through which local treasurers report their revenues from the extractive and other natural-resource based industries as well as in-kind contributions or donations from these industries. All local treasurers whose LGUs receive such revenues and donations are obligated to upload the necessary information into the ENRDMT within the timeframe prescribed by Department Order No. 049-2016 issued by the DOF Secretary on September 5, 2016. Failure of the local treasurer to do so in a timely and accurate manner can lead to the filing of an administrative case with possible penalties of suspension or dismissal from the service.

The information required by the ENRDMT is detailed enough to lay the basis for possible reconciliation with the records of extractive companies, as required by EITI, since individual payments by these companies are recorded including the amount and date of payment and the number of the Official Receipt issued by the LGU. These payments can be aggregated for each company and the totals compared with those submitted by the companies. If there is a variance in the total, the company can be asked to provide the amount and date of payment and the Official Receipt number for each individual payment and these details can be matched against the information already inputted into the ENRDMT by the local treasurer.

The detailed information inside the ENRDMT is currently not publicly available, but the summary tables that the concerned LGU or the BLGF can generate using the ENRDMT can form part of the information that the LGU or BLGF regularly disclose to the public in line with the transparency and accountability provisions of the 1991 Local Government Code and other applicable laws. Some of the total amounts generated by ENRDMT are inputted into the electronic Statement of Receipts and Expenditures (eSRE) filed by the LGUs on a quarterly basis with the BLGF. These include the disaggregation of the LGU shares from the national wealth by sector, as advocated by the Philippine Poverty Environment Initiative (PPEI), a collaborative project of the Philippine government with UNDP-UNEP, under which the ENRDMT was first conceptualized and funded.

As observed earlier, the websites or data portals of the DENR and DOE can play major roles in mainstreaming PH-EITI. Some of the information regarding the mining permittees, petroleum service contractors, and coal contract holders are already available in their websites. They are also taking steps to make available the complete information in real time. When all the relevant information are in their websites, there will be no more need to publish the information in the annual country report.

PH-EITI is presently developing its mainstreaming roadmap using the available tools. It is also conducting a survey to assess the capacity of concerned agencies and companies to mainstream their information reporting and sharing. To date, the MSG has agreed that all of PH-EITI's mainstreaming efforts -- the concept, principles, objectives, components -- shall be called “the SEED

initiative” – the *Systematic Electronic Extractives Disclosure* initiative. It is projected that by early 2019, a roadmap and a work plan for SEED would have been developed and approved.

## C. Innovations

To facilitate the flow of information from the extractive companies and national government agencies to the public, PH-EITI has constantly pushed the boundaries through innovative use of technology. Through the Online Reporting in the Extractives (ORE) Tool, submission of reporting templates by the participating companies and government agencies has become much faster and easier. Through the Extractive Disclosure Generator (EDGE) Portal, members of the public will be able to freely access data on the extractive industries from the database that PH-EITI has built up over the years. In terms of digging deeper into the data, PH-EITI has been undertaking steps to implement the 2016 EITI Standard on Beneficial Ownership by 2020 and to bring small-scale mining into the reporting system of PH-EITI by doing a pilot project in South Cotabato.

### 1. Online Reporting in the Extractives (ORE) Tool

PH-EITI has developed its own electronic system for the filling up and submission of reporting templates by participating extractive companies. Launched on August 24, 2018, the Online Reporting in the Extractives (ORE) Tool is a web-based platform for gathering data from reporting entities and for automating the generation of reports. Each reporting entity has one Authorized Representative account from which data are officially submitted and up to three Data Compliance Representative account through which data are inputted.

Data are entered into fields which comprise a form (e.g. BIR Form). Several forms constitute a workspace (e.g. MGB or DOE workspace). Workspaces are grouped together into sections based on their status – data entry in progress, ready for validation or validated and submitted.

In its initial phase in 2018, only the extractive companies, MGB and DOE submitted their reporting templates through ORE. In the coming years, BIR and other concerned government agencies would hopefully be using ORE as well. When they do, data reconciliation and computation of variances can be done electronically with so much speed and ease. The IA can just pick out the variances and start looking into their causes. The more disaggregated or granular the data entered into the ORE by the reporting entities, both on the government and company side, the more easily the causes of the variances can be uncovered electronically.

### 2. EDGE Portal

Another innovation of the PH-EITI is the Extractive Disclosure Generator (EDGE) Portal, a web-based application which hosts all data sets gathered since the beginning of EITI implementation in the Philippines. Using certain filters or criteria, users can search for the information they need and download the data in open data format. The tool is PH-EITI's means of complying with E.O. No. 2 on the Freedom of Information and government's Open Data Policy which supports free access to government information for transparency, research and other purposes. The EDGE has been piloted and a working prototype is available.

### 3. Beneficial Ownership Roadmap and Pilot

In response to the requirement of the 2016 EITI Standard that beneficial ownership (BO) will have to be reported starting in 2020, the MSG developed a roadmap to agree on the definition of beneficial

ownership, the materiality threshold for disclosure, and the reporting template for BO disclosure in future PH-EITI reports.

The MSG then commissioned Dr. Joseph Emmanuel Angeles of the UP College of Law and Angeles University Foundation School of Law to conduct a scoping study. His study, entitled “PH-EITI Study Re: Beneficial Ownership/Politically Exposed Persons,” reviewed existing definitions and policies related to beneficial owners and politically exposed persons (PEP) disclosures, including current government procedures for reporting. It also identified potential legal and institutional barriers to disclosing beneficial owners and PEPs in the Philippines. Some of these challenges were discussed earlier in the third PH-EITI report and traced to the constraints imposed by the Data Privacy Act (DPA) of 2012 on the lawful processing and use of personal data.

The proposed definition of BO and materiality threshold resulting from the study were presented to the MSG during the 46th MSG meeting held on 12 October 2017. The MSG decided, for purposes of EITI reporting, to follow the BO definition prescribed in the Implementing Rules and Regulations (IRRs) of the Securities Regulation Code (SRC). That is, beneficial owner or beneficial ownership means any person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares voting power (which includes the power to vote or direct the voting of such security) and/or investment returns or power (which includes the power to dispose of, or direct the disposition of such security).

In view of the obligations and penalties imposed by the DPA, the consultant proposed amendments to the BO roadmap to include obtaining advisory opinion from the National Privacy Commission (NPC) regarding BO data and the PEP list and encouraging pertinent government agencies to amend reportorial requirements for BO and PEP requirements and to digitize databases and enter into data sharing agreements.

The full text of the study can be found in Annex R of the 4<sup>th</sup> PH-EITI report. The revised BO roadmap was in Annex S of the 4<sup>th</sup> PH-EITI report.

To further advance the preparations for BO reporting in 2020, the MSG started a pilot in 2018. The results will be presented in Chapter 3 of this report.

#### 4. Small-Scale Mining Study and Pilot

The new IRRs for the Small-Scale Mining Act of 1991 (R.A. 7076) were issued by the DENR on 16 March 2015 to facilitate the declaration of People’s Small Scale Mining Areas (PSSMAs) or Minahang Bayan areas and to strengthen the regulation of small-scale mining activities in the countryside. As of report date, there are 13 declared Minahang Bayan areas, seven of which were declared in 2018.

To date, small-scale mining has not yet been included in PH-EITI reporting although a scoping study was included in the second PH-EITI report. Small-scale mining has been reported to generate revenues of PhP130 to 140 billion a year. Under R.A. 7076, small-scale miners are required to pay all taxes, royalties or government production shares, as provided by law. The law further states that revenues to be derived by the government from the operation of MB areas are subject to the sharing provided by the 1991 Local Government Code. In view of the importance of eventually including small-scale mining entities in the PH-EITI, a pilot report on small-scale mining in South Cotabato was conducted by PH-EITI. The results will be shown in Chapter 3 of this report.

# Chapter 2

## Reconciliation Report

The Fifth PH-EITI Country Report covering 2017 data (the ‘Report’) targeted a total of 46 metallic mining companies, 20 non-metallic mining companies, nine (9) oil and gas companies, eight (8) national agencies, and 95 local government units. The national agencies include the BIR, MGB, DOE, DBM, BTr, BOC, PPA, and NCIP. The details of participating companies and government agencies are shown in Section 1, Process, of this Chapter.

After the inclusion of non-metallic projects in the Fourth PH-EITI County Report, this Report has further extended its scope by piloting the reconciliation procedures for selected small-scale metallic mining associations in South Cotabato. The results are presented in Chapter 4, *Transparency in small-scale metallic mining in South Cotabato: A Pilot Report*, of this Report.

In the context of the Report, a “project” is defined as a series of extractive activities in one or more sites (based on the permit granted to the holder) developed by a mining/oil and gas company for exploration and commercial operation and is identified on a per contract/permit basis (i.e., per MPSA/FTAA for mining companies or per SC for oil and gas companies).

Both participating companies and national and local agencies completed and submitted reporting templates (templates) disclosing, among others, revenue streams paid or collected, mandatory expenditures, and funds.

We present in the following sections an analysis of relevant revenue and industry data. The PH-EITI website has the completed templates of the participating companies and government agencies.

### I. Process

#### 1. Scope of the report

##### ***A. Reporting companies***

A preliminary list of companies from the extractive industry was used by the MSG in assessing the scope of the reconciliation procedures. The list was based on the records of MGB and DOE of all companies with approved licenses and permits in 2017. The targeted scope was confirmed during the MSG meeting held in August 2018. For metallic mining, oil and gas, and coal companies, consistent with the previous country reports, the MSG decided that the scope of the reporting companies in this Report should not be limited to material entities (i.e. those with at least PHP1bn reported sales) but should encompass all operating companies as identified by the MGB and DOE. Further, as discussed earlier, this Report now targeted 20 non-metallic mining companies after its pilot inclusion last year. These companies represent the Top 20 operating companies in the non-metallic mining sector.

Details of scoping procedures performed for small-scale metallic mining associations in its pilot year of inclusion is included in Chapter 4, *Transparency in small-scale metallic mining in South Cotabato: A Pilot Report*, of this Report.

Further, despite the reinforcement of DAO 2017-07 that mandates mining contractors to participate in PH-EITI, the MSG acknowledged that participation would not reach 100%. Although, it is to be noted that the participation rate for this year has significantly increased compared to previous reports. Accordingly, the MSG believes that these is an adequate representation. The preliminary list included 46 large-scale metallic mining, 20 large-scale non-metallic, nine (9) oil and gas, and one (1) coal company.

The succeeding tables detail the targeted companies and identify those that submitted reporting templates.

*Metallic and non-metallic mining*

Table 33. 46 large-scale metallic mining entities

	<b>Name of Company</b>	<b>Project/Contract</b>	<b>Participating Y/N</b>
	<b>Chromite</b>		
1	Chromiteking - Cambayas Mining Corporation	MPSA No. 292-2009-VIII	N
2	Emir Mineral Resources Corporation	SMP No. 01-2015	N
3	Krominco, Inc.	MPSA No. 291-2009-XIII (SMR)	Y
4	Techiron Resources, Inc.	MPSA No. 292-2009-VIII	Y
	<b>Copper / Gold / Silver / Zinc</b>		
5	Apex Mining Company, Inc.	MPSA No. 225-2005-XI	Y
6	Benguet Corporation	PC-ACMP-002- CAR	Y
7	Carmen Copper Corporation	MPSA No. 210-2005-VII	Y
8	FCF Minerals Corporation	FTAA-04-2009-II	Y
9	Filminera Resources Corporation	MPSA No. 095-97-V/MPSA No. 255-2007-V	Y
10	Greenstone Resources Corporation	MPSA No. 184-2002-XIII	Y
11	Lepanto Consolidated Mining Company	MPSA No. 001-90-CAR	Y
12	OceanaGold (Philippines), Inc.	FTAA No. 001	Y
13	Philex Mining Corporation	MPSA No. 276-2009-CAR	Y
14	Philsaga Mining Corporation	MPSA No. 262-2008-XIII	Y
	<b>Nickel</b>		
15	AAM-PHIL Natural Resources Exploration and Development Corporation	MPSA No. 328-2010-XIII (SMR)	Y
16	Adnama Mining Resources Incorporated	MPSA No. 259-2007-XIII	Y
17	Agata Mining Ventures Inc.	MPSA No. 134-99-XIII	Y
18	Benguetcorp Nickel Mines, Inc.	MPSA No. 226-2005-III	Y
19	Berong Nickel Corp.	MPSA No. 235-2007-IVB	Y
20	Cagdianao Mining Corporation	MPSA No. 078-97-XIII (SMR)	Y
21	Carrascal Nickel Corporation	MPSA No. 243-2007-XIII (SMR)	Y
22	Century Peak Corporation - Casiguran	MPSA No. 010-92-X (SMR)	N
23	Century Peak Corporation - Esperanza	MPSA No. 283-2009-XIII (SMR)	N
24	Cit nickel Mines and Development Corp.	MPSA No. 229-2007-IVB	Y
25	CTP Construction and Mining Corporation - Adlay	MPSA No. 018-93-X (SMR)	Y
26	CTP Construction and Mining Corporation - Dahican	MPSA No. 158-00-XIII (SMR)	Y
27	Eramen Minerals, Inc.	MPSA No. 209-2005-III	Y
28	Hinatuan Mining Corporation	MPSA No. 246-2007-XIII (SMR)	Y
29	Libjo Mining Corporation	MPSA No. 233-2007-XIII (SMR)	Y
30	LNL Archipelago Minerals, Inc.	MPSA No. 268-2008-III	Y
31	Marcventures Mining and Development Corporation	MPSA No. 016-93-X (SMR)	Y
32	Oriental Synergy Mining Corporation	MPSA No. 011-92-X (SMR)	N
33	Oriental Vision Mining Philippines Corporation	MPSA No. 242-2007-XIII SMR	Y
34	Pacific Nickel Philippines Inc	-	Y
35	Platinum Group Metals Corporation	MPSA No. 007-92-X	Y
36	Rio Tuba Nickel Mining Corp.	MPSA No. 114-98-IV	Y

37	Sinosteel Phils. H. Y. Mining Corporation	MPSA No. 002-90-X (SMR)	Y
38	SR Metals, Inc.	MPSA No. 261-2008-XIII	Y
39	Taganito Mining Corporation	MPSA No. 266-2008-XIII	Y
40	Wellex Mining Corporation	MPSA No. 031-94-XSMR	N
41	Westernshore Nickel Corporation	MPSA No. 233-2007-XIII (SMR)	Y
42	Zambales Diversified Metals Corporation	MPSA No. 191-2004-III	Y
	<b>Other metallic mining entities</b>		
43	Leyte Ironsand Corporation	MPSA No. 290-2009-VIII	Y
44	Ore Asia Mining and Development Corporation	SMP No. 2013-01	Y
45	Philippine Mining Development Corporation	JOA - PMDC and AAM-PHIL	N
46	Strong Built Mining Development Corporation	-	Y

For this year, scoped-in entities were required to report through the Online Reporting for Extractives (ORE) Tool. Discussion of the development of reporting template is included in Subsection 3, *Methodology*, of this Section.

In summary, out of the total targeted 46 large scale metallic mining companies for 2017, 39 participated and completed reporting via ORE Tool (2015 and 2016 - 28 out of 42 targeted metallic mining companies) and seven (7) did not complete the reporting template. It is to be noted that all non-participating entities did not have any production for the year 2017 due to varying reasons including decommissioning, temporary closure and others; hence are expected not to have paid and remitted material taxes.

Table 34. 20 large-scale non-metallic mining entities

	<b>Name of Company</b>	<b>Project/Contract</b>	<b>Participating Y/N</b>
1	Apo Land & Quarry Corporation	MPSA No. 013-93-VII	Y
2	Bohol Limestone Corp.	MPSA No. 150-00-VII	Y
3	Concrete Aggregates Corporation	MPSA No. 055-96-IVA	Y
4	Concrete Aggregates Corporation	MPSA 032-95-IVA	Y
5	Dolomite Mining Corporation	MPSA No. 208-2005-VII	Y
6	Eagle Cement Corporation	MPSA No. 181-2002-III	Y
7	Gozon Dev't. Corp.	MPSA No. 296-2009-IVA	Y
8	Hardrock Aggregates, Inc.	MPSA No. 202-2004-IV	Y
9	Holcim Mining and Development Corp. - HMDC (Assignment with subscription Agreement for Holcim Phils., Inc. - Davao	MPSA No. 080-97-XI	Y
10	Holcim Mining and Development Corporation - Bulacan	MPSA No. 140-99-III	Y
11	Holcim Mining and Development Corporation - HMDC (Assignment with Subscription Agreement from Holcim Philippines, Inc.) - La Union	MPSA No. 043-95-I	Y
12	Holcim Resources and Development Corporation (Assignment from Holcim Philippines Manufacturing Corporation – Lugait, Misamis Oriental	MPSA No. 047-96-XII	Y
13	Island Quarry and Aggregates Corporation - Solid Cement Corporation (Teresa Marble Corporation)	MPSA No. 124-98-IV	Y
14	JLR Construction and Aggregates, Inc.	MPSA No. 194-2004-VII	Y
15	Northern Cement Corporation	MPSA No. 106-98-I	Y
16	Rapid City Realty and Dev't. Corp.	MPSA No, 074-97-IV	Y
17	Republic Cement & Building Materials, Inc.-	MPSA No. 138-99-IVA	Y

	Teresa Plant, Rizal		
18	Republic Cement and Building Materials, Inc (Formerly Lafarge Republic Inc.) - Batangas	MPSA No. 029-95-IVA	Y
19	Republic Cement and Building Materials, Inc. - Bulacan	MPSA No. 026-94-III	Y
20	Rio Tuba Nickel Mining Corporation - Gotok Limestone Project	MPSA No. 213-2005-IVB	Y

\* Targeted non-metallic mining entities are mainly involved in extraction of basalt and limestone.

In its second year of inclusion in the PH-EITI exercise, all targeted non-metallic mining companies participated and completed reporting via ORE Tool (2015 and 2016 - 5 out of 7 targeted non-metallic mining companies). Refer to Section 2, *Reconciliation results*, of this chapter for the further details of the targeted and participating companies.

### *Oil and gas*

Table 35. Oil and gas entities

	<b>Name of Company</b>	<b>Project/Contract</b>	<b>Participating Y/N</b>
1	Chevron Malampaya LLC	SC38	Y
2	Cosco Capital, Inc. (formerly Alcorn Gold Resources Corp.)	SC14	N
3	Forum Energy Philippines Corp.	SC40	N
4	Galoc Production Company	SC14C	Y
5	Nido Production Galoc	SC14,	Y
6	Oriental Petroleum & Minerals Corp.	SC14	N
7	PNOC - Exploration Corporation	SC38	Y
8	Shell Philippines Exploration B.V.	SC38	Y
9	The Philodrill Corporation	SC14	N

For this Report, five (5) oil and gas companies participated in the exercise. The remaining four (4) companies either did not complete reporting via ORE Tool or had no extractive revenue in 2017.

### *Coal*

Semirara Mining and Power Corporation, the lone target company for the coal sector, did not participate.

As done in prior reports, more than sufficient effort was exerted including direct email correspondences with Semirara and formal letter sent by the DOF to the DOE for assistance. Alternative procedures were then conducted to present information on Semirara's revenue streams including obtaining public documents such as audited financial statements and unilateral disclosures by the government agencies. These were included and presented in Section 2, *Reconciliation Results Overview*, of this chapter.

### **B. GOCCs**

A detailed discussion on GOCCs may be found in Section I, *The legal framework*, of Chapter 1 of this report.

### **C. Government agencies**

The list of government agencies and their respective revenue streams may be found in Section VI, *Scope of the Report*, of Chapter 2 of the Fourth Report.

### **D. Mandatory expenditures and social funds**

A summary of mandatory expenditures and funds that are considered unilateral payments, but are nonetheless subjected to reconciliation procedures, as far as practicable, is provided in Section VI, *Scope of the report*, of Chapter 2 of the fourth report.

There are no changes in the scope of GOCCs, government agencies, and mandatory expenditures and social funds for this Report.

### **E. Determination of materiality**

The determination of materiality is mainly driven by monetary values and by whether these revenue streams are considered primary sources of receipts, as confirmed by the collecting government agencies.

Similar to the third and fourth PH-EITI Country Report, the determination of materiality level for the fifth PH-EITI Country Report was done on a per industry basis which provided for a uniform monetary threshold and a greater focus on key revenue streams relative to the total revenues on a per industry level. The materiality threshold was calculated using 2% applied to the total revenues collected from the participating entities per industry as reported by the different government agencies. The 2% was benchmarked against the proposed regulatory threshold to be imposed by the Philippine Securities and Exchange Commission (SEC) on public companies. Presently, the threshold is at 5%, which if applied will result in fewer revenue streams to be covered. Hence, the adoption of a lower threshold was deemed more prudent and will enable greater and expanded scope. A similar discussion on the threshold used by the SEC was included in the first PH-EITI report.

In addition, the nature of the payments based on their relevance and significance to communities and operations was considered. Thus, real property taxes, mandatory expenditures and social funds and customs duties were included regardless of their amounts.

In scope revenue streams, other taxes, and funds for the 2017 reconciliation procedures are as follows:

<b>Revenue</b>	<b>Collecting agency</b>
Corporate income tax	BIR
Withholding tax - Foreign shareholder dividends	BIR
Excise tax on minerals	BIR
Local business tax	LGU
Customs duties	BOC
VAT on imported materials and equipment	BOC
Royalty on mineral reservation	MGB
Withholding tax - royalties to claim owners	BIR
Real property tax - Special Education Fund (SEF)	LGU
Real property tax - Basic	LGU
Government share in oil and gas	DOE
<b>Other taxes</b>	
Royalty for IPs	NCIP (in charge of monitoring only)
<b>Mandatory expenditures and funds</b>	
<ul style="list-style-type: none"> <li>▪ Rehabilitation Cash Fund - Actual Expenditure</li> <li>▪ Monitoring Trust Fund - Actual Expenditure</li> <li>▪ Environmental Trust Fund - Actual Expenditure</li> <li>▪ Mine Wastes &amp; Tailing Fees</li> <li>▪ Annual Environmental Protection and Enhancement Program</li> <li>▪ Final Mine Rehabilitation and/or Decommissioning Fund - Actual Expenditure</li> <li>▪ Social Development &amp; Management (host and neighboring communities)</li> <li>▪ Mining Technology and Geosciences advancement</li> <li>▪ Information, Education, and Communication (IEC)</li> <li>▪ Safety and Health Program</li> </ul>	

Any variance arising from the reconciliation procedures for the above in scope revenue streams, other taxes, and funds were subjected to additional procedures. Additional procedures included tracing of transactions lifted from detailed schedules provided by participating companies and government agencies to supporting documents (i.e. tax returns, official receipts). Refer to the succeeding subsections for the discussion of the reconciliation process and methodology.

### **F. Other options considered by MSG**

All revenue streams, other taxes, and funds will be covered during the reconciliation procedures. In case of variance between the reported amounts of the government agency and participating company, a fixed rate of 5% will be applied against the total reported collection per government agency. If the variance is more than 5% of the total collection of the government agency, a reconciliation of that particular revenue stream will be performed. This option will result in different variance thresholds per participating company and government agency. Although this method may cover a greater scope, it may provide a fragmented analysis of the data and variances, distorting any impact of process recommendations.

### **G. Scoped-out revenue streams**

The following revenue streams were excluded from this Report due to immateriality.

#### Mining

<b>Responsible agency</b>	<b>Revenue stream</b>	<b>GFS Code</b>	<b>Amount</b>
<b>Metallic</b>			
BIR	Withholding tax - Profit remittance to principal	1112E1	-
BIR	Withholding tax - Improperly accumulated retained earnings tax (IAET)	1112E2	-
BOC	Excise tax on imported goods (e.g. petroleum products)	1151E	17,078
PPA	Wharfage fees	1151E	-
MGB	Others (e.g. penalties, fines, etc.)	143E	-
LGU	Occupation fees	114521E	9,626,152
LGU	Mayor's permit	114521E	8,204,919
LGU	Community tax	116E	175,660
NCIP	FPIC expenditure		-
NCIP	Field Based Investigation Fee		-
<b>Total</b>			<b>18,074,809</b>
<b>Non-metallic</b>			
BIR	Withholding tax - Profit remittance to principal	1112E1	-
BIR	Withholding tax - Improperly accumulated retained earnings tax (IAET)	1112E2	-
BOC	Excise tax on imported goods (e.g. petroleum products)	1151E	3,715,813
PPA	Wharfage fees	1151E	-
MGB	Others (e.g. penalties, fines, etc.)	143E	-
LGU	Occupation fees	114521E	65,249
LGU	Mayor's permit	114521E	148,812
LGU	Community tax	116E	-
NCIP	FPIC expenditure		-
NCIP	Field Based Investigation Fee		-
<b>Total</b>			<b>3,929,874</b>

## Oil and gas

Responsible agency	Revenue stream	GFS Code	Amount
DOE	Annual Rental fees for retained area after exploration	1415E5	1,743,720
DOE	Social funds - Training fund for DOE employees (Clause 17.02 Model Contract) - Actual expenditure		-
PPA	Wharfage fees	1151E	-
LGU	Mayor's permit	114521E	46,240
BOC	Customs duties	1151E	2,357,065
BOC	Excise tax on imported goods (e.g. petroleum products)	1151E	
BOC	VAT on imported materials and equipment	1151E	6,813,390
<b>Total</b>			<b>10,960,415</b>

Application, processing, clearance, and issuance fees for exploration permits, mineral agreements, FTAA, and quarry resources, sand and gravel permit/license expected to be incurred before operations and other fees paid to for subsequent services rendered by MGB (i.e. verification, umpiring, surveys and other services) are likewise considered immaterial and scoped out in the reconciliation.

In addition, the following revenue streams were also excluded as these were determined to be not applicable to the local mining and oil and gas industry sectors because these are zero-rated or not yet due given the stage of the operation. These may also represent payments made on behalf of other taxpayers (e.g. employees), although still attributed to their operations. These are as follows:

- Fringe benefit and withholding tax on salaries and benefits that are mainly compensation related with remittances made only by entities on behalf of employees.
- Government share from FTAA and JV agreements with no company operating under said contractual provisions in 2012. The first FTAA mining project only commenced commercial operations in April 2013.
- Output VAT since revenue transactions of companies are zero-rated (e.g. export oriented) or exempt as provided by law (e.g. PD 87).
- Documentary stamp taxes, import processing fees, storage fees, arrastre and stevedoring charges were also excluded because of their minimal value.

## 2. The Reconciliation Process

The reconciliation process was performed in accordance with the Philippine Standard on Related Services 4400, *Engagements to Perform Agreed Upon Procedures regarding Financial Information*. We performed the procedures solely for the purpose of reconciling payments made by the participating extractive companies with the revenue collections data provided by government agencies. The agreed upon procedures, as stated in the standard, do not constitute either an audit or a review. Consequently, we do not express any assurance on the reported payments and collections of the participating companies and government agencies, respectively.

The reconciliation process covered the following phases:

1. Started with data collection using the reporting templates approved by the Technical Working Group (TWG) and MSG.
2. Participating companies and government agencies submitted the completed reporting templates via the ORE Tool.
3. Gathered data were used in the preparation of reconciliation statements with identified differences subjected to additional examination of supporting documents and discussion with the participating entities and government agencies.

4. Unexplained differences were aggregated and calculated the percentage representation and impact on the overall reporting made by both the participating extractive companies and government agencies.

Results overview of reconciliation procedures are set out in the succeeding sections while the covered companies and government agencies are discussed in Section 2, *Reconciliation results*, of this Chapter.

### 3. Methodology

#### ***A. Development of reporting template***

Similar to the previous PH-EITI reports, 2017 data were gathered based on the reporting templates tailored and approved by MSG.

Data submission from reporting entities was made through PH-EITI's Online Reporting in the Extractives (ORE) Tool. The MSG-approved reporting templates were integrated into the ORE Tool to which reporting entities had access to by September 3, 2018. ORE was made available to all targeted companies and government agencies particularly the Mines and Geosciences Bureau, Department of Energy, Bureau of Customs, and the National Commission on Indigenous Peoples. The Bureau of Internal Revenue and Department of Budget and Management submitted separately while data submissions from local government units were submitted through the Bureau of Local Government Finance's Environment and Natural Resources Data Management Tool (ENRDMT).

The following guidelines were stated in the reporting templates and were explained to reporting companies and government agencies during the ORE Reporting Tool briefing on August 24, 2018, various MSG meetings, and roadshows:

- Disclosures should include all revenue streams attributed to taxable year 2017 irrespective of whether these were settled or paid in other periods, as well as if another fiscal year end is adopted (e.g., 30 June). Essentially, accrual basis of accounting should be followed.
- Templates should present total taxes for the year and supporting schedules should include the breakdown with the required level of detail (e.g., per frequency, receiving office) for any variance noted.
- Templates should be signed by the senior management such as President, Chief Finance Officer, or any equivalent personnel for participating companies, and commissioners or deputies for government agencies.

#### ***B. Data gathering process***

Below is an overview of the approach and methodology, primarily divided into three (3) phases as follows:



- Scoping of companies and revenue streams to be included as part of the template, as well as additional information determined to be significant by stakeholders in gaining further understanding of the local extractive industries
- Preparing and finalizing templates to standardize presentation of information and data, as well as identifying required sign-offs on behalf of companies and agencies. Copies of the standard reporting template may be accessed at <http://ph-eiti.org/#/documents/reporting-templates>.
- Authorized representatives and signatories from participating entities are given access to the ORE tool.
- Distribution of templates, granting of ORE reporting tool access and start of actual data gathering, initiating communications and coordination with assigned companies and government agencies.
- Understanding of relevant processes undertaken in the preparation of respective reporting templates including accounting systems involved and procedures done to ensure accuracy and completeness of information.
- Compilation of all reporting templates and extraction of data from ORE reporting tool.
- Comparative analysis of templates between participating companies and government agencies.
- Conduct of reconciliation procedures including inquiry with management and government personnel on possible causes of variances noted and actual examination of and tracing to supporting documents.
- Summarizing results and drawing potential improvements and recommendations that may be considered by both government agencies and participating companies.

### **C. Reconciliation method**

#### *i. Agreed upon procedures*

The objectives of the reconciliation process do not extend to an audit and review of the disclosures that were already subjected to the verification of third parties (e.g. independent auditing firms, and COA). Hence, agreed upon procedures (AUP) in accordance with the Philippine Standard on Related Services No. 4400, *Engagements to Perform Agreed-upon Procedures regarding Financial Information*, was determined to be appropriate. The end result of an AUP is a report on factual findings specifically on variances identified, if any, and reasons thereof, with no assurance expressed or issued.

The AUP are as follows:

- Revenue streams above the threshold set were selected and the differences were calculated. Refer to *Determination of materiality* subsection of this Section for the details of the in-scope revenue streams.
- Variances between the amounts disclosed by participating entities and the amounts disclosed by the corresponding government agencies were subjected to additional procedures, including direct discussions with management to identify possible reasons and explanations for these differences, as well as tracing sample transactions through the corresponding supporting documents to confirm the validity and accuracy of the disclosures made.

Revenue streams, expenses, and funds that were only disclosed by companies but had no corresponding disclosures from the government agencies due to legal restrictions (such as the absence of a confidentiality waiver) and those cases which lack available information (i.e., reports are not readily available at the government agency's central office), were reconciled through other available supporting documents including tax returns, payment vouchers, invoices and others.

#### *ii. Threshold of amount that will be reconciled*

Refer to *Determination of materiality* subsection of this Section for the discussion on the determination of material revenue streams. For each in scope revenue stream, the total variance will be communicated to both the company and government agency to facilitate the compilation of detailed supporting schedules and additional documents (e.g. official receipts, bank statements). Any reconciling item that remained unsupported and unexplainable was declared as variance post-reconciliation.

### iii. Description of walkthrough procedures

As part of the data gathering process, we performed walkthrough procedures with the participating companies. The walkthrough procedures involved tracing of information to the accounting systems, discussions with employees who were mainly from the Finance/Accounting department, and inspection of sample documents prepared and reviewed by them such as account schedules and the listings generated from their accounting systems.

Lastly, we also referred to the following documents as additional references:

- 2017 audited financial statements, if available, as these include relevant disclosures in compliance with Revenue Regulation No. 15-2010. This regulation requires the presentation of all applicable taxes made including corporate income, excise and business taxes, duties, and other payments; and
- Annual reports for listed entities that ascertain transparency on community development programs; and other reports gathered by the EITI Secretariat from various agencies for scoping purposes.

## D. Assurances agreed upon to ensure credibility of data

To establish credibility of the data, the MSG considered availability and accessibility of information including the appropriate level of management who will attest to the accuracy of the data. With these factors in mind, the credibility of data was established through the following:

- Reporting templates were submitted by either the President of the Company and/or Chief Financial Officer, and Department Head for the government agencies via the ORE Tool.
- Traceability of information to the audited financial statements, as applicable. Refer to Section IX, *Audit procedures*, of the fourth Report for the discussion on the audits being performed by an independent third party and COA on the financial statements of the companies and government agencies, respectively.

## E. Provisions for safeguarding confidential information

The first PH-EITI report includes a comprehensive discussion on the concepts of public disclosure, information, and participation. More specifically on confidentiality, the following rules apply to the mining and oil and gas sectors.

Rules on confidentiality for the mining sector

### CONFIDENTIAL

The information is confidential during the term of the project. Said information should not be divulged to the public, but may be used by the DENR-MGB Director or his authorized representatives internally for purposes of monitoring, policy planning, and research



Information supplied by mining contractors to DENR as part of investment guarantee  
Information agreed upon by the parties in the negotiations as confidential

### NON-CONFIDENTIAL

This means that the information may be made available to and reproduced by the public upon submission of an appropriate request to the DENR-MGB.



Documents not covered by a valid confidentiality agreement between the parties  
Production and sales of minerals  
Employment  
Royalty and tax payments  
Metallic and non-metallic reserves  
Operational parameters, such as mining and milling capacities and rates, mine and mill recoveries, dilution factors, etc.  
Other data agreed upon by the parties

## II. Reconciliation Results

We present in the following sections an analysis of relevant revenue and industry data. The ORE Reporting Tool launched by the PH-EITI Secretariat houses the completed templates of the participating companies and government agencies. The data will also be uploaded in the PH-EITI website.

Table 36 shows percentage representation of the participating companies' total payments to government's revenue streams.

Table 36: Percentage coverage of participating companies to total sector based on reported tax revenues of the government agencies in 2017

	<b>Metallic</b>	<b>Non-metallic</b>	<b>OG</b>	<b>Total</b>
Total reconciled revenue streams from participating companies (excluding NCIP and MGB funds)	7,046,079,328	2,287,012,064	28,302,177,979	37,635,269,371
Total industry revenue streams collected by government	7,560,065,853	2,691,212,530	28,334,277,713	38,585,556,096
<b>Percentage coverage of participating companies</b>	93%	85%	100%	98%

To note, the NCIP is only tasked to monitor royalty for IPs, not to collect on their behalf. Thus, consistent in previous reports, royalties for IPs are considered as 'other taxes' and not a revenue stream of the government. Likewise, MGB funds are payments made by the companies to ensure availability of financing for activities ranging from social development, environmental protection, and rehabilitation, and do not form part of the government revenue collections. Funds are presented in page 69 of this section.

Table 37: Aggregate data for revenue streams and other taxes as reported by each government agency in 2017

<b>Agency</b>	<b>2017</b>
BIR	17,896,948,151
BOC	835,887,120
DOE	17,918,680,270
LGU	808,331,567
PPA	-
MGB	1,125,708,988
<b>Subtotal</b>	<b>38,585,556,096</b>
NCIP	116,021,265
<b>Total</b>	<b>38,701,577,361</b>

\*The above aggregate data were derived from the reconciled revenue streams and factored in adjustments from the reconciliation results

Based on the submissions provided by the individual government agencies on total collections from large-scale metallic and non-metallic, and oil and gas sectors, percentage representation of participating metallic, non-metallic and oil and gas companies are at 93%, 85% and 99%, respectively (2015 - 89% for metallic and 95% for oil and gas; 2016 - 93% for metallic and 100% for oil and gas). As discussed in the prior year report, coverage of the non-metallic sector for its pilot year of inclusion was based on production volume. In 2015 and 2016, percentage coverage for non-metallic mining based on production was 46% and 43%, respectively.

The table below presents the percentage coverage of reconciled revenue streams of participating companies to total collections reported by each government agency:

Table 38: Percentage coverage of reconciled revenue streams of participating companies to total collections reported by government agencies

	Metallic	Non-metallic	OG
BIR	97%	98%	133%
BOC	11%	3%	-
DOE	-	-	100%
LGU	139%	164%	-
MGB	76%	-	-
Subtotal	93%	85%	110%
NCIP	137%	-	-
<b>Total</b>	<b>94%</b>	<b>85%</b>	<b>110%</b>

We set out in the table below a summary of the reconciled disaggregated revenue streams per government agency and per industry sector.

Table 39: Disaggregated reconciled revenue streams and other taxes per government agencies

Agency/Revenue streams	Metallic mining	Non-metallic mining	Oil and gas	Total
<b>BIR</b>				
Corporate income tax	3,395,542,579	1,814,804,567	7,983,752,446	13,194,099,592
Excise tax on minerals	1,767,977,654	59,292,265	-	1,827,269,919
Withholding tax - Foreign shareholder dividends	122,695,770	-	-	122,695,770
Withholding tax - Profit remittance to principal	-	-	2,422,091,582	2,422,091,582
Withholding tax - Royalties to claim owners	109,118,166	-	-	109,118,166
<b>BIR Total</b>	<b>5,395,334,169</b>	<b>1,874,096,832</b>	<b>10,405,844,028</b>	<b>17,675,275,029</b>
<b>BOC</b>				
Customs duties	1,681,727	15,457,597	-	17,139,324
VAT on imported materials and equipment	32,592,267	-	-	32,592,267
<b>BOC Total</b>	<b>34,273,994</b>	<b>15,457,597</b>	<b>-</b>	<b>49,731,591</b>
<b>DOE</b>				
Government share from oil and gas production	-	-	17,896,333,951	17,896,333,951
<b>DOE Total</b>	<b>-</b>	<b>-</b>	<b>17,896,333,951</b>	<b>17,896,333,951</b>
<b>LGU</b>				
Local business tax	567,235,381	96,632,500	-	663,867,881
Real property tax - Basic	94,253,221	150,413,743	-	244,666,964
Real property tax - Special Education Fund (SEF)	100,502,071	150,411,392	-	250,913,463
<b>LGU Total</b>	<b>761,990,673</b>	<b>397,457,635</b>	<b>-</b>	<b>1,159,448,308</b>
<b>MGB</b>				
Royalty on mineral reservation	854,480,492	-	-	854,480,492
<b>MGB Total</b>	<b>854,480,492</b>	<b>-</b>	<b>-</b>	<b>854,480,492</b>
<b>NCIP</b>				
Royalty for IPs	158,459,673	-	-	158,459,673
<b>NCIP Total</b>	<b>158,459,673</b>	<b>-</b>	<b>-</b>	<b>158,459,673</b>
<b>Total</b>	<b>7,204,539,001</b>	<b>2,287,012,064</b>	<b>28,302,177,979</b>	<b>37,793,729,044</b>

Table 40 discloses the percentage of total production of participating companies to respective sectors as follows:

Table 40. Percentage representation of participating companies to total sector based on production value in 2017

Sector	Total production value in PHP*	Total production value in PHP of participating companies*	% of participating companies to total production value
Metallic mining	108,642,259,820	108,642,259,820	100%
Non-metallic mining	5,905,374,334	5,373,890,644	91%

\*Based on MGB data. No available peso production value for oil and gas and coal.

Alternatively, we have further assessed the sufficiency of participation based on reported production based on the presumption that higher production would result to higher sales and consequently to higher tax payments.

For 2017, representation of the large-scale metallic mining sector totaled to 100% based on production value. For non-metallic mining in its second year of inclusion in the report, the participation of the Top 20 targeted companies represented 91% of the sector.

Percentage coverage based on total sales in 2017 was not presented due to the limited number of available audited financial statements that can be readily accessed online from the SEC website. Please refer to the next subsection for further discussion on participating companies.

### **Participating companies**

Table 41 details the number of targeted and participating companies who were able to submit their templates as of 22 December 2018 (template submission cut-off).

Table 41: Number of targeted and participating companies for the fifth report

	<b>Metallic</b>	<b>Non-metallic</b>	<b>Oil and gas</b>	<b>Coal</b>	<b>Total</b>
<b>Targeted companies</b>	46	20	9	1	76
Participating	39	20	5	-	64
Non-participating	7	-	4	1	12

Of the 76 targeted companies from the metallic (46) and non-metallic (20) mining, OG (9) and coal (1) sectors, 62 companies (39 metallic and 20 non-metallic mining and 3 oil and gas) were able to submit their templates via ORE before the cut-off date.

The following companies that either did not submit reporting templates or did not complete submission via ORE were tagged as non-participating:

#### *Metallic Mining*

- A. Chromite
  - 1. Chromiteking - Cambayas Mining Corporation
  - 2. Emir Mineral Resources Corporation
- B. Nickel
  - 1. Century Peak Corporation – Casiguran
  - 2. Century Peak Corporation – Esperanza
  - 3. Oriental Synergy Mining Corporation
  - 4. Wellex Mining Corporation
- C. Other metallic mining
  - 1. Philippine Mining Development Corporation

#### *Oil and gas*

- 1. Cosco Capital, Inc. (formerly Alcorn Gold Resources Corp.)
- 2. Forum Energy Philippines Corp.
- 3. Oriental Petroleum & Minerals Corp.
- 4. The Philodrill Corporation

#### *Coal*

- 1. Semirara Mining and Power Corporation

As discussed in the previous section, non-participating entities for metallic mining and oil and gas did not have any production for the year 2017 due to varying reasons including decommissioning, temporary closure and others; hence are expected not to have paid and remitted material taxes. For coal, Semirara Mining and Power Corporation, the major player in the coal sector, continued its non-participation in the exercise for five (5) consecutive years.

For unilateral payments pertaining to non-participating companies, please refer to Table 61 of Section 3, Variance analysis, of this Chapter.

Notwithstanding the absence of completed reporting template from Semirara Mining and Power Corporation, the following information on government share/real property taxes and income taxes were obtained from the government's reporting template and the company's own audited financial statements, respectively:

Table 42: Semirara Mining and Power Corporation tax payments in 2017

Agency	Revenue stream	Amount (PHP in millions)	% to total reconciled mining and oil and gas revenue streams	Remarks
BIR	Corporate income tax	30,028	0%	Provision for income tax
DOE	Government share in production	4,306,810	24%	

The above data were only presented as a matter of information and not subjected to reconciliation procedures due to Semirara's non-participation in the exercise. Nonetheless, if we are to directly compare disclosures made by the DOE based on their reporting template and Semirara Mining and Power Corporation's 2017 annual report, there is no noted significant variance in the reported government share of PHP4.3bn in 2017. The annual report may be accessed through its website at <http://www.semiraramining.com>.

For 2017, the total of provision for income tax and government share from production attributed to Semirara Mining and Power Corporation amounting to PHP4.3bn represented 11% of total reconciled revenue streams for mining and oil and gas. Accordingly, we have assessed revenue streams for coal to be immaterial in relation to total extractive sector as a whole. However, PH-EITI continues to chase Semirara as it primarily represents the local coal sector.

For additional details on the profile of targeted, participating, and non-participating companies, refer to discussion under the "Scope of the report" sub section of Section 1 of this Chapter.

The list below distinguishes mining companies that availed themselves of fiscal incentives particularly income tax holiday (ITH) under their registration with the Board of Investments (BOI). As a result, these companies were not subjected to corporate income tax on their primary business activities (i.e., metal sales). These mining companies are as follows:

#### Nickel

1. Marcventures Mining and Development Corporation
2. Platinum Group Metals
3. Citinickel Mines and Development Corp.
4. Westernshore Nickel Corporation

#### Gold/Copper/Silver/Zinc

1. FCF Minerals Corporation
2. OceanaGold (Philippines), Inc.

#### Chromite

1. Chromiteking - Cambayas Mining Corporation
2. Techiron Resources, Inc.

#### Non-metallic (Basalt/Limestone)

1. Holcim Mining and Dev't Corp.
2. Holcim Resources and Dev't Corp.

Similar to the previous PH-EITI country reports, reconciliation was also limited by the prevailing confidentiality clause under the NIRC, which prevents the BIR from disclosing tax payments of companies unless signed waivers are submitted (Refer to Annex M for the BIR waiver template). Summary presentation of companies on submitted templates and waivers is as follows:

Table 43: List of participating entities and related BIR waiver submissions

	With waiver (Y/N)
<b>Metallic mining</b>	
<i>Chromite</i>	
Chromiteking - Cambayas Mining Corporation	Y
Emir Mineral Resources Corporation	N
Krominco, Inc.	Y
Techiron Resources, Inc.	Y
<i>Copper / Gold / Silver / Zinc</i>	
Apex Mining Company, Inc.	Y
Benguet Corporation	Y
Carmen Copper Corporation	Y
FCF Minerals Corporation	Y
Filminera Resources Corporation	Y
Greenstone Resources Corporation	Y
Lepanto Consolidated Mining Company	Y
OceanaGold (Philippines), Inc.	Y

Philex Mining Corporation	Y
Philsaga Mining Corporation	Y
<i>Nickel</i>	
AAM-PHIL Natural Resources Exploration and Development Corporation	Y
Adnama Mining Resources Incorporated	Y
Agata Mining Ventures Inc.	Y
Benguetcorp Nickel Mines, Inc.	Y
Berong Nickel Corp.	Y
Cagdianao Mining Corporation	Y
Carrascal Nickel Corporation	Y
Century Peak Corporation - Casiguran	N
Century Peak Corporation - Esperanza	N
Citinickel Mines and Development Corp.	Y
CTP Construction and Mining Corporation - Adlay	Y
CTP Construction and Mining Corporation - Dahican	Y
Eramen Minerals, Inc.	Y
Hinatuan Mining Corporation	Y
Libjo Mining Corporation	Y
LNL Archipelago Minerals, Inc.	Y
Marcventures Mining and Development Corporation	Y
Oriental Synergy Mining Corporation	N
Oriental Vision Mining Philippines Corporation	Y
Pacific Nickel Philippines Inc	Y
Platinum Group Metals Corporation	Y
Rio Tuba Nickel Mining Corp.	Y
Sinosteel Phils. H. Y. Mining Corporation	Y
SR Metals, Inc.	Y
Taganito Mining Corporation	Y
Wellex Mining Corporation	N
Westernshore Nickel Corporation	Y
Zambales Diversified Metals Corporation	Y
<i>Other metallic mining entities</i>	
Leyte Ironsand Corporation	Y
Ore Asia Mining and Development Corporation	Y
Philippine Mining Development Corporation	N
Strong Built Mining Development Corporation	Y
<b>Non-metallic mining</b>	
<i>Basalt / Limestone</i>	
Apo Land & Quarry Corporation	Y
Bohol Limestone Corp.	Y
Concrete Aggregates Corporation (MPSA 032-95-IV)	Y
Concrete Aggregates Corporation (MPSA 055-96-IV)	Y
Dolomite Mining Corporation	Y
Eagle Cement Corporation	Y
Gozon Dev't. Corp.	Y
Hardrock Aggregates, Inc.	Y
Holcim Mining and Development Corp. - HMDC (Assignment with subscription Agreement for Holcim Phils., Inc. - Davao)	Y
Holcim Mining and Development Corporation - Bulacan	Y
Holcim Mining and Development Corporation - HMDC (Assignment with Subscription Agreement from Holcim Philippines, Inc.) – La Union	Y
Holcim Resources and Development Corporation (Assignment from Holcim Philippines Manufacturing Corporation)	
Lugait, Misamis Oriental	Y
Island Quarry and Aggregates Corporation - Solid Cement Corporation (Teresa Marble Corporation)	Y
JLR Construction and Aggregates, Inc.	Y
Northern Cement Corporation	Y
Rapid City Realty and Dev't. Corp.	Y
Republic Cement & Building Materials, Inc.-Teresa Plant, Rizal	Y
Republic Cement and Building Materials, Inc (Formerly Lafarge Republic Inc.) - Batangas	Y
Republic Cement and Building Materials, Inc. - Bulacan	Y
Rio Tuba Nickel Mining Corporation - Gotok Limestone Project	Y
<b>Oil and gas</b>	
Chevron Malampaya LLC	Y
Cosco Capital, Inc. (formerly Alcorn Gold Resources Corp.)	N
Forum Energy Philippines Corp.	N
Galoc Production Company	Y
Nido Production Galoc	Y
Oriental Petroleum & Minerals Corp.	N
PNOC - Exploration Corporation	Y
Shell Philippines Exploration B.V.	Y
The Philodrill Corporation	N

**Local Government Units**

In addition to the seven (8) national government agencies, a total of 95 LGUs submitted templates for reconciliation as compared to 61 and 57 in 2015 and 2016, respectively. These are as follows:

Table 44: List of LGUs

REGION	PROVINCE	LGU
CAR	BENGUET	Bokod
		Itogon
		La Trinidad
		Mankayan
		Tuba
	IFUGAO	Alfonso Lista (Potia)
MOUNTAIN PROVINCE	Bauko	
	Sabangan	
NCR	METRO MANILA	Muntinlupa City
		Pasay City
		Pasig City
		San Juan City
		Taguig City
REGION I	PANGASINAN	San Carlos (Pangasinan) City
REGION II	ISABELA	Ramon
	NUEVA VIZCAYA	Nueva Vizcaya
		Kasibu
REGION III	BULACAN	Quezon
		San Ildefonso
	NUEVA ECIIJA	Nueva Ecija
		Pantabangan
ZAMBALES	Zambales	
	Candelaria	
	Santa Cruz	
REGION IVA - CALABARZON	BATANGAS	Calatagan
		Santo Tomas
		Taysan
	LAGUNA	Calamba City
		Bay
		Luisiana
		Majayjay
	RIZAL	Antipolo City
		Teresa
REGION IVB - MIMAROPA	PALAWAN	Palawan
		Bataraza
		Narra
		Quezon
		Sofronio Espanola
REGION V	CAMARINES NORTE	Jose Panganiban
	MASBATE	Masbate
		Aroroy
	ALBAY	Mobo
		Manito
		Tiwi
REGION VI	ANTIQUE	Caluya
	NEGROS OCCIDENTAL	Sagay City
	NEGROS ORIENTAL	Valencia (Luzurriaga)
REGION VII	CEBU	Danao City
		Toledo City
		Alcoy
		Balamban
		Dalaguete
		San Fernando
REGION VIII	EASTERN SAMAR	Guiuan
	LEYTE	Leyte
		Ormoc City
		Isabel
		Javier (Bugho)
		Julita

		Kananga
REGION IX	ZAMBOANGA DEL NORTE	Zamboanga Del Norte
REGION X	BUKIDNON	Valencia City
		Manolo Fortich
REGION XI	COMPOSTELA VALLEY	Maco
	DAVAO DEL SUR	Davao Del Sur
		Davao City
		Digos City
REGION XII	NORTH COTABATO	Kidapawan City
REGION XIII	AGUSAN DEL NORTE	Butuan City
		Cabadbaran City
		Santiago
		Tubay
	AGUSAN DEL SUR	Agusan Del Sur
		Bunawan
		Rosario
	DINAGAT ISLANDS	Dinagat Islands
		Basilisa
		Cagdianao
		Dinagat
		Libjo
		Loreto
		San Jose
		Tubajon
	SURIGAO DEL NORTE	Surigao Del Norte
		Surigao City
		Alegria
		Claver
		Tagana-An
		Tubod
	SURIGAO DEL SUR	Barobo
		Cantilan
		Carrascal
		Liangá
		Madrid

### **Revenue streams**

In terms of revenue streams, the following tax payments and fees, as well as mandatory expenditures and funds, were included in this Report. A more detailed discussion on these revenue streams are included in Section 1, Process, of this Chapter.

#### **Taxes and fees**

1. Corporate income tax
2. Excise tax
3. Withholding tax on foreign shareholder dividends
4. Withholding tax on royalties to claim owners
5. Withholding tax on profit remittance to principal
6. Customs duties
7. Value added tax on importations
8. Royalty on mineral reservation
9. Government share from oil and gas operations
10. Local business taxes
11. Real property tax – Basic and Special Education Fund (SEF)

#### **Other taxes**

1. Royalty for Indigenous Peoples (IPs)

### Mandatory expenditures and funds

1. Annual Environmental Protection and Enhancement Program (AEPEP)
2. Annual Safety and Health Program
3. Annual Social Development Management Program (SDMP)
4. Monitoring Trust Fund
5. Environmental Trust Fund
6. Mine Waste and Tailings Fees Reserve Fund
7. Final Mine Rehabilitation and Decommissioning Fund
8. Rehabilitation Cash Fund

### Final output preview

Table 45 provides an overview of the final results of the reconciliation procedures with detailed information included in Annex N, *Detailed reconciliation results*.

Table 45: Summary of reconciliation results for revenue streams per agency

	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation	% Variance
<b>Metallic mining</b>						
BIR	5,706,619,805	5,570,916,714	(135,703,091)	5,395,334,169	(86,130,825)	-2%
BOC	831,799,506	298,659,473	(533,140,033)	34,273,994	(520,274,248)	-174%
LGU	1,003,221,457	548,133,354	(455,088,103)	761,990,673	(85,315,364)	-16%
MGB	998,610,790	1,124,281,503	125,670,713	854,480,492	141,955,979	13%
NCIP	350,390,448	116,021,265	(234,369,183)	158,459,673	(118,189,804)	-102%
<b>Metallic mining Total</b>	<b>8,890,642,006</b>	<b>7,658,012,309</b>	<b>(1,232,629,697)</b>	<b>7,204,539,001</b>	<b>(667,954,262)</b>	<b>-9%</b>
<b>Non-metallic mining</b>						
BIR	1,997,223,642	1,919,650,689	(77,572,953)	1,874,096,832	(16,497,772)	-1%
BOC	865,095,508	524,324,301	(340,771,207)	15,457,597	(262,012,651)	-50%
LGU	873,556,778	241,931,181	(631,625,597)	397,457,635	(26,068,164)	-11%
MGB	-	1,376,485	1,376,485	-	1,376,485	100%
NCIP	4,622,549	-	(4,622,549)	-	-	0%
<b>Non-metallic mining Total</b>	<b>3,740,498,477</b>	<b>2,687,282,656</b>	<b>(1,053,215,821)</b>	<b>2,287,012,064</b>	<b>(303,202,102)</b>	<b>-11%</b>
<b>Oil and gas</b>						
BIR	10,405,844,028	7,801,498,661	(2,604,345,367)	10,405,844,028	536,720	0.01%
DOE	17,896,333,951	17,916,936,550	20,602,599	17,896,333,951	20,442,677	0.11%
<b>Oil and gas Total</b>	<b>28,302,177,979</b>	<b>25,718,435,211</b>	<b>(2,583,742,768)</b>	<b>28,302,177,979</b>	<b>20,979,397</b>	<b>0.08%</b>
<b>Mining and Oil and gas</b>						
BIR	18,109,687,475	15,292,066,064	(2,817,621,411)	17,675,275,029	(102,091,877)	-1%
BOC	1,696,895,014	822,983,774	(873,911,240)	49,731,591	(782,286,899)	-95%
DOE	17,896,333,951	17,916,936,550	20,602,599	17,896,333,951	20,442,677	0.11%
LGU	1,876,778,235	790,064,535	(1,086,713,700)	1,159,448,308	(111,383,528)	-14%
MGB	998,610,790	1,125,657,988	127,047,198	854,480,492	143,332,464	13%
NCIP	355,012,997	116,021,265	(238,991,732)	158,459,673	(118,189,804)	-102%
<b>Total</b>	<b>40,933,318,462</b>	<b>36,063,730,176</b>	<b>(4,869,588,286)</b>	<b>37,793,729,044</b>	<b>(950,176,967)</b>	<b>-3%</b>

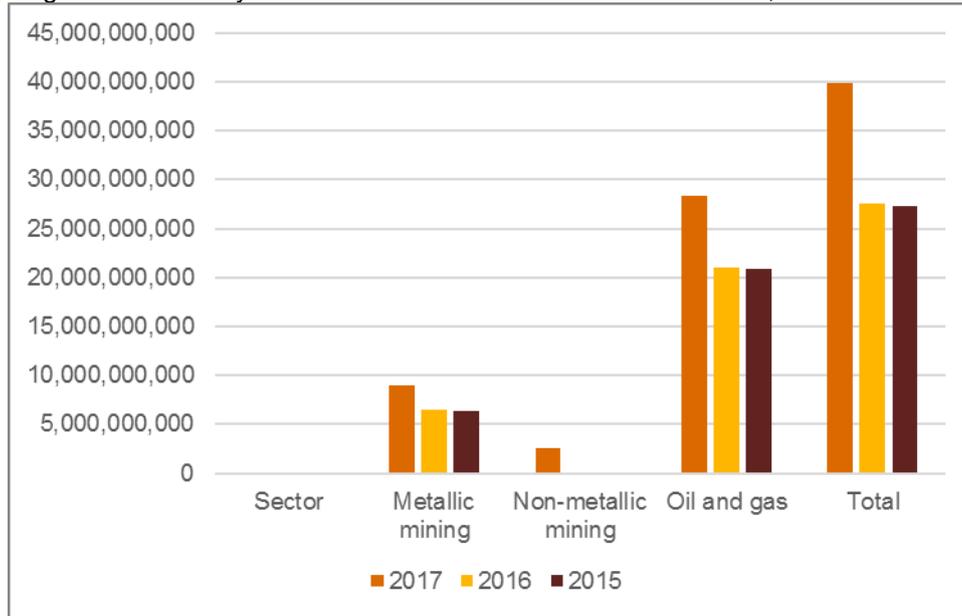
\*The government agency amounts, variance pre-reconciliation and post-reconciliation include unilateral disclosures by government agencies for non-participating entities amounting to PHP50.3m in 2017. Refer to Section 3, Variance analysis, of this Chapter for the details of unilateral disclosures.

Based on the results of reconciliation procedures, total reconciled revenue streams and other payments (NCIP) (excluding funds and mandatory expenditures) amounted to PHP 37.8bn in 2017 (2015 - PHP27.3bn; 2016 - PHP27.6bn). Details of out of scope revenue streams are shown in Section 1, Process, of this Chapter.

Table 46: Summary of total reconciled revenue streams in 2017, 2016 and 2015

Sector	2017	2016	2015	Change (2017 vs 2016)	% Change	Change (2017 vs 2015)	% Change
Metallic mining	9,046,964,395	6,526,540,183	6,333,534,831	2,520,424,212	39%	2,713,429,564	43%
Non-metallic mining	2,518,067,609	3,744,435	74,033,831	2,514,323,174	67148%	2,444,033,778	3301%
Oil and gas	28,302,177,979	21,022,593,931	20,881,555,430	7,279,584,048	35%	7,420,622,549	36%
<b>Total</b>	<b>39,867,209,983</b>	<b>27,552,878,549</b>	<b>27,289,124,092</b>	<b>12,314,331,434</b>	<b>45%</b>	<b>12,578,085,891</b>	<b>46%</b>

Figure 2. Summary of total reconciled revenue streams in 2017, 2016 and 2015



The significant increase in the 2017 reconciled revenue streams vis-à-vis the 2015 and 2016 results at 45% and 46%, respectively, is consistent with the recovery of the oil and gas from slump in operations in prior years. The increase in the metallic mining sector is mainly due to the higher participation level of targeted companies. Likewise, the increase in scope and participation level of targeted companies in the non-metallic sector contributed to the higher reconciled revenue streams in 2017.

### Per agency

#### i. Reported collections and other taxes per government agency and aggregate

Table 47: Reconciliation summary per government agency per industry sector

	Reconciled – Metallic mining	Reconciled – Non-metallic mining	Reconciled – Oil and gas	Total
BIR	5,395,334,169	1,874,096,832	10,405,844,028	17,675,275,029
BOC	34,273,994	15,457,597	-	49,731,591
DOE	-	-	17,896,333,951	17,896,333,951
LGU	761,990,673	397,457,635	-	1,159,448,308
MGB	854,480,492	-	-	854,480,492
NCIP	158,459,673	-	-	158,459,673
<b>Total</b>	<b>7,204,539,001</b>	<b>2,287,012,064</b>	<b>28,302,177,979</b>	<b>37,793,729,044</b>

\*Reconciled amount for NCIP pertains to royalty for IPs, which is considered as other taxes and not a revenue stream in the government.

Detailed collections per revenue stream and other taxes per industry sector are as follows:

Table 48: Summary of reconciliation results for revenue streams per agency and per commodity

	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
<b>Metallic mining</b>					
<i>Chromite</i>					
<b>BIR</b>					
Corporate income tax	1,526	1,526	-	1,526	-
Excise tax on minerals	3,055,004	-	(3,055,004)	3,055,004	-
Withholding tax - Foreign shareholder dividends	-	-	-	-	-
Withholding tax - Royalties to claim owners	-	-	-	-	-
<b>Subtotal</b>	<b>3,056,530</b>	<b>1,526</b>	<b>(3,055,004)</b>	<b>3,056,530</b>	<b>-</b>
<b>BOC</b>					
Customs duties	2,239,685	-	(2,239,685)	-	(2,239,685)
VAT on imported materials and equipment	-	-	-	-	-
<b>Subtotal</b>	<b>2,239,685</b>	<b>-</b>	<b>(2,239,685)</b>	<b>-</b>	<b>(2,239,685)</b>
<b>LGU</b>					
Local business tax (paid either in mine site or head office)	3,023,669	12,500	(3,011,169)	-	(3,011,169)
Real property tax - Basic	352,633	-	(352,633)	-	(352,633)
Real property tax - Special Education Fund (SEF)	352,633	-	(352,633)	-	(352,633)
<b>Subtotal</b>	<b>3,728,935</b>	<b>12,500</b>	<b>(3,716,435)</b>	<b>-</b>	<b>(3,716,435)</b>
<b>MGB</b>					
Royalty on mineral reservation	-	-	-	-	-
<b>NCIP</b>					
Royalty for IPs	-	-	-	-	-
<b>Chromite Total</b>	<b>9,025,150</b>	<b>14,026</b>	<b>(9,011,124)</b>	<b>3,056,530</b>	<b>(5,956,120)</b>
<i>Copper / Gold / Silver / Zinc</i>					
<b>BIR</b>					
Corporate income tax	1,195,684,807	1,243,795,342	48,110,535	1,216,413,089	(25,000)
Excise tax on minerals	1,248,727,551	1,185,763,009	(62,964,542)	1,164,244,970	(13,814,650)
Withholding tax - Foreign shareholder dividends	19,587,770	8,931,043	(10,656,727)	19,695,770	-
Withholding tax - Royalties to claim owners	70,766,852	86,298,789	15,531,937	64,403,503	985,448
<b>Subtotal</b>	<b>2,534,766,980</b>	<b>2,524,788,183</b>	<b>(9,978,797)</b>	<b>2,464,757,332</b>	<b>(12,854,202)</b>
<b>BOC</b>					
Customs duties	144,739,178	47,019,437	(97,719,741)	1,431,284	(95,699,003)
VAT on imported materials and equipment	659,710,996	232,665,608	(427,045,388)	32,292,005	(416,668,678)
<b>Subtotal</b>	<b>804,450,174</b>	<b>279,685,045</b>	<b>(524,765,129)</b>	<b>33,723,289</b>	<b>(512,367,681)</b>
<b>LGU</b>					
Local business tax (paid either in mine site or head office)	418,309,682	191,661,166	(226,648,516)	379,443,790	(5,661,023)
Real property tax - Basic	146,952,340	51,425,342	(95,526,998)	79,665,344	(50,476,748)
Real property tax - Special Education Fund (SEF)	109,011,234	57,704,315	(51,306,919)	86,183,104	(10,192,716)
<b>Subtotal</b>	<b>674,273,256</b>	<b>300,790,823</b>	<b>(373,482,433)</b>	<b>545,292,238</b>	<b>(66,330,487)</b>
<b>MGB</b>					
Royalty on mineral reservation	-	13,103,743	13,103,743	-	13,103,743
<b>NCIP</b>					
Royalty for IPs	74,837,785	16,500,000	(58,337,785)	8,449,747	(51,197,134)
<b>Copper / Gold / Silver / Zinc Total</b>	<b>4,088,328,195</b>	<b>3,134,867,794</b>	<b>(953,460,401)</b>	<b>3,052,222,606</b>	<b>(629,645,761)</b>
<i>Nickel</i>					
<b>BIR</b>					
Corporate income tax	2,155,294,102	2,236,070,482	80,776,380	2,178,950,705	1,874,826
Excise tax on minerals	719,631,706	685,955,729	(33,675,977)	600,677,680	(36,500,147)
Withholding tax - Foreign shareholder dividends	173,308,000	31,500,000	(141,808,000)	103,000,000	-
Withholding tax - Royalties to claim owners	120,385,228	92,423,535	(27,961,693)	44,714,663	(38,651,302)
<b>Subtotal</b>	<b>3,168,619,036</b>	<b>3,045,949,746</b>	<b>(122,669,290)</b>	<b>2,927,343,048</b>	<b>(73,276,623)</b>
<b>BOC</b>					
Customs duties	10,045,556	6,007,359	(4,038,197)	250,443	(3,826,069)
VAT on imported materials					

	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
and equipment	15,064,091	12,967,069	(2,097,022)	300,262	(1,840,813)
<b>Subtotal</b>	<b>25,109,647</b>	<b>18,974,428</b>	<b>(6,135,219)</b>	<b>550,705</b>	<b>(5,666,882)</b>
<b>LGU</b>					
Local business tax (paid either in mine site or head office)	296,910,485	210,393,513	(86,516,972)	187,757,742	(17,215,435)
Real property tax - Basic	14,482,347	18,647,094	4,164,747	14,566,004	861,983
Real property tax - Special Education Fund (SEF)	13,744,047	18,289,424	4,545,377	14,297,094	1,085,010
<b>Subtotal</b>	<b>325,136,879</b>	<b>247,330,031</b>	<b>(77,806,848)</b>	<b>216,620,840</b>	<b>(15,268,442)</b>
<b>MGB</b>					
Royalty on mineral reservation	998,610,790	1,111,177,760	112,566,970	854,480,492	128,852,236
<b>NCIP</b>					
Royalty for IPs	275,552,663	99,521,265	(176,031,398)	150,009,926	(66,992,670)
<b>Nickel Total</b>	<b>5</b>	<b>0</b>	<b>)</b>	<b>1</b>	<b>)</b>
<i>Other metallic mining entities</i>					
<b>BIR</b>					
Corporate income tax	177,259	177,259	-	177,259	-
Excise tax on minerals	-	-	-	-	-
Withholding tax - Foreign shareholder dividends	-	-	-	-	-
Withholding tax - Royalties to claim owners	-	-	-	-	-
<b>Subtotal</b>	<b>177,259</b>	<b>177,259</b>	<b>-</b>	<b>177,259</b>	<b>-</b>
<b>BOC</b>					
Customs duties	-	-	-	-	-
VAT on imported materials and equipment	-	-	-	-	-
<b>Subtotal</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>LGU</b>					
Local business tax (paid either in mine site or head office)	38,641	-	(38,641)	33,849	-
Real property tax - Basic	21,873	-	(21,873)	21,873	-
Real property tax - Special Education Fund (SEF)	21,873	-	(21,873)	21,873	-
<b>Subtotal</b>	<b>82,387</b>	<b>-</b>	<b>(82,387)</b>	<b>77,595</b>	<b>-</b>
<b>MGB</b>					
Royalty on mineral reservation	-	-	-	-	-
<b>NCIP</b>					
Royalty for IPs	-	-	-	-	-
<b>Other metallic mining entities Total</b>	<b>259,646</b>	<b>177,259</b>	<b>(82,387)</b>	<b>254,854</b>	<b>-</b>
<b>Metallic mining Total</b>	<b>8,890,642,006</b>	<b>7,658,012,309</b>	<b>(1,232,629,697)</b>	<b>7,204,539,001</b>	<b>(667,954,262)</b>
<b>Non-metallic mining</b>					
<i>Basalt / Limestone</i>					
<b>BIR</b>					
Corporate income tax	1,889,680,576	1,848,340,119	(41,340,457)	1,814,804,567	(526,285)
Excise tax on minerals	94,169,616	53,826,529	(40,343,087)	59,292,265	(25,374,078)
Withholding tax - Foreign shareholder dividends	5,292,000	-	(5,292,000)	-	-
Withholding tax - Royalties to claim owners	8,081,450	17,484,041	9,402,591	-	9,402,591
<b>Subtotal</b>	<b>1,997,223,642</b>	<b>1,919,650,689</b>	<b>(77,572,953)</b>	<b>1,874,096,832</b>	<b>(16,497,772)</b>
<b>BOC</b>					
Customs duties	163,376,419	48,931,952	(114,444,467)	15,457,597	(35,685,911)
VAT on imported materials and equipment	701,719,089	475,392,349	(226,326,740)	-	(226,326,740)
<b>Subtotal</b>	<b>865,095,508</b>	<b>524,324,301</b>	<b>(340,771,207)</b>	<b>15,457,597</b>	<b>(262,012,651)</b>
<b>LGU</b>					
Local business tax (paid either in mine site or head office)	213,740,802	40,565,629	(173,175,173)	96,632,500	(14,552,327)
Real property tax - Basic	330,941,751	100,682,776	(230,258,975)	150,413,743	(6,766,628)
Real property tax - Special Education Fund (SEF)	328,874,225	100,682,776	(228,191,449)	150,411,392	(4,749,209)
<b>Subtotal</b>	<b>873,556,778</b>	<b>241,931,181</b>	<b>(631,625,597)</b>	<b>397,457,635</b>	<b>(26,068,164)</b>
<b>MGB</b>					
Royalty on mineral reservation	-	1,376,485	1,376,485	-	1,376,485
<b>NCIP</b>					
Royalty for IPs	4,622,549	-	(4,622,549)	-	-
<b>Non-metallic mining Total</b>	<b>3,740,498,477</b>	<b>2,687,282,656</b>	<b>(1,053,215,821)</b>	<b>2,287,012,064</b>	<b>(303,202,102)</b>
<b>Oil and gas</b>					
<b>BIR</b>					

	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
Corporate income tax	7,983,752,446	7,185,913,922	(797,838,524)	7,983,752,446	536,720
Withholding tax - Profit remittance to principal	2,422,091,582	615,584,739	(1,806,506,843)	2,422,091,582	-
<b>Subtotal</b>	<b>10,405,844,028</b>	<b>7,801,498,661</b>	<b>(2,604,345,367)</b>	<b>10,405,844,028</b>	<b>536,720</b>
<b>DOE</b>					
Government share from oil and gas production	17,896,333,951	17,916,936,550	20,602,599	17,896,333,951	20,442,677
<b>Oil and gas Total</b>	<b>28,302,177,979</b>	<b>25,718,435,211</b>	<b>(2,583,742,768)</b>	<b>28,302,177,979</b>	<b>20,979,397</b>
<b>Total</b>	<b>40,933,318,462</b>	<b>36,063,730,176</b>	<b>(4,869,588,286)</b>	<b>37,793,729,044</b>	<b>(950,176,967)</b>

### Per company

Table 49: Summary of reconciliation results for revenue streams per participating company

	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
<b>Metallic mining</b>					
<i>Chromite</i>					
Chromiteking - Cambayas Mining Corporation	-	12,500	12,500	-	12,500
Emir Mineral Resources Corporation	-	4,989,141	4,989,141	-	4,989,141
Krominco, Inc.	3,138,599	2,969,379	(169,220)	522,749	(169,220)
Techiron Resources, Inc.	25,485,253	17,082,196	(8,403,057)	20,137,200	(5,348,053)
<b>Chromite Total</b>	<b>28,623,852</b>	<b>25,053,216</b>	<b>(3,570,636)</b>	<b>20,659,949</b>	<b>(515,632)</b>
<i>Copper / Gold / Silver / Zinc</i>					
Apex Mining Company, Inc.	388,887,512	339,685,750	(49,201,762)	310,360,285	(48,104,788)
Benguet Corporation	71,733,538	57,802,575	(13,930,963)	57,560,967	(19,872,059)
Carmen Copper Corporation	756,399,469	298,031,915	(458,367,554)	347,678,033	(395,558,769)
FCF Minerals Corporation	146,834,531	82,523,827	(64,310,704)	5,767,378	(63,714,626)
Filminera Resources Corporation	869,307,319	615,949,529	(253,357,790)	857,405,058	(11,902,260)
Greenstone Resources Corporation	77,042,967	59,745,818	(17,297,149)	42,810,628	3,037,812
Lepanto Consolidated Mining Company	118,113,058	199,990,523	81,877,465	41,158,557	90,603,608
OceanaGold (Philippines), Inc.	1,738,540,394	695,847,566	(1,042,692,828)	684,564,219	(203,841,363)
Philex Mining Corporation	1,680,474,604	1,484,347,477	(196,127,127)	1,429,988,398	(139,273,863)
Philsaga Mining Corporation	398,859,870	378,656,430	(20,203,440)	229,523,631	(18,289,345)
<b>Copper / Gold / Silver / Zinc Total</b>	<b>6,246,193,262</b>	<b>4,212,581,410</b>	<b>(2,033,611,852)</b>	<b>4,006,817,154</b>	<b>(806,915,653)</b>
<i>Nickel</i>					
AAM-PHIL Natural Resources Exploration and Development Corporation	33,534,735	25,755,701	(7,779,034)	19,758,440	(13,276,003)
Adnama Mining Resources Incorporated	15,669,786	48,262,136	32,592,350	1,892,834	32,592,350
Agata Mining Ventures Inc.	154,873,076	122,587,140	(32,285,936)	129,162,057	(19,253,092)
Benguetcorp Nickel Mines, Inc.	77,249,987	82,771,513	5,521,526	69,758,345	13,013,168
Berong Nickel Corp.	90,358,251	64,783,890	(25,574,361)	20,475,699	(25,932,865)
Cagdianao Mining Corporation	410,247,262	370,558,093	(39,689,169)	249,874,694	(37,122,024)
Carrascal Nickel Corporation	387,647,421	301,064,601	(86,582,820)	346,265,618	4,760,273
Century Peak Corporation - Casiguran	-	10,584,765	10,584,765	-	10,584,765
Century Peak Corporation - Esperanza	-	11,286,805	11,286,805	-	11,286,805
Citnickel Mines and Development Corp.	142,446,470	45,141,571	(97,304,899)	-	(53,899,809)
CTP Construction and Mining Corporation - Adlay	124,489,149	161,691,017	37,201,868	70,514,003	48,586,168
CTP Construction and Mining Corporation - Dahican	30,134,148	11,819,613	(18,314,535)	2,699,319	(16,636,660)
Eramen Minerals, Inc.	9,787,611	16,317,461	6,529,850	6,877,275	9,513,611
Hinatuan Mining Corporation	464,365,850	358,872,864	(105,492,986)	350,411,621	(3,704,790)
Libjo Mining Corporation	89,422,194	43,227,501	(46,194,693)	20,681,375	(38,324,752)
LNL Archipelago Minerals, Inc.	17,534,692	4,293,773	(13,240,919)	17,534,692	-
Marcventures Mining and Development Corporation	256,315,835	147,600,130	(108,715,705)	129,820,087	(106,292,640)
Oriental Synergy Mining Corporation	-	13,322,902	13,322,902	-	13,322,902
Oriental Vision Mining	24,048,452	14,179,353	(9,869,099)	12,355,678	(8,208,482)

	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
Philippines Corporation			(9,869,099)		
Pacific Nickel Philippines Inc	18,339,541	8,244,700	(10,094,841)	18,355,107	2,183,043
Platinum Group Metals Corporation	978,179,486	727,737,477	(250,442,009)	704,763,333	(213,847,971)
Rio Tuba Nickel Mining Corp.	1,035,321,365	887,737,947	(147,583,418)	1,064,107,127	(836,022)
Sinosteel Phils. H. Y. Mining Corporation	1,764,052	1,516,461	(247,591)	434,377	(1,329,675)
SR Metals, Inc.	218,209,392	152,342,616	(65,866,776)	89,253,490	(47,140,968)
Taganito Mining Corporation	1,645,866,196	1,449,112,614	(196,753,582)	1,641,497,055	(4,174,852)
Wellex Mining Corporation	-	-	-	-	-
Westernshore Nickel Corporation	21,378,263	12,245,243	(9,133,020)	21,378,263	-
Zambales Diversified Metals Corporation	46,033,276	22,479,516	(23,553,760)	31,168,280	1,663,612
<b>Nickel Total</b>	<b>6,293,216,490</b>	<b>5,115,537,403</b>	<b>(1,177,679,087)</b>	<b>5,019,038,769</b>	<b>(442,473,908)</b>
<i>Other metallic mining entities</i>					
Leyte Ironsand Corporation	157,264	157,264	-	157,264	-
Ore Asia Mining and Development Corporation	2,643	-	(2,643)	-	(2,643)
Philippine Mining Development Corporation	-	-	-	-	-
Strong Built Mining Development Corporation	296,051	19,995	(276,056)	291,259	-
<b>Other metallic mining entities Total</b>	<b>455,958</b>	<b>177,259</b>	<b>(278,699)</b>	<b>448,523</b>	<b>(2,643)</b>
<b>Oil and gas</b>					
<i>Oil and gas</i>					
Chevron Malampaya LLC	5,176,310,364	4,282,116,182	(894,194,182)	5,176,310,364	-
Cosco Capital, Inc. (formerly Alcom Gold Resources Corp.)	-	-	-	-	-
Forum Energy Philippines Corp.	-	-	-	-	-
Galoc Production Company	263,613,650	263,613,650	-	263,613,650	-
Nido Production Galoc	-	536,720	536,720	-	536,720
Oriental Petroleum & Minerals Corp.	-	-	-	-	-
PNOC - Exploration Corporation	798,375,244	-	(798,375,244)	798,375,244	-
Shell Philippines Exploration B.V.	22,063,878,721	21,151,725,982	(912,152,739)	22,063,878,721	-
The Philodrill Corporation	-	20,442,677	20,442,677	-	20,442,677
<b>Oil and gas Total</b>	<b>28,302,177,979</b>	<b>25,718,435,211</b>	<b>(2,583,742,768)</b>	<b>28,302,177,979</b>	<b>20,979,397</b>
<b>Grand Total</b>	<b>40,870,667,541</b>	<b>35,071,784,499</b>	<b>(5,798,883,042)</b>	<b>37,349,142,374</b>	<b>(1,228,928,439)</b>

### Per revenue stream

Table 50: Overall results for BIR revenue streams per sector

BIR	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
<b>Metallic mining</b>					
<i>Chromite</i>					
Corporate income tax	1,526	1,526	-	1,526	-
Excise tax on minerals	3,055,004	-	(3,055,004)	3,055,004	-
Withholding tax - Foreign shareholder dividends	-	-	-	-	-
Withholding tax - Royalties to claim owners	-	-	-	-	-
<b>Chromite Total</b>	<b>3,056,530</b>	<b>1,526</b>	<b>(3,055,004)</b>	<b>3,056,530</b>	<b>-</b>
<i>Copper / Gold / Silver / Zinc</i>					
Corporate income tax	1,195,684,807	1,243,795,342	48,110,535	1,216,413,089	(25,000)
Excise tax on minerals	1,248,727,551	1,185,763,009	(62,964,542)	1,164,244,970	(13,814,650)
Withholding tax - Foreign shareholder dividends	19,587,770	8,931,043	(10,656,727)	19,695,770	-
Withholding tax - Royalties to claim owners	70,766,852	86,298,789	15,531,937	64,403,503	985,448
<b>Copper / Gold / Silver / Zinc Total</b>	<b>2,534,766,980</b>	<b>2,524,788,183</b>	<b>(9,978,797)</b>	<b>2,464,757,332</b>	<b>(12,854,202)</b>
<i>Nickel</i>					
Corporate income tax	2,155,294,102	2,236,070,482	80,776,380	2,178,950,705	1,874,826
Excise tax on minerals	719,631,706	685,955,729	(33,675,977)	600,677,680	(36,500,147)
Withholding tax - Foreign	173,308,000	31,500,000	-	103,000,000	-

<b>BIR</b>	<b>Per participating entity</b>	<b>Per government agency</b>	<b>Variance pre-reconciliation</b>	<b>Reconciled amount</b>	<b>Variance post-reconciliation</b>
shareholder dividends			(141,808,000)		
Withholding tax - Royalties to claim owners	120,385,228	92,423,535	(27,961,693)	44,714,663	(38,651,302)
<b>Nickel Total</b>	<b>3,168,619,036</b>	<b>3,045,949,746</b>	<b>(122,669,290)</b>	<b>2,927,343,048</b>	<b>(73,276,623)</b>
<i>Other metallic mining entities</i>					
Corporate income tax	177,259	177,259	-	177,259	-
Excise tax on minerals	-	-	-	-	-
Withholding tax - Foreign shareholder dividends	-	-	-	-	-
Withholding tax - Royalties to claim owners	-	-	-	-	-
<b>Other metallic mining entities Total</b>	<b>177,259</b>	<b>177,259</b>	<b>-</b>	<b>177,259</b>	<b>-</b>
<b>Metallic mining Total</b>	<b>5,706,619,805</b>	<b>5,570,916,714</b>	<b>(135,703,091)</b>	<b>5,395,334,169</b>	<b>(86,130,825)</b>
<b>Non-metallic mining</b>					
<i>Basalt / Limestone</i>					
Corporate income tax	1,889,680,576	1,848,340,119	(41,340,457)	1,814,804,567	(526,285)
Excise tax on minerals	94,169,616	53,826,529	(40,343,087)	59,292,265	(25,374,078)
Withholding tax - Foreign shareholder dividends	5,292,000	-	(5,292,000)	-	-
Withholding tax - Royalties to claim owners	8,081,450	17,484,041	9,402,591	-	9,402,591
<b>Non-metallic mining Total</b>	<b>1,997,223,642</b>	<b>1,919,650,689</b>	<b>(77,572,953)</b>	<b>1,874,096,832</b>	<b>(16,497,772)</b>
<b>Oil and gas</b>					
Corporate income tax	7,983,752,446	7,185,913,922	(797,838,524)	7,983,752,446	536,720
Withholding tax - Profit remittance to principal	2,422,091,582	615,584,739	(1,806,506,843)	2,422,091,582	-
<b>Oil and gas Total</b>	<b>10,405,844,028</b>	<b>7,801,498,661</b>	<b>(2,604,345,367)</b>	<b>10,405,844,028</b>	<b>536,720</b>
<b>Grand Total</b>	<b>18,109,687,475</b>	<b>15,292,066,064</b>	<b>(2,817,621,411)</b>	<b>17,675,275,029</b>	<b>(102,091,877)</b>

Table 51: Overall results of BOC revenue streams per sector

BOC	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
<b>Metallic mining</b>					
<i>Chromite</i>					
Customs duties	2,239,685	-	(2,239,685)	-	(2,239,685)
VAT on imported materials and equipment	-	-	-	-	-
<b>Chromite Total</b>	<b>2,239,685</b>	<b>-</b>	<b>(2,239,685)</b>	<b>-</b>	<b>(2,239,685)</b>
<i>Copper / Gold / Silver / Zinc</i>					
Customs duties	144,739,178	47,019,437	(97,719,741)	1,431,284	(95,699,003)
VAT on imported materials and equipment	659,710,996	232,665,608	(427,045,388)	32,292,005	(416,668,678)
<b>Copper / Gold / Silver / Zinc Total</b>	<b>804,450,174</b>	<b>279,685,045</b>	<b>(524,765,129)</b>	<b>33,723,289</b>	<b>(512,367,681)</b>
<i>Nickel</i>					
Customs duties	10,045,556	6,007,359	(4,038,197)	250,443	(3,826,069)
VAT on imported materials and equipment	15,064,091	12,967,069	(2,097,022)	300,262	(1,840,813)
<b>Nickel Total</b>	<b>25,109,647</b>	<b>18,974,428</b>	<b>(6,135,219)</b>	<b>550,705</b>	<b>(5,666,882)</b>
<i>Other metallic mining entities</i>					
Customs duties	-	-	-	-	-
VAT on imported materials and equipment	-	-	-	-	-
<b>Other metallic mining entities Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Metallic mining Total</b>	<b>831,799,506</b>	<b>298,659,473</b>	<b>(533,140,033)</b>	<b>34,273,994</b>	<b>(520,274,248)</b>
<b>Non-metallic mining</b>					
<i>Basalt / Limestone</i>					
Customs duties	163,376,419	48,931,952	(114,444,467)	15,457,597	(35,685,911)
VAT on imported materials and equipment	701,719,089	475,392,349	(226,326,740)	-	(226,326,740)
<b>Non-metallic mining Total</b>	<b>865,095,508</b>	<b>524,324,301</b>	<b>(340,771,207)</b>	<b>15,457,597</b>	<b>(262,012,651)</b>
<b>Grand Total</b>	<b>1,696,895,014</b>	<b>822,983,774</b>	<b>(873,911,240)</b>	<b>49,731,591</b>	<b>(782,286,899)</b>

Table 52: Overall results of DOE revenue stream

DOE	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
<b>Oil and gas</b>					
Government share from oil and gas production	17,896,333,951	17,916,936,550	20,602,599	17,896,333,951	20,442,677

Table 53: Overall results of LGU revenue streams per sector

LGU	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
<b>Metallic mining</b>					
<i>Chromite</i>					
Local business tax (paid either in mine site or head office)	3,023,669	12,500	(3,011,169)	-	(3,011,169)
Real property tax - Basic	352,633	-	(352,633)	-	(352,633)
Real property tax - Special Education Fund (SEF)	352,633	-	(352,633)	-	(352,633)
<b>Chromite Total</b>	<b>3,728,935</b>	<b>12,500</b>	<b>(3,716,435)</b>	<b>-</b>	<b>(3,716,435)</b>
<i>Copper / Gold / Silver / Zinc</i>					
Local business tax (paid either in mine site or head office)	418,309,682	191,661,166	(226,648,516)	379,443,790	(5,661,023)
Real property tax - Basic	146,952,340	51,425,342	(95,526,998)	79,665,344	(50,476,748)
Real property tax - Special Education Fund (SEF)	109,011,234	57,704,315	(51,306,919)	86,183,104	(10,192,716)
<b>Copper / Gold / Silver / Zinc Total</b>	<b>674,273,256</b>	<b>300,790,823</b>	<b>(373,482,433)</b>	<b>545,292,238</b>	<b>(66,330,487)</b>
<i>Nickel</i>					
Local business tax (paid either in mine site or head office)	296,910,485	210,393,513	(86,516,972)	187,757,742	(17,215,435)
Real property tax - Basic	14,482,347	18,647,094	4,164,747	14,566,004	861,983
Real property tax - Special Education Fund (SEF)	13,744,047	18,289,424	4,545,377	14,297,094	1,085,010

<b>Nickel Total</b>	<b>325,136,879</b>	<b>247,330,031</b>	<b>(77,806,848)</b>	<b>216,620,840</b>	<b>(15,268,442)</b>
<i>Other metallic mining entities</i>					
Local business tax (paid either in mine site or head office)	38,641	-	(38,641)	33,849	-
Real property tax - Basic	21,873	-	(21,873)	21,873	-
Real property tax - Special Education Fund (SEF)	21,873	-	(21,873)	21,873	-
<b>Other metallic mining entities Total</b>	<b>82,387</b>	<b>-</b>	<b>(82,387)</b>	<b>77,595</b>	<b>-</b>
<b>Metallic mining Total</b>	<b>1,003,221,457</b>	<b>548,133,354</b>	<b>(455,088,103)</b>	<b>761,990,673</b>	<b>(85,315,364)</b>
<b>Non-metallic mining</b>					
<i>Basalt / Limestone</i>					
Local business tax (paid either in mine site or head office)	213,740,802	40,565,629	(173,175,173)	96,632,500	(14,552,327)
Real property tax - Basic	330,941,751	100,682,776	(230,258,975)	150,413,743	(6,766,628)
Real property tax - Special Education Fund (SEF)	328,874,225	100,682,776	(228,191,449)	150,411,392	(4,749,209)
<b>Non-metallic mining Total</b>	<b>873,556,778</b>	<b>241,931,181</b>	<b>(631,625,597)</b>	<b>397,457,635</b>	<b>(26,068,164)</b>
<b>Grand Total</b>	<b>1,876,778,235</b>	<b>790,064,535</b>	<b>(1,086,713,700)</b>	<b>1,159,448,308</b>	<b>(111,383,528)</b>

Table 54: Overall results of MGB revenue streams per sector

<b>MGB</b>	<b>Per participating entity</b>	<b>Per government agency</b>	<b>Variance pre-reconciliation</b>	<b>Reconciled amount</b>	<b>Variance post-reconciliation</b>
<b>Metallic mining</b>					
<i>Chromite</i>					
Royalty on mineral reservation	-	-	-	-	-
<i>Copper / Gold / Silver / Zinc</i>					
Royalty on mineral reservation	-	13,103,743	13,103,743	-	13,103,743
<i>Nickel</i>					
Royalty on mineral reservation	998,610,790	1,111,177,760	112,566,970	854,480,492	128,852,236
<i>Other metallic mining entities</i>					
Royalty on mineral reservation	-	-	-	-	-
<b>Metallic mining Total</b>	<b>998,610,790</b>	<b>1,124,281,503</b>	<b>125,670,713</b>	<b>854,480,492</b>	<b>141,955,979</b>
<b>Non-metallic mining</b>					
<i>Basalt / Limestone</i>					
Royalty on mineral reservation	-	1,376,485	1,376,485	-	1,376,485
<b>Grand Total</b>	<b>998,610,790</b>	<b>1,125,657,988</b>	<b>127,047,198</b>	<b>854,480,492</b>	<b>143,332,464</b>

Table 55: Overall results of NCIP revenue streams per sector

<b>NCIP</b>	<b>Per participating entity</b>	<b>Per government agency</b>	<b>Variance pre-reconciliation</b>	<b>Reconciled amount</b>	<b>Variance post-reconciliation</b>
<b>Metallic mining</b>					
<i>Chromite</i>					
Royalty for IPs	-	-	-	-	-
<i>Copper / Gold / Silver / Zinc</i>					
Royalty for IPs	74,837,785	16,500,000	(58,337,785)	8,449,747	(51,197,134)
<i>Nickel</i>					
Royalty for IPs	275,552,663	99,521,265	(176,031,398)	150,009,926	(66,992,670)
<i>Other metallic mining entities</i>					
Royalty for IPs	-	-	-	-	-
<b>Metallic mining Total</b>	<b>350,390,448</b>	<b>116,021,265</b>	<b>(234,369,183)</b>	<b>158,459,673</b>	<b>(118,189,804)</b>
<b>Non-metallic mining</b>					
<i>Basalt / Limestone</i>					
Royalty for IPs	4,622,549	-	(4,622,549)	-	-
<b>Grand Total</b>	<b>355,012,997</b>	<b>116,021,265</b>	<b>(238,991,732)</b>	<b>158,459,673</b>	<b>(118,189,804)</b>

For 2017, DOE registered the lowest percentage of unexplained variances to total government reported amounts at 0.11% (2015 - 0.16%; 2016 - 0.12%), followed by BIR at -0.67% (2015 - 3%; 2016 - 0.20%). For BIR, the minimal unexplained variances were primarily attributed to the centralization of reporting to national offices owing that most mining and oil and gas companies are considered large taxpayers; hence, this did not require significant level of coordination with their regional or branch offices. For DOE, the said government agency only monitors few on-going oil and gas projects as compared to MGB that oversees a number of large metallic and non-metallic mining companies. The variance post-reconciliation for DOE only pertains to government share of Galoc Production Company and The Philodrill Corporation which are non-participating entities.

Consistent with the results in 2015 and 2016, NCIP registered the highest percentage of unexplained variances to total government reported amounts at -102% in 2017 (2015 - 323%; 2016 - 353%). Table 56 presents the details of unreconciled other taxes of NCIP for 2015 and 2016. Moreover, BOC follows NCIP at a high percentage of unexplained variances to total government reported amounts in 2017 of 95%. BOC poses the highest amount of unexplained variances, mainly due to the following: (1) high volume of transactions with the government agency, (2) decentralized reporting among BOC's offices across the country, and (3) non-submission of supporting documents by both the participating entities and government agency to reconcile the variances.

Table 56: NCIP unreconciled revenue stream

NCIP	Amount	% to government amount
<b>Metallic mining</b>		
<i>Copper / Gold / Silver / Zinc</i>		
Apex Mining Company, Inc.	16,500,000	100%
Philex Mining Corporation	(25,000,000)	0%
Philsaga Mining Corporation	(42,697,134)	0%
<b>Copper / Gold / Silver / Zinc Total</b>	<b>(51,197,134)</b>	<b>-310%</b>
<i>Nickel</i>		
Agata Mining Ventures Inc.	(23,304,083)	0%
Citnickel Mines and Development Corp.	(2,529,774)	-72%
CTP Construction and Mining Corporation - Adlay	(16,274,978)	0%
CTP Construction and Mining Corporation - Dahican	(7,487,294)	0%
Marcventures Mining and Development Corporation	(20,188,858)	0%
SR Metals, Inc.	2,792,317	7%
<b>Nickel Total</b>	<b>(66,992,670)</b>	<b>-67%</b>
<b>Metallic mining Total</b>	<b>(118,189,804)</b>	<b>-102%</b>
<b>Grand Total</b>	<b>(118,189,804)</b>	<b>-102%</b>

As discussed in this section, the NCIP is tasked only to monitor royalties for IPs, not to collect on their behalf. Thus, royalty for IPs is considered 'other taxes' and not a revenue stream of the government.

Resulting unexplained variances are due to the lack of supporting documents for the amounts disclosed in the templates of participating companies. For 2017, significant unexplained variances pertained to unvalidated royalty for IPs disclosed by Philsaga Mining Corporation (PHP43m), Philex Mining Corporation (PHP25m), CTP Construction and Mining Corporation - Adlay and Dahican (PHP24m), Agata Mining Ventures, Inc. (PHP23m), and Marcventures Mining and Development Corporation (PHP20m). If supporting documents were provided by the said companies and were validated, variance post-reconciliation would have been reduced to PHP16m or 14%. Further, NCIP reported significantly lower royalty for IPs compared to the total company amount due to the unavailability of information at the central office. Continuous communication has been maintained with the Ancestral Domains Department to obtain said data, however, the data have not been furnished as of report date. Refer to Annex O, *Discrepancies*, for findings on variances.

It is also worth noting that BOC posed the highest amount of unexplained variance for 2017 at PHP(782m) which is the main contributor to the total unexplained variance. The table below presents the details of unreconciled revenue streams of BOC for 2017.

Table 57: BOC unreconciled revenue streams

OC	Customs duties	VAT on imported materials and equipment	Grand Total	% to government amount	Remarks
<b>Metallic mining</b>					
<i>Chromite</i>					
Techiron Resources, Inc.	(2,239,685)	-	(2,239,685)	0.00%	A
<i>Copper / Gold / Silver / Zinc</i>					
Apex Mining Company, Inc.	(5,036,490)	(35,165,962)	(40,202,452)	-110.46%	A
Carmen Copper Corporation	(9,392,428)	(121,677,501)	(131,069,929)	0.00%	A
FCF Minerals Corporation	(1,434,307)	(13,278,547)	(14,712,854)	-143.98%	A
Lepanto Consolidated Mining Company	(3,873,647)	(26,369,851)	(30,243,498)	-115.15%	A
OceanaGold (Philippines), Inc.	(57,011,055)	(146,476,600)	(203,487,655)	-208.61%	A
Philex Mining Corporation	(12,872,982)	(55,151,289)	(68,024,271)	-129.12%	A
Philsaga Mining Corporation	(6,078,094)	(18,548,928)	(24,627,022)	-107.76%	A
<b>Copper / Gold / Silver / Zinc Total</b>	<b>(95,699,003)</b>	<b>(416,668,678)</b>	<b>(512,367,681)</b>	<b>-183.19%</b>	
<i>Nickel</i>					
Cagdiano Mining Corporation	(53,916)	(112,344)	(166,260)	-14.73%	A
Century Peak Corporation - Casiguran	311,895	1,915,537	2,227,432	100.00%	B
CTP Construction and Mining Corporation					
- Adlay	(2,459,200)	-	(2,459,200)	0.00%	A
Eramen Minerals, Inc.	(56,440)	-	(56,440)	0.00%	A
Oriental Vision Mining Philippines Corporation	(201,540)	-	(201,540)	0.00%	A
Rio Tuba Nickel Mining Corp.	(238,375)	(597,647)	(836,022)	-742.36%	A
Taganito Mining Corporation	(1,128,493)	(3,046,359)	(4,174,852)	-27.07%	A
<b>Nickel Total</b>	<b>(3,826,069)</b>	<b>(1,840,813)</b>	<b>(5,666,882)</b>	<b>-29.87%</b>	
<b>Metallic mining Total</b>	<b>(101,764,757)</b>	<b>(418,509,491)</b>	<b>(520,274,248)</b>	<b>-174.20%</b>	
<b>Non-metallic mining</b>					
<i>Basalt / Limestone</i>					
Eagle Cement Corporation	(31,129,744)	(269,787,674)	(300,917,418)	-169.71%	A
Northern Cement Corporation	(4,556,167)	(130,964,348)	(135,520,515)	-86.25%	A
Republic Cement and Building Materials, Inc (Formerly Lafarge Republic Inc.) - Batangas	-	174,425,282	174,425,282	91.86%	A
<b>Non-metallic mining Total</b>	<b>(35,685,911)</b>	<b>(226,326,740)</b>	<b>(262,012,651)</b>	<b>-49.97%</b>	
<b>Total</b>	<b>(137,450,668)</b>	<b>(644,836,231)</b>	<b>(782,286,899)</b>	<b>-95.05%</b>	

A - Absence of supporting schedules and documents; B - No reporting templates due to non-participation

Main contributor to the BOC variance post-reconciliation in 2017 was value-added tax (VAT) on imported materials and equipment at -78% and customs duties at -17%. The unexplained variance required additional supporting schedules and documents which were not provided before the reconciliation cut-off date of 22 December 2018. Had the supporting schedules and documents been received before the cut-off date, the variance post-reconciliation would have been reduced to 0.27% or equivalent to the percentage of unexplained variance to total government agency amounts for non-participating entities.

Table 58: Percentage contribution of each agency to reported total collections or receipts

Agency	Reconciled - Metallic mining	Reconciled - Non-metallic mining	Reconciled - Oil and gas	Total	Total %
BIR	5,395,334,169	1,874,096,832	10,405,844,028	17,675,275,029	47%
BOC	34,273,994	15,457,597	-	49,731,591	0%
DOE	-	-	17,896,333,951	17,896,333,951	47%
LGU	761,990,673	397,457,635	-	1,159,448,308	3%
MGB	854,480,492	-	-	854,480,492	2%
NCIP	158,459,673	-	-	158,459,673	0%
<b>Grand Total</b>	<b>7,204,539,001</b>	<b>2,287,012,064</b>	<b>28,302,177,979</b>	<b>37,793,729,044</b>	<b>100%</b>

### Major collecting agents

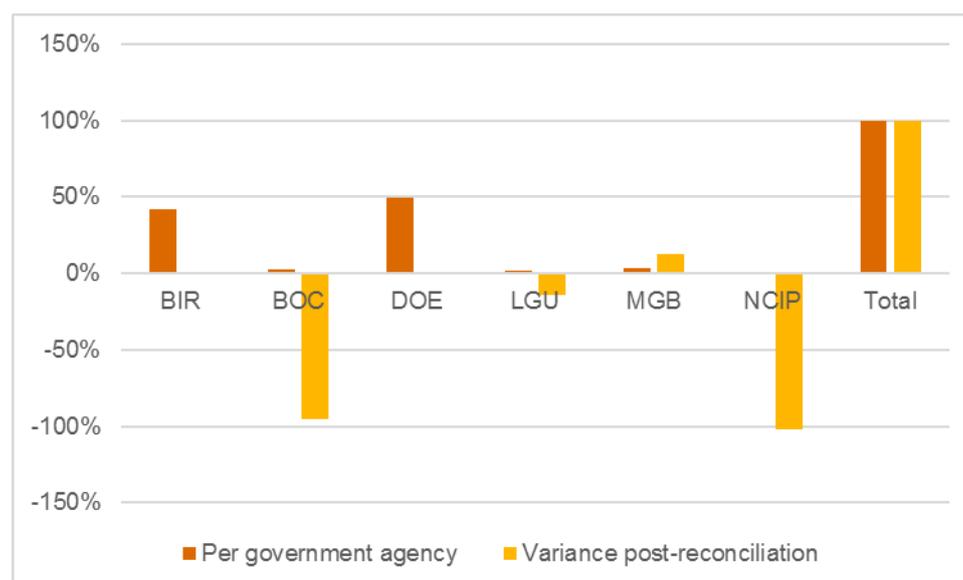
Table 59: Total revenue streams and other taxes per mineral sector

Agency	Chromite	Copper / Gold / Silver / Zinc	Nickel	Other metallic mining entities	Non-metallic mining	Oil and gas	Total
BIR	3,056,530	2,464,757,332	2,927,343,048	177,259	1,874,096,832	10,405,844,028	17,675,275,029
BOC	-	33,723,289	550,705	-	15,457,597	-	49,731,591
DOE	-	-	-	-	-	17,896,333,951	17,896,333,951
LGU	-	545,292,238	216,620,840	77,595	397,457,635	-	1,159,448,308
MGB	-	-	854,480,492	-	-	-	854,480,492
NCIP	-	8,449,747	150,009,926	-	-	-	158,459,673
<b>Total</b>	<b>3,056,530</b>	<b>3,052,222,606</b>	<b>4,149,005,011</b>	<b>254,854</b>	<b>2,287,012,064</b>	<b>28,302,177,979</b>	<b>37,793,729,044</b>

Similar to the previous reports, payments to the DOE and BIR were the most significant revenue streams, which accounted for approximately 94% or PHP 35.6bn (2015 - 92% or PHP 25bn; 2016 - 91% or PHP25bn), of total reconciled revenue streams and other payments. This observation was not expected to change in this Report in the absence of any amendments to the fiscal regimes of both sectors. Consistently, revenue streams attributed to the said agencies in 2017 are composed of government share in oil and gas operations (51%), corporate income tax (37%), withholding taxes (7%), and excise tax on minerals (5%).

### In hindsight: Across the five PH-EITI Reports

Figure 3: Percentage of unexplained variances to total reported collections or receipts



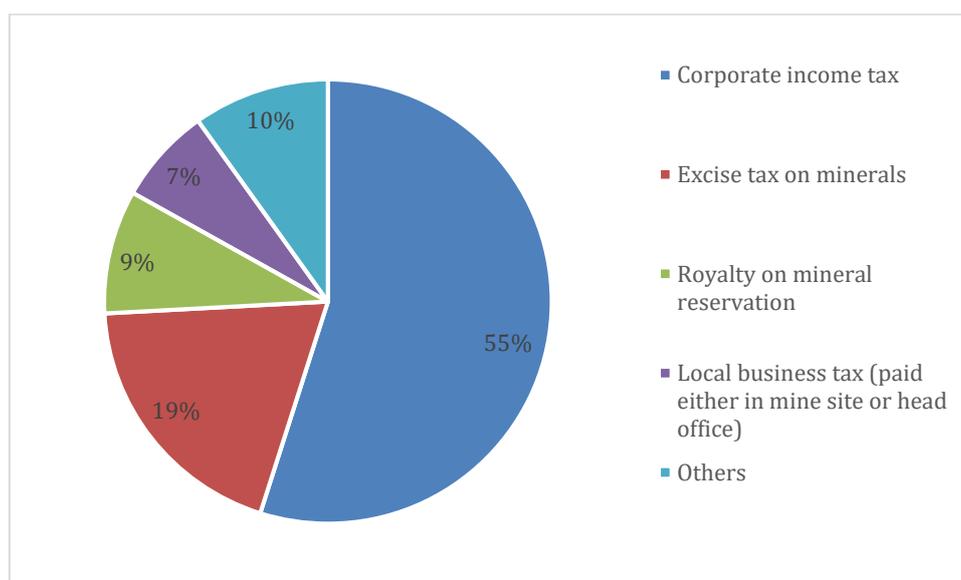
From the graphs presented for 2017, BOC and NCIP recorded the highest percentage of unreconciled variances with differences of PHP782m or 82% and PHP118m or 12% of total unreconciled variances, respectively (2015 - PHP16m or -4% and PHP(121m) or 31%, respectively; 2016 - PHP424m or 75% and PHP(103m) or -103%, respectively).

As discussed in the 'Final output preview' subsection, the variance for BOC is mainly attributable to the decentralized reporting of BOC and non-submission of supporting documents from both the participating entities and government agency to reconcile variances. For NCIP, the nature of the variance is consistent with the previous PH-EITI reports and is mainly driven by lack of supporting schedules and documents to validate reported collections.

In this year's PH EITI report, results, improvements and initiatives started by LGU in prior years were seen and is more evident wherein the reported LGU reconciled amount increased to PHP1.2bn in 2017 (2015 - PHP430m; 2016 - PHP717m). These improvements and initiatives were spearheaded by the Bureau of Local Government Finance (BLGF) and included close monitoring and coordination activities and introduction of the ENRDMT to facilitate separate disclosure and presentation of receipts from extractive industries for expedient and accurate submissions.

### Significant revenue streams per sector

Figure 4: Proportion of revenue streams for the mining sector



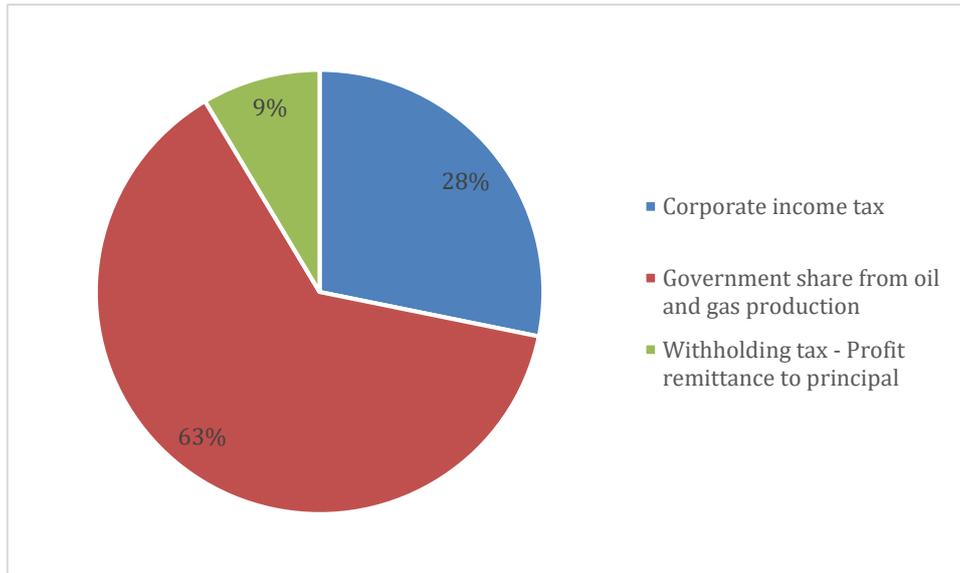
Reconciled BIR revenue streams of the mining sector for 2017 amounted to PHP7.3bn (2015 - PHP4.2bn; 2016 - PHP4.3bn), with corporate income tax and excise tax on minerals as the main contributors with reported receipts of PHP5.2bn and PHP1.8bn, respectively, or 74% of the total payments received. The increase in the BIR revenue streams relative to the increase in sales and production of the metallic mining sector and the participation of more entities from the non-metallic mining sector contributed to the overall increase in revenue streams and other taxes.

Corporate income tax is calculated and paid based on taxable income, which is directly related to a company's level of sales. On the other hand, excise tax on minerals is computed based on gross output. The significant portion of the reconciled BIR revenue streams came from the nickel operators contributing PHP2.9bn or 40% of total BIR collections in 2017. These include BIR payments of SR Metals, Inc. (PHP957m), Rio Tuba Nickel Mining Corp. (PHP767m), Platinum Group Metals Corporation (PHP332m), Hinatuan Mining Corporation (PHP204m), and Carrascal Nickel Corporation (PHP152m).

Another factor in 2017 that contributed to the overall increase in reconciled revenue streams and other taxes was the participation of additional non-metallic entities which contributed PHP1.9bn or 26% of total BIR collections (2015 - PHP1m; 2016 - PHP3.5m).

The metallic mining sector for the fifth PH-EITI Country Report is represented by a total of 28 nickel operators, 10 miners of gold, copper, silver, or zinc (collectively referred to as non-nickel), 4 chromite producers, and 4 other metallic mining company. On the other hand, 20 basalt and limestone miners represent non-metallic mining sector. Refer to Table 48 for the distribution of revenue streams paid by the metallic and non-metallic mining sector to the different government agencies.

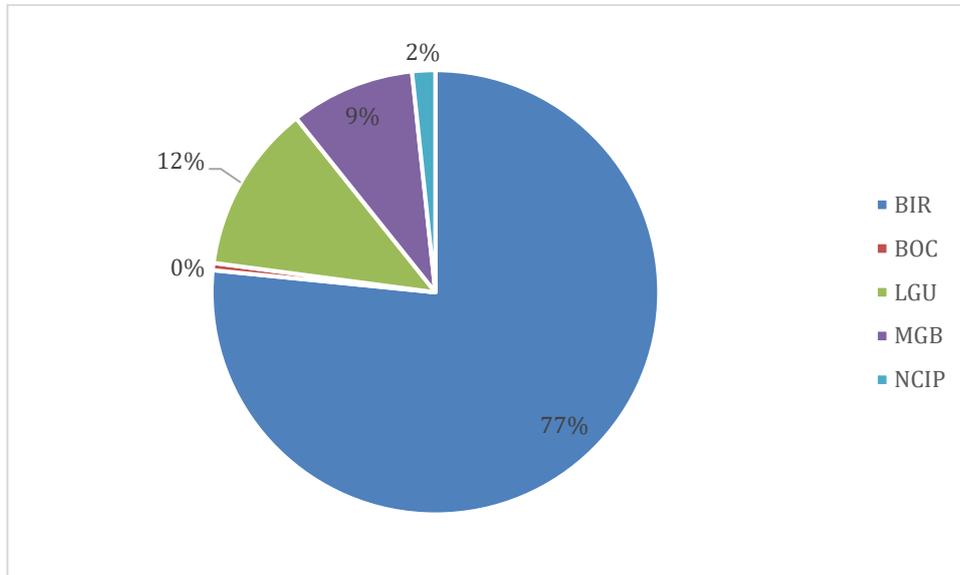
Figure 5: Proportion of revenue streams for the oil and gas sector



Similar to 2015 and 2016, government share and corporate income tax were the highest contributors with 91% share in total revenue streams for the oil and gas sector in 2017. Total revenue streams for the oil and gas sector increased market prices and production has recovered from its slump in the prior year.

**Distribution per region**

Figure 6: Comparison of LGU collections to other national agencies in the mining sector



For 2017, PHP1.2bn (2015 - PHP430m; 2016 - 717m) were directly remitted to LGUs as hosts of the mining projects. This was in addition to the LGUs' share in national wealth as distributed by the DBM, which is presented in Annex P, Detailed LGU reconciliation. These allocations, however, may not necessarily have come from reported sales of participating companies in 2017 given the amount of time from actual collection to distribution as discussed in Chapter 1.

Figure 7: Distribution of LGU receipts from the mining sector

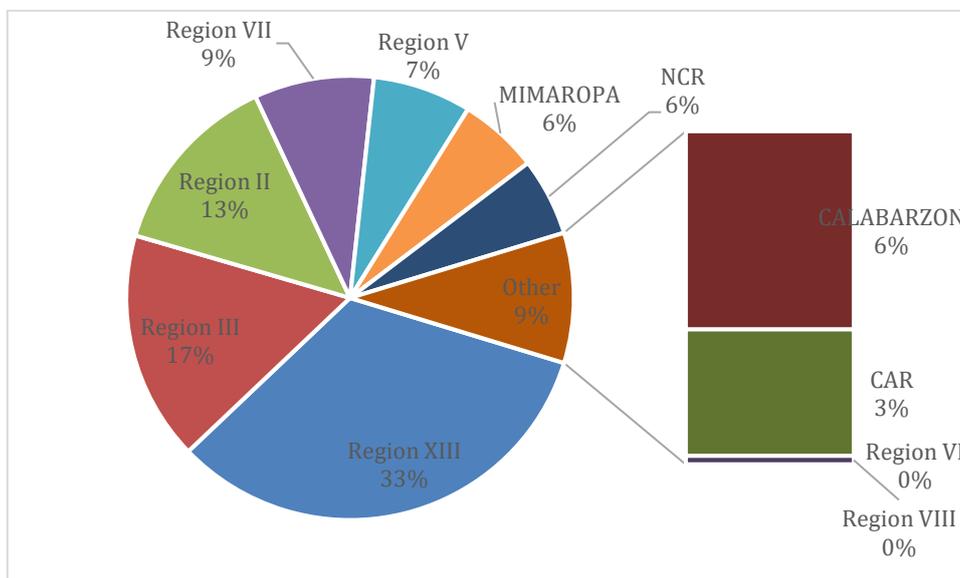


Table 60: Actual LGU receipts from participating mining companies per region

Region	Amount
CAR	44,524,282
NCR	69,950,471
Region II	167,419,400
Region III	206,572,478
CALABARZON	69,761,149
MIMAROPA	71,601,541
Region V	88,158,883
Region VI	43,740
Region VII	107,270,995
Region VIII	2,994,019
Region XIII (Caraga)	410,180,558
<b>Total</b>	<b>1,193,953,234</b>

Region XIII (Caraga) which hosts 18 participating metallic mining companies accounts for the most local taxes collected in 2017 with PHP410 million (33%). Regions II, V, and VII follow with PHP207 million (17%), PHP88 million (7%), and PHP107 million (9%) by each hosting at least one (1) of largest metallic mining companies in the country. Meanwhile, collections by Region II mainly come from one of the largest non-metallic mining operator in the country. In terms of the number of non-metallic mining operators, CALABARZON houses the most number with five (5) participating companies. Further, local business and real property taxes accounts for most of the payments across all regions. These revenue streams amounted to PHP980 million or 79% of the total local taxes collection.

### **Mandatory social and environmental expenditures**

As in the previous PH-EITI reports, participating mining companies disclosed information on mandatory expenditures and funds that are mainly aimed to promote social development of host and neighboring communities and environmental protection and rehabilitation. Mandatory expenditures include those for the Annual Environmental Protection and Enhancement Program (AEPEP), Annual Social Development Management Program (ASDMP), and Annual Safety and Health Program, and Monitoring Trust Fund, which are discussed in detail under Section I, D. *Social and Environmental Spending/Contributions*, of Chapter 1.

Mandatory expenditures are not remitted to agencies and do not form part of government coffers, but are primarily incurred for the benefit of host communities and protection and preservation of impacted areas. These payments were also subjected to similar reconciliation procedures applied to other revenue streams, including inspection of supporting documents and discussions with management for variances noted.

The results of the reconciliation process of these payments are as follows:

Table 61: Summary of results for social and environmental expenditures

	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
Annual EPEP	2,476,819,626	923,227,221	(1,553,592,405)	1,226,660,354	(293,100,231)
Environmental Trust Fund - Actual expenditure	132,780,689	46,968,510	(85,812,179)	-	(85,812,179)
Final Mine Rehabilitation and/or Decommissioning Fund - Actual expenditure	81,778,899	54,660,767	(27,118,132)	-	(27,118,132)
Mine Wastes & Tailing Fees	3,903,522	5,739	(3,897,783)	2,301,414	(1,505,604)
Monitoring Trust Fund - Actual Expenditure	8,806,918	1,816,689	(6,990,229)	151,538	(5,119,732)
Rehabilitation Cash Fund - Actual Expenditure	24,169,850	4,290,367	(19,879,483)	4,020,000	(19,879,483)
Safety and Health Programs	355,064,475	203,993,141	(151,071,334)	195,368,841	(50,277,402)
<b>Annual Social Development and Management</b>					
Social Development and Management (host and	684,038,841	439,098,052	(244,940,789)	469,753,935	(112,908,030)

	Per participating entity	Per government agency	Variance pre-reconciliation	Reconciled amount	Variance post-reconciliation
neighboring communities)					
Information, Education and Communication (IEC)	166,617,660	110,302,229	(56,315,431)	110,344,116	(20,267,624)
Mining Technology and Geosciences advancement	91,683,378	61,169,467	(30,513,911)	64,880,741	(3,664,959)
<b>Total</b>	<b>4,025,663,858</b>	<b>1,845,532,182</b>	<b>(2,180,131,676)</b>	<b>2,073,480,939</b>	<b>(619,653,376)</b>

Total reconciled mandatory expenditures of participating mining companies amounted to PHP2.1bn in 2017, (2015 – PHP1.9bn; 2016 – PHP2.4bn), which is 22% of reconciled mining revenue streams in 2017 (2015 – 29.4%; 2016 – 37%). Initial comparison of disclosures made by MGB and participating mining companies presented a negative variance of PHP2.2bn (2015 - PHP1.3bn; 2016 PHP1.0bn) and PHP1.8bn of reported expenditures by MGB (2015 - PHP1.7bn; 2016 PHP2.1bn). After the conduct of reconciliation procedures, total discrepancy resulted into a negative amount of PHP620m (2015 -PHP651m; 2016 - PHP612m) or only 7% of reconciled mining revenue amount in 2017 (2015 - 10%; 2016 - 9%).

**Environmental protection.** Of the total mandatory expenditures incurred by participating mining companies, 59% or PHP1.2bn in 2017 pertain to environmental protection and rehabilitation such as reforestation based on reported EPEP and disbursements from the Monitoring Trust Fund. Top miners are Philex Mining Corporation, Taganito Mining Corporation, Republic Cement and Building Materials, Inc., and Rio Tuba Mining Corporation.

**Social development.** Total expenditures on social development amounted to PHP645m or 31% of total mandatory expenditures reported by the participating entities in 2017. These represent activities undertaken as part of participating companies' SDMP, which must be equivalent to 1.5% of operating expenses as mandated by existing regulations. Any difference between required and actual expenditures in a given year may be carried forward to the succeeding period as long as it is within the five year program approved by the MGB. Consistent with the prior report, top miners are OceanaGold (Philippines), Inc., Philex Mining Corporation, and Filminera Resources Corporation.

### III. Variance analysis

This section provides supplemental analysis of the variances noted during the reconciliation process. Detailed resulting differences per participating entity per sector are provided in Annex Q, *Detailed variance per participating entity per sector*.

Further, recommendations from these variances and the overall reconciliation process are included in Section 4, *Recommendations*, of this Chapter.

Table 62 summarizes the variances on a per industry and government basis.

Table 62. Variance per industry sector and per government agency

	Per government agency	Variance post-reconciliation	% Variance
<b>Metallic mining</b>			
BIR	5,570,916,714	(86,130,825)	-2%
BOC	298,659,473	(520,274,248)	-174%
LGU	548,133,354	(85,315,364)	-16%
MGB	1,124,281,503	141,955,979	13%
NCIP	116,021,265	(118,189,804)	-102%
<b>Metallic mining Total</b>	<b>7,658,012,309</b>	<b>(667,954,262)</b>	<b>-9%</b>
<b>Non-metallic mining</b>			
BIR	1,919,650,689	(16,497,772)	-1%
BOC	524,324,301	(262,012,651)	-50%
LGU	241,931,181	(26,068,164)	-11%
MGB	1,376,485	1,376,485	100%
NCIP	-	-	0%
<b>Non-metallic mining Total</b>	<b>2,687,282,656</b>	<b>(303,202,102)</b>	<b>-11%</b>
<b>Oil and gas</b>			
BIR	7,801,498,661	536,720	0.01%
DOE	17,916,936,550	20,442,677	0.11%
<b>Oil and gas Total</b>	<b>25,718,435,211</b>	<b>20,979,397</b>	<b>0.08%</b>
<b>Mining and Oil and gas</b>			
BIR	15,292,066,064	(102,091,877)	-1%
BOC	822,983,774	(782,286,899)	-95%
DOE	17,916,936,550	20,442,677	0.11%
LGU	790,064,535	(111,383,528)	-14%
MGB	1,125,657,988	143,332,464	13%
NCIP	116,021,265	(118,189,804)	-102%
<b>Total</b>	<b>36,063,730,176</b>	<b>(950,176,967)</b>	<b>-3%</b>

Table 63 below covers the unilateral disclosures of government agencies for the non-participating companies included in the reconciliation variances.

Table 63: Summary of revenue streams and other taxes and funds per non-participating company and per agency

	Per government agency
<b>Metallic mining</b>	
<b>Century Peak Corporation - Casiguran</b>	
BIR	
Corporate income tax	-
Excise tax on minerals	-
Withholding tax - Foreign shareholder dividends	-
Withholding tax - Royalties to claim owners	-
<b>BIR Total</b>	<b>-</b>
BOC	
Customs duties	311,895
VAT on imported materials and equipment	1,915,537
<b>BOC Total</b>	<b>2,227,432</b>
LGU	
Local business tax (paid either in mine site or head office)	3,000,000
Real property tax - Basic	-
Real property tax - Special Education Fund (SEF)	-
<b>LGU Total</b>	<b>3,000,000</b>
MGB	
Royalty on mineral reservation	2,752,970
NCIP	
Royalty for IPs	-
<b>Total</b>	<b>7,980,402</b>
<b>Century Peak Corporation - Esperanza</b>	
BIR	
Corporate income tax	-
Excise tax on minerals	-
Withholding tax - Foreign shareholder dividends	-
Withholding tax - Royalties to claim owners	-
<b>BIR Total</b>	<b>-</b>
BOC	
Customs duties	-
VAT on imported materials and equipment	-
<b>BOC Total</b>	<b>-</b>
LGU	
Local business tax (paid either in mine site or head office)	-
Real property tax - Basic	-
Real property tax - Special Education Fund (SEF)	-
<b>LGU Total</b>	<b>-</b>
MGB	
Royalty on mineral reservation	9,674,720
NCIP	
Royalty for IPs	-
<b>Total</b>	<b>9,674,720</b>
<b>Chromiteking - Cambayas Mining Corporation</b>	
BIR	
Corporate income tax	-
Excise tax on minerals	-
Withholding tax - Foreign shareholder dividends	-
Withholding tax - Royalties to claim owners	-
<b>BIR Total</b>	<b>-</b>
BOC	
Customs duties	-
VAT on imported materials and equipment	-
<b>BOC Total</b>	<b>-</b>
LGU	
Local business tax (paid either in mine site or head office)	12,500
Real property tax - Basic	-
Real property tax - Special Education Fund (SEF)	-
<b>LGU Total</b>	<b>12,500</b>
MGB	
Royalty on mineral reservation	-
NCIP	
Royalty for IPs	-

<b>Total</b>	<b>12,500</b>
<b>Emir Mineral Resources Corporation</b>	
BIR	
Corporate income tax	-
Excise tax on minerals	-
Withholding tax - Foreign shareholder dividends	-
Withholding tax - Royalties to claim owners	-
<b>BIR Total</b>	<b>-</b>
BOC	
Customs duties	-
VAT on imported materials and equipment	-
<b>BOC Total</b>	<b>-</b>
LGU	
Local business tax (paid either in mine site or head office)	-
Real property tax - Basic	-
Real property tax - Special Education Fund (SEF)	-
<b>LGU Total</b>	<b>-</b>
MGB	
Royalty on mineral reservation	-
NCIP	
Royalty for IPs	-
<b>Total</b>	<b>-</b>
<b>Oriental Synergy Mining Corporation</b>	
BIR	
Corporate income tax	-
Excise tax on minerals	-
Withholding tax - Foreign shareholder dividends	-
Withholding tax - Royalties to claim owners	-
<b>BIR Total</b>	<b>-</b>
BOC	
Customs duties	-
VAT on imported materials and equipment	-
<b>BOC Total</b>	<b>-</b>
LGU	
Local business tax (paid either in mine site or head office)	6,207,500
Real property tax - Basic	13,042
Real property tax - Special Education Fund (SEF)	12,895
<b>LGU Total</b>	<b>6,233,437</b>
MGB	
Royalty on mineral reservation	5,964,540
NCIP	
Royalty for IPs	-
<b>Total</b>	<b>12,197,977</b>
<b>Philippine Mining Development Corporation</b>	
BIR	
Corporate income tax	-
Excise tax on minerals	-
Withholding tax - Foreign shareholder dividends	-
Withholding tax - Royalties to claim owners	-
<b>BIR Total</b>	<b>-</b>
BOC	
Customs duties	-
VAT on imported materials and equipment	-
<b>BOC Total</b>	<b>-</b>
LGU	
Local business tax (paid either in mine site or head office)	-
Real property tax - Basic	-
Real property tax - Special Education Fund (SEF)	-
<b>LGU Total</b>	<b>-</b>
MGB	
Royalty on mineral reservation	-
NCIP	
Royalty for IPs	-
<b>Total</b>	<b>-</b>
<b>Wellex Mining Corporation</b>	
BIR	
Corporate income tax	-
Excise tax on minerals	-
Withholding tax - Foreign shareholder dividends	-
Withholding tax - Royalties to claim owners	-
<b>BIR Total</b>	<b>-</b>
BOC	
Customs duties	-

VAT on imported materials and equipment	-
<b>BOC Total</b>	-
<hr/>	
LGU	
Local business tax (paid either in mine site or head office)	-
Real property tax - Basic	-
Real property tax - Special Education Fund (SEF)	-
<b>LGU Total</b>	-
<hr/>	
MGB	
Royalty on mineral reservation	-
<hr/>	
NCIP	
Royalty for IPs	-
<b>Total</b>	-
<b>Metallic mining Total</b>	<b>29,865,599</b>
<hr/>	
<b>Oil and gas</b>	
<b>Cosco Capital, Inc. (formerly Alcorn Gold Resources Corp.)</b>	
<hr/>	
BIR	
Corporate income tax	-
Withholding tax - Profit remittance to principal	-
<b>BIR Total</b>	-
<hr/>	
DOE	
Government share from oil and gas production	-
<b>Total</b>	-
<hr/>	
<b>Forum Energy Philippines Corp.</b>	
<hr/>	
BIR	
Corporate income tax	-
Withholding tax - Profit remittance to principal	-
<b>BIR Total</b>	-
<hr/>	
DOE	
Government share from oil and gas production	-
<b>Total</b>	-
<hr/>	
<b>Oriental Petroleum &amp; Minerals Corp.</b>	
<hr/>	
BIR	
Corporate income tax	-
Withholding tax - Profit remittance to principal	-
<b>BIR Total</b>	-
<hr/>	
DOE	
Government share from oil and gas production	-
<b>Total</b>	-
<hr/>	
<b>The Philodrill Corporation</b>	
<hr/>	
BIR	
Corporate income tax	-
Withholding tax - Profit remittance to principal	-
<b>BIR Total</b>	-
<hr/>	
DOE	
Government share from oil and gas production	20,442,677
<b>Total</b>	<b>20,442,677</b>
<b>Oil and gas Total</b>	<b>20,442,677</b>
<b>Grand Total</b>	<b>50,308,276</b>

## IV. Recommendations

The first four (4) PH-EITI Country Reports highlighted areas that required attention and action plans from the MSG and certain government agencies. While there have been steps taken to improve the reporting processes and further strengthen the clarity in disclosing revenue collections of the government, there is still room to expand the horizon and move beyond compliance and transparency.

The succeeding discussion on areas for improvement and recommendations are fundamentally similar to points raised in the fourth PH-EITI Country Report.

### Data quality

The success of the first four (4) PH-EITI Country Reports was closely tied to the number of improvements implemented to enhance data quality. Recommendations were acted upon to improve data quality and ensure accuracy, completeness, and degree of reliability. Details of the progress and any additional recommendations are discussed below.

#### *i. Data centralization*

Due to the fundamental nature and inherent complexity of logistical requirements and operations of the participating companies, constraints due to infrastructure limitations (e.g. none or slow internet bandwidth) have been the primary source of issue on accessibility of data. While satellite and regional offices periodically report to head offices (i.e., NCR/ Metro Manila), delays and gaps in the data were the primary cause of variances and delays in the reconciliation procedures.

In the last PH-EITI reports, MGB implemented measures (i.e. workshops, direct involvement in the gathering of data from the regional offices) that contributed to the improvement in the reconciled MGB revenue streams. Other initiatives to further enhance the reporting are currently in progress. Refer to *MSG recommendation and assessment of progress* of this Section for the MSG recommendations and updates for other details.

Meanwhile, NCIP continues to struggle with gathering data from regional offices wherein most locations do not have readily available information on the royalty for IPs. In lieu of a centralized reporting system, the national office of NCIP should establish formal policies that will require regular reporting of regional offices. As indicated in the third and fourth PH-EITI Country Reports, the function of NCIP includes oversight of the projects and programs of ICCs/IPs. Accordingly, the national office of NCIP should institute policies and programs to monitor royalty for IPs paid by mining companies. These policies and procedures should also encompass tracking of the projects and programs paid for by these royalties. Refer to *Independent Administrator Recommendations* of this Section for the recommendations and updates for other details.

#### *ii. Standard reporting*

Other recommendations on the reporting templates raised in the fifth PH-EITI Country Report that will be reconsidered in FY2019 report are as follows:

1. The MSG plans to include the beginning inventory balance (amount and volume) in the reporting template in the next report, as this will assist in determining how much of current year sales were from current year production.
2. The export data for certain minerals are reported in one sum for two or more countries (e.g., Australia, China for nickel). This is because the data provided by the reporting templates are also as such, i.e., without disaggregation per country. Moving forward, the disaggregation of information per country is also included as a recommendation for the improvement of the reporting template for the next report.
3. Automation of the reporting of the share in national wealth on a per location and year basis.

## **Improving EITI implementation**

The following can be considered in future EITI implementation:

**Prioritization of action points.** Revisit each action point at the onset of next year's implementation and prioritize the plans that are crucial to moving forward with the transparency and accountability objectives. Such prioritization plan should be shared with all stakeholders and be delegated with the right person to ensure completion within the agreed timeline.

**Early engagement of independent administrator.** The DOF/PH-EITI Secretariat should commence the procurement activities early on to ensure a more integrated process.

**Explore mainstreaming.** The emerging popularity of mainstreaming demands consideration by the MSG. Mainstreaming allows EITI implementing countries to make use of government and corporate accounting systems that house routine information on tax revenues, the said systems are expected to be available on an online platform that is accessible at anytime. The initiative will further transform transparency reporting in the Philippines and shift focus of EITI implementation from data gathering to industry analysis and evaluation that will benefit more stakeholders. One plausible measure is to consider current tax disclosures made by companies to the BIR through Revenue Regulation 15-2010 that mandates inclusion of all taxes paid as part of the audited financial statements.

**Strict implementation of DAO No. 2017-07.** The issuance of the administrative order mandating mining contractors to participate in the PH-EITI project clearly shows the commitment of DENR-MGB to ensure more transparency and accountability from the sector. Immediate release of the implementing rules and regulations of DAO No. 2017-07 will properly guide companies on what constitutes compliance with EITI standards and the corresponding implications for non-participation.

**Participation of oil and gas and coal sectors.** While oil and gas sector has been consistently well represented in the first four PH-EITI reports, we still recommend that the DOE issue an administrative order similar to DAO No. 2017-07 to further promote accountability and transparency in the sector. Engaging further the non-metallic sector to clarify and allay concerns that were likewise raised by metallic mining and oil and gas companies during the first year of PH-EITI. These include the scope and extent of waiver, reconciliation procedures, and underscoring the benefit the sector may derive from its participation.

**Improve ORE reporting.** With the implementation of ORE Tool, the MSG can consider further application controls to ensure completeness and reliability of data being reported by participating entities. Further, the ORE Tool can capture more comprehensive data by including all relevant information for purposes of the PH-EITI reporting (i.e. sales data, all schedules and supporting documents, aggregate data).

**Regular reporting and reconciliation.** The MSG can calendar a fixed regular periods for reporting, data gathering and reconciliation to be strictly followed, which will greatly help government agencies and participating entities plan ahead and prepare necessary requirements. This is in due consideration of other recurring regulatory and statutory audits being conducted for tax compliance, environmental monitoring and corporate governance, among others.

**Encouraging other industry players.** The composition of the TWG and MSG can be augmented by additional representatives from the industry and other government agencies (i.e. NCIP, BOC, non-metallic, small scale) to further consider their views in key decisions and resolutions. More importantly, NCIP should be duly represented to ensure that the agency is kept up to speed on the requirements, as well as consider steps taken by other government agencies.

## A. Recommendations

Fourth PH-EITI Report Observation	Recommendation	Status as of the Fifth PH-EITI Report
<b>Department of Energy</b>		
<p>Create a reporting system that will determine the direct impact measured through the jobs attributable to the oil and gas industry.*</p>	<p>To enhance the accuracy and accessibility of contextual information, we recommend that the DOE periodically (at least annually) maintain information on the contribution of the industry to labor and employment.</p>	<p>Similar issue in the Fifth Report.</p> <p><i>Data found in the PSA's website includes aggregated figures and not disaggregated down to the oil and gas sector.</i></p>
<p>Timeline of launching to awarding contracts to companies</p> <p>As discussed in Section I, The legal framework, of Chapter 1 of the fourth PH-EITI report, DOE has implemented a new awarding system, PCECP, for coal companies. However, related guidelines for oil and gas companies are still being finalized.*</p>	<p>For the past two PECRs (4 and 5) launched by the agency, the deadlines were pushed back, resulting in delays in the evaluation of submitted bids from both foreign and local companies. This may result in loss of interest from a number of investors. While the delays were caused by factors beyond the agency's control (i.e. provided more assistance to the prospective energy developers, conflicting schedules of the agency's officials on the initial scheduled launching of PECR 5), we recommend that the DOE set a maximum lead time for every stage of the PECR to ensure that investment opportunities that will pave the way for the exploration of more petroleum areas in the country will not be lost.</p>	<p>CIW and Secretariat to review response of agency and provide write-up of status as of the Fifth Report.</p>
<p>We noted that the list of SCs and COCs that can be found on the DOE website was not updated and had to be obtained directly from the DOE. Thus, the list of SCs still lacks information on the coordinates of the license area, date of application, and the commodity being produced. As a response, the DOE is developing the Energy Data Center of the Philippines online inquiry site.*</p>	<p>As noted in the previous PH-EITI reports, we recommend that the DOE maintain a summary of information, including the data currently lacking in the system, and update the same on a regular basis (at least annually). The same updated summary should be published on DOE's website.</p>	<p>Similar issue in the Fifth Report.</p> <p><i>Production data found in the DoE website is updated for natural gas production only (as of November 2018) and are aggregated/cumulative.</i></p>

<p>As highlighted in Section VI, Scope of the report, of this chapter, there are four companies who did not participate in the fourth PH-EITI report.</p>	<p>To strengthen implementation of PH-EITI in the oil and gas sector,DOE should consider issuing an administrative order similar to DAO 2017-07.</p>	<p>Similar issue in the Fifth Report. The recommendation is for the department's top management's guidance for policy direction.</p>
<b>Mines and Geosciences Bureau</b>		
<p><i>Review of the SDMP 5-year Program</i></p> <p>There is no concrete indication to support that the implementation of the 5-year SDMP program of the extractive companies is strictly and diligently monitored by the agency. It is noted that the head office has difficulty monitoring the SDMP five year program due to the absence of reports available to support actual implementation. *</p>	<p>It was recommended that the agency establish a monitoring mechanism to check actual implementation of the SDMP 5-year program and also report available funds at the end of each reporting period. An online reporting and monitoring tool must be completed on a yearly basis starting from 1st year of SDMP implementation until the 5th year to check actual implementation of programs including verification of available funds at the end of each reporting period (i.e. unspent funds, backlogs, etc.)</p>	<p><i>Memorandum Circular 2018-02 established the standardization of monitoring of mining permits/contracts.</i></p>
<p><i>Additional manpower requirements for the licensing</i></p> <p>Based on the observation conducted during the agency visit, it was noted that the tenements team, which involves approximately 15 members, processes numerous applications from licensees and updates status of ongoing applications which likewise involves very tedious tasks. Lack of sufficient manpower requirements might lead to slow turnaround and late approvals of permit applications.</p> <p>In the fourth PH-EITI report, while the composition of the tenements team remains the same, the agency has highlighted its ongoing reforms including the simplification of the application process starting 2018 which is expected to address the issue.*</p>	<p>It was recommended that the MGB consider increasing its manpower resources in the tenements team to compensate for the increasing level of license applications received by the department including extensive monitoring of the status of all license applications.</p>	<p>Similar issue in the Fifth Report.</p>

<p><i>Accuracy of production data</i></p> <p>We understand that the production data provided by the agency was based on the submissions and declarations from the extractive companies. The agency does not have its own procedures and systems to collect and control production data provided by the mining companies.*</p>	<p>It was recommended that the agency establish its own mechanism, process and procedure to collect and control production data. Also, it was recommended that the agency provide us with a comparison of the production volumes declared by the mining companies with the measurements of the agency for each reporting year.</p>	<p>CIW and Secretariat to review response of agency and provide write-up of status as of the Fifth Report.</p>
<p>The MGB's list of approved mining contracts/permits does not include information on the date of application and the coordinates of the licensed area.</p> <p>As a response, the MGB designed and implemented the Mineral Industry Central Database in 2016. The database will facilitate the improvement of MGB's database to include EITI data and ensure that the information specified in the EITI reporting templates will be accessible by the public, also at the level of disaggregation required by the EITI. Information that will be available through the database include data on: (i) mining tenement; (ii) lands geology; (iii) mining technology; (iv) mineral economics; (v) mining environment and safety; (vi) metallurgical technology; and (vii) marine geology. As of date, the MGB is encoding 2009 to 2012 information into the database. The encoding of prior year data is expected to be completed by 2017, and by then, data will be encoded into the system on a concurrent basis.</p>	<p>It was recommended that MGB also include these information in the register and make the same accessible to the public via the agency's website.</p>	<p><i>CIW to review response of agency and provide write-up of status as of the Fifth Report.</i></p> <p><i>MGB posts quarterly updated database of current mining contracts/permits and applications in their website in PDF format.</i></p>

<p>The issue is existing in the fourth PH-EITI report. In the MGB Central Database System launched last year, we have noted that the date of application and the coordinates of the licensed area are still not available.*</p>		
<p>As discussed in Section V, Others, of Chapter 1 of the fourth PH-EITI report, it was noted that the evaluation by MGB Regional Office for the ISHES Report was not performed and submitted to the MGB Central Office on time.</p> <p>The MSESDD of MGB has already drafted the standard procedures for report preparation in place, the pilot testing of which started in the third quarter of 2017. A related memorandum order is expected to be released in 2018.*</p>	<p>MGB should ensure that a timely review and evaluation of compliance to mandatory requirements and program implementation and reporting is performed. Moreover, the agency should take measures to avoid delays in the release of the said memorandum order.</p>	<p>CIW and Secretariat to review response of agency and provide write-up of status as of the Fifth Report.</p>
<b>NCIP</b>		
<p>Insufficient monitoring of royalties for IPs</p> <p>The agency does not have a formal and adequate monitoring of royalties for IPs. The agency (NCIP) relies on voluntary disclosures made by companies.</p> <p>Under Section 44 of RA No. 8371, the NCIP is tasked to “coordinate development programs and projects for the advancement of the ICCs/ IPs and to oversee the proper implementation thereof.” However, based on NCIP’s actual practice and implementation, while the NCIP may exercise its visitorial power to evaluate, audit and examine accounting books, records, and other financial documents, NCIP is not</p>	<p>It was recommended that the agency develop a system for monitoring IP royalties. The agency must require all extractive companies to submit copies of deposits/proof of payments to the designated bank accounts for IP royalties.</p>	<p>Similar issue in the Fifth Report.</p>

<p>responsible for monitoring the implementation of the CRDP. NCIP can consider revisiting its interpretation of Section 44 of RA No. 8371, as its functions should include oversight of the projects and programs of ICCs/ IPs.</p>		
<p><i>Regular monitoring of the list of entities operating within the ancestral domain (AD) including the respective MOAs and ensure information be made publicly available through the agency's website.</i></p> <p>The agency does not have a readily available information about the list of entities operating within AD.*</p>	<p>It was recommended that the agency consistently and regularly monitor the list of the entities operating within AD and ensure up-to-date information are reflected therein. MOAs/CADTs and other relevant information must also be diligently monitored for EITI reporting purposes.</p>	<p>Similar issue in the Fifth Report.</p>
<b>LGUs</b>		
<p><i>Implement monitoring of projects and improvements donated/provided by mining companies</i></p> <p>Donations and infrastructure projects by mining companies are given directly to barangays. These are not always reported by either the barangay or the company to the respective municipality or province, and as such, municipalities and provinces are not fully aware of the extent of the companies' contributions to mining communities.</p>	<p>It was recommended that LGUs make an inventory of these projects and maintain a monitoring of such in order to properly account for the value of these contributions.</p>	<p>Similar issue in the Fifth Report. The department is currently looking at this matter.</p>
<p><i>Consider setting aside revenues collected from mining companies towards the development of the communities affected by extractive activities.</i></p> <p>Taxes and fees collected from mining companies form part of the LGUs' general funds and are programmed towards projects and expenses for</p>	<p>Given that mining communities are the ones directly affected by extractive activities, LGUs should consider setting up a special fund arising from revenues earned from extractive companies so that these may be allocated towards projects that would contribute to the rehabilitation and development of mining communities.</p>	<p>PPEI conducted a study entitled, "Local Green Investments in the Philippines", with the following major outputs: (1) Stocktaking Report on Policies on Green Investments in the Philippines; (2) Opportunities and Barriers for Green Investments at the Local Level; (3) Extractive Industries and Local Public Finance: Tax and Non-Tax</p>

<p>the entire community. There are no specific projects for which revenues collected from mining companies are allocated.</p>	<p>This way, it is ensured that there is a direct benefit to the communities.</p>	<p>Contributions of Mining to Local Governments in Surigao del Norte; (4) Revenue Generating Options and the Necessary Enabling Environment and Strategies to Promote and Establish Alternatives; (5) LGU Guidelines for Establishing Green Investments and; (6) Potential Green Investments in Claver, Placer and Tagana-an, Surigao del Norte.</p> <p>Study outputs can be accessed through:  <a href="https://drive.google.com/drive/folders/1yhqMLnU0xzC_D8wdtI9FR6la-ryBf_2o">https://drive.google.com/drive/folders/1yhqMLnU0xzC_D8wdtI9FR6la-ryBf_2o</a></p>
<p>The SDMPs of mining companies are not aligned with local development plan, which may lead to duplication of programs to be implemented.</p>	<p>LGUs should be involved in the identification and planning of the companies' SDMPs to align with the local development plan. Moreover, LGUs should ensure the sustainability of programs/projects implemented under SDMP as well as conduct a regular assessment of the impact of SDMP projects.</p>	<p>The Department thru PPEI, has actively participated during the drafting of the proposed Supplemental SDMP Guidelines. Said guidelines was an inter-agency collaboration intended to set indicators in order to aid the stakeholders in determining the sustainability of SDMP projects and the alignment of these to the basic thematic priorities, particularly: (1) access to education; (2) access to health services and facilities; (3) protection and respect of socio-cultural values; (4) development of livelihood industries. Comments and inputs to the said guidelines were endorsed to DENR-MGB, approval thereof by the DENR Secretary is still pending per last meeting held earlier this year.</p>
<p>Amount received by the LGUs through NADAI is consolidated, without details of the calculation and period to which the payment pertains.</p>	<p>Indicate in the NADAI the name of the company, details of computation, and allocation period.</p>	<p>Similar issue in the Fifth Report.</p>
<p>Completeness of the collected excise tax from mining companies cannot be assured</p>	<p>MGB should provide LGUs with mining operations a certified monthly excise tax collection</p>	<p>Similar issue in the Fifth Report.</p>

by LGUs.	report. Further, it should issue an order of collection or billing to each LGU. It was noted that some mining companies operate in two or more adjacent municipalities but MGB only issues an order of collection to only one municipality.	
It was noted during our walkthrough that local business taxes paid by the extractive companies are based on the unaudited gross revenues. There are no further adjustments on the payments based on the audited balances.	LGUs should require extractive companies to submit the audited financial statements on the succeeding year of payment and any difference in the calculated local business tax will be collected/refunded, as the case may be.	Similar issue for the Fifth Report. The department will look into this matter.
There is no clear guideline as to the use of the share in national wealth.	DBM to issue/define specific guidelines on the use of the share in national wealth derived from mining activities.	Similar issue in the Fifth Report.
The share in national wealth received by the LGUs is combined with the LGUs' general fund, leading to improper use of it.	It was recommended to have a separate subsidiary ledger for the share in national wealth and trust fund for proper segregation and use.	The draft JMC already indicates a separate subsidiary ledger for recording the share in national wealth and trust fund. Once issued, the BLGF shall issue a procedural guidelines for the treasurers.
There are long delays in the distribution of the share in national wealth. As of date, some LGUs are yet to receive their respective share in national wealth.	Implemented a change in the process of releasing the LGU share starting 2016.	Similar issue in the Fifth Report.
Collecting LGUs must inform, forward or remit to other LGUs their respective shares in the collection. It was noted that there were cases wherein occupation fees were collected by the municipalities without informing or remitting to the provincial LGUs their respective shares.	Quarterly reports should be prepared by the collecting LGUs and required to be shared with the affected provinces or barangays.	Similar issue in the Fifth Report.
Donations directly provided by the extractive companies to the barangays are not completely accounted for by	Receiving barangay should report any donations received from extractive companies to their respective municipality	Similar issue in the Fifth Report.

the respective municipality and province since these were not always reported.	and province.	
During walkthrough procedures, it was identified that LGUs at the province level could not confirm the portion of real property taxes from mining companies due to the lump sum payment received from LGU at the municipality level. Moreover, there is no related report showing the breakdown of said payment.	BLGF should issue policy guidelines on the reporting of real property tax remittances, including the need to disaggregate the amount to ensure accurate identification of collections.	The policy issuance on the reporting of Real Property Tax Remittances can be found in the Local Treasury Operations Manual (LTOM).
From procedures performed, we identified long delays in the distribution of the share in national wealth. The agency already implemented a change in the process of releasing Share in national wealth starting 2016 with the implementation of DOF DBM Joint Circular No. 2016-1. However, some LGUs have not yet received their respective share in national wealth as of date.	LGUs could explore the possibility of automating the certification of the amount of share in national wealth to properly account the aforementioned and expedite the reporting process.	The Department recommends the establishment of a common online portal [could perhaps be administered by DBM] wherein LGUs could be able to confirm with DBM immediately upon receipt of their shares.  As of the current version of the ENRDMT, there is no existing facility or module that automatically provide for a certification of the amount of share in national wealth to properly account the aforementioned and expedite the reporting process. This can be included in the future enhancement of the system.
<b>BOC</b>		
In the reconciliation process, various payments to BOC by entities through third party brokers were noted. These payments were not included in the reported amount of BOC but was disclosed by the participating entities, which contributed to the amount of variance pre-reconciliation.	BOC should monitor payments made through third-party brokers and include the same in its reporting templates to properly reflect the source of government revenues.	Similar issue in the Fifth Report.

*\*Pertains to observations from procedures related to Chapter 1, Contextual information. The status of recommendations as of the Fifth PH-EITI Report has been reviewed and confirmed by the contextual information writer.*

## B. MSG Recommendations and Assessment of Progress

In the first PH-EITI report, based on key findings of the same, the MSG formulated recommendations addressed to specified government agencies with a view to enhancing transparency in and improving

governance of the extractive sector. These recommendations were elevated to the Mining Industry Coordinating Council who directed the concerned government agencies to act on the recommendations and to each submit an action plan for implementation. All the agencies except BOI and PEZA submitted action plans. In the second, third, and fourth PH-EITI report, updates on the agencies' actions on the recommendations, assessment of progress, and additional recommendations from the MSG were given. For this fourth report, the MSG again assessed progress in implementation and gave further recommendations, outlined in the table below:

MINES AND GEOSCIENCES BUREAU

Recommendation from the Fourth Report	Agency Updates/Progress	MSG Recommendations (for the Fifth Report)
<p>1 Issue a memorandum circular with clear timelines and guidelines for implementation of a standard format for ISHES Monitoring.</p>	<p>Memorandum circular No. 2018-02, or the Guidelines for Compliance Monitoring and Rating/Scorecard of Mining Permits/Contracts was signed on July 3, 2018.</p> <p>The Circular contains the Standard Monitoring Checklist for Tenements, Safety and Health; Environmental Management and Social Development and a Compliance Scorecard that will be utilized by the MGB Regional Offices to determine and measures the compliance of each contractor /permittee/permit holder.</p>	<p>Include in the memorandum the roles and functions of the local NGOs especially in the planning and implementation of the ISHES monitoring.</p> <p>Consider capturing the qualitative aspect of monitoring as opposed to just measuring or ticking compliance list. Consider laying down the technical capability requirements/capacity building needs of those who will implement the scorecard.</p>
<p>2 Study the possibility of widening public sector and academic participation in the revisit, updating, and enhancement of existing guidelines and legal basis of MMTS and MRFCs.</p>	<p>There is an ongoing discussion/ study by the MGB through the Mining Safety, and Social Development Division on the selection process of MMT with the Bantay Kita. (Please refer updates of the same on succeeding page/s.</p>	<p>Consider strengthening capacity and active participation of the MMT and MRFC members particularly on how they can effectively participate during field visits and meetings.</p> <p>Consider identifying and regularly involving other representatives from civil society including academics, media, Church people, the youth, and community leaders who are passionate in pushing for environmental sustainability.</p> <p>Actively disseminate information about monitoring activities and findings of MMTs and MRFCs.</p>

<p>3 Enhance the MGB's monitoring and accuracy of production data by:</p> <p>(i) performing its own regular (or even random sampling of) assays of ore shipments; and</p> <p>(ii) ensuring the presence of MGB personnel at the loading dock to check the volume of ore being shipped.</p>	<p>The MGB Regional Offices is monitoring(Validation of volume of ore and grade) shipments of Mining Companies. On assay of Ore being shipped, sampling/checking is being done by a third party with the presence of MGB personnel other companies submit samples to the MGB Regional Offices with Laboratories in determination of grade. The third party is agreed both by the seller and the buyer .Currently, MGB is acquiring technical equipment (XRF for the on the spot assay of ore and RTK surveying equipments for the real time determination of volume of stock files.</p>	<p>Consider institutionalizing a system of civil society participation in the entire extractives value chain particularly on the monitoring of the accuracy of production.</p> <p>Consider enjoining CSOs in monitoring the details of the production process at the field level.</p> <p>Release updates on the purchase of the monitoring equipment and reports on initial evaluation of the regular (or random) sampling – i.e. if it has been rolled out. If delayed, indicate the causes.</p>
<p>4 MMT monitoring activities should be financed by government funds released through the MGB, not mining companies directly.</p>	<p>Refer to Sec. 174 of DAO 2010-21 in re: Environmental Monitoring &amp; Audit:          “The expenses for such monitoring shall be chargeable against the Monitoring Trust Fund of the MRF as provided in Section 181 in re: <i>Mine Rehabilitation Fund</i> hereof.”</p>	<p>Consider enhancing the function of the Monitoring Trust Fund to ensure sufficient and independent funding for all MMT monitoring activities for the year. Companies must have no hand in the disbursement of MMT allowances, and MMT members must be precluded from asking for additional allowances or compensation from the company or the fund.</p> <p>Ensure the regularity of monitoring activities of the MMT and also reporting of ROs on the activitiesfeedback/updates on the use of MTF in relation to MMT</p>
<p>5 Initiate multi-sectoral discussions within the LGUs to update appreciation and assess impacts of small-scale mining, leading to collaborative efforts at establishing EITI participation as requisite for PMRB issuance of permits and</p>	<p>In order to facilitate the effective monitoring of mining operations, the MGB recently issued a Memorandum directing all MGB Regional Offices to submit a quarterly inventory updates of various mining permits/contracts issued by LGU's and PMRB's in their</p>	<p>A regular multi-sectoral discussion should be scheduled. Ensure that proceedings of the meeting be documented. Consider including in the discussions a review of current guiding laws and identify the flaws/gaps for eventual amendments or</p>

licenses.	jurisdiction.	crafting of new policies.
<p>6 Issue a timeframe and implementing rules and regulations prescribing a process for determining which companies did not participate and their reasons for non-participation, and prescribing penalties if warranted, for immediate and timely implementation of DAO 2017-07.</p>	<p>DAO 2017-07 is being continuously implemented by the DENR-MGB. The PH-EITI MSG have agreed that participation and compliance in PH -EITI requires the timely submission of (i) signed BIR Waiver; (ii) data submitted through the PH-EITI ORE tools and (iii) other information or documents as required by the process and the IA engaged by the PH-EITI MSG, with due notice to the companies. The same was agreed by the Policy Technical Working Group of the MGB to be included in the compliance scorecard of the MC 2018-02. Drafting of a Supplemental Memorandum Circular in this regard is being undertaken.</p>	<p>Consider institutionalizing guidelines into policy particularly on defining what is “compliance” for mining contractors under DAO 2017-07 as well as clarify who (as between the MPSA holder and the operator) has the responsibility to submit the template/report. Consider discussing the DAO with Environmental Management Bureau for close coordination.</p> <p>Consider conducting a study on the non-participation of mining contractors.</p>
<p>7 Populate the portal with complete and timely information and links to supporting documents, e.g. MMT reports.</p> <p>8 Disclose auxiliary rights accorded to extractive companies and supporting documents.</p>	<p>MGB portal was timely updated. Status of environmental funds (FMR/DF, RCF, MTF, etc.) were also included in the portal. However, ongoing discussion on the links to supporting documents (MMT reports) was made between MSESDD and EITI representative. MMT documents were provided to EITI representative thru scanned documents.</p>	<p>Consider linking supporting documents when publishing data as an additional quality validation mechanisms to ensure that the report produced by PH-EITI will be more reliable.</p> <p>Consider publishing in data in open format so that viewers/visitors can easily download data that they need.</p> <p>Consider publishing auxiliary rights in the MGB Portal.</p>
<p>9 Create a National Mineral Resources Board (or at least a dedicated division within MGB) to monitor and gather data on all the activities of the various PMRBs.</p>	<p>Creation of National Mineral Resources Board is not necessary due to existence of the MICC.</p>	<p>Consider creating a National Mineral Resources Board (or assigning at least a dedicated division within MGB) to monitor and gather data on all the activities of the various PMRBs/SSMs and carry out doable action points and monitor/consolidate situation,</p>

		<p>tasks, actions and results.</p> <p>The MICC cannot perform the function of a national mineral resources board that can monitor the activities of all PMRBs and SSM contractors.</p>
<p>10 Undertake crafting of uniform operations manual for PMRBs to make systematic and harmonize quality of PMRBs.</p>	<p>The Mining Technology Division of the MGB is the Division responsible in the monitoring of various activities of PMRB as reported by the Regional Offices. Regional Offices submit a PMRB Quarterly Monitoring Report to the Central Office.</p>	<p>Consider including the participation of PH-EITI and other CSOs in the crafting of the manual of operations for the PMRBs to help strengthen existing management systems and ensure participation of the CSOs in the monitoring and evaluation of permits and small-scale mining contracts.</p> <p>Consider outlining the tasks, roles, expectations among MGB ROs and Divisions to ensure clarity in governance issues of SSM. Ensure coordination of policies and actions that affect the inter-relations of small scale and large scale operations as well.</p>
<p>11 Develop a set of criteria and indicators for SDMP activities that would support MGB policies pertinent to sustainable development</p> <p>12 Collaborate with mandated government agencies and sectors advocating for development planning to come up with effective methods to increase capacity of beneficiary communities to advance participatory program prioritization and inclusive development planning.</p>	<p>Continuous implementation of the set indicators for the Performance review.</p> <p>Engagement with the PPEI-DILG were concluded last June 2018, resulting to a production of a case study of SDMP's of selected Mining Companies.</p>	<p>MGB may also want to align the 5-year SDMP programs with local (<i>provincial, municipal and/or brgy.</i>) development plans.</p> <p>Plans/programs/activities that don't achieve the desired results should not be funded again, or ensure community capacity-building measures first be implemented. MGB may also study the possibility of putting a cap on "unsustainable" projects or programs, such as large infrastructure projects.</p> <p>Consider including the NEDA, academe/experts, and local development boards in the development of the 5-year SDMP.</p>

		In reviewing SDMP guidelines, consider a sustainable development framework and outline (at least) a medium-term strategic area development plan with corresponding project management, monitoring and evaluation framework.
<p>13 Include enhancements to the SDMP — that MGB perform a qualitative impact assessment of the impacts the SDMP, engage developmental experts to perform the assessment, if necessary, and suggest refinements to the projects being funded by the program.</p> <p>14 Issue a timeline for standardization of the checklist and implementation of the tool.</p>	MGB have already issued the Memorandum Circular No. 2018-02 and implementation of the same is currently being undertaken.	<p>Consider performing qualitative assessments of the impacts of SDMP projects by engaging developmental experts alongside a multi-partite team to perform the assessment, if necessary, and suggest refinements to the projects being funded by the program. Consider developing a separate tool aimed at measuring impact of the projects.</p> <p>Release updates on the rollout of the scorecard.</p>
15 Set a timeline for the review and finalization of the CSO representative selection process	The draft Memorandum Circular was forwarded to the MGB Regional Offices for comments last June 25,2018. A meeting was conducted with Bantay Kita on July 5, 2018 to discuss further the comments of MGB RO's. A review of the draft Memorandum Circular on Selection Process is ongoing.	Provide regular updates on the release of the MC that includes and incorporates inputs based from the reports, feedback, and discussions with CSOs.

DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT/  
BUREAU OF LOCAL GOVERNMENT FINANCE

<b>Recommendation from the Fourth Report</b>	<b>Updates/Progress</b>	<b>MSG Recommendations (for the Fifth Report)</b>
[BLGF] Enhance further the ENRDMT by incorporating benchmarking/indexing capabilities. The tool should be able to indicate how long it took for LGU shares to be released from the time the same was paid by the mining company.	<p>Currently, the ENRDMT system can provide the following items:</p> <p>a. Reporting period - the quarter and year in_which the extractive company paid the national collecting agency</p> <p>b. Proof of receipt (e.g. Notice</p>	

<p>Benchmarking will give stakeholders a better appreciation of the speed and direction of improvements from the reforms PH-EITI has proposed/implemented.</p>	<p>of Advice to Debit Account Issued, Notice of Funding Checks Issued, etc.)</p> <p>c. Date of Notice – the date shown on the proof of receipt</p> <p>d. Date Received – the date the LGU received the proof of receipt</p> <p>There is a continuous enhancement of the system and it can/will be made to automatically compute the time lag between when the national collecting agency received the payment from the extractive company and the date the LGU shares from that payment were released to the concerned LGUs. This ageing exercise can show comparisons across years and also benchmark against the time period stipulated in the 1991 LGC and various JMCs on the release of LGU shares from national wealth.</p> <p>In addition, the system can be enhanced to capture other dates of interest (e.g. the time period for which the payment was made to the national collecting agency)</p>	
<p>[BLGF] Devise a mechanism to present LGU expenditures of their share in national wealth.</p>	<p>The mechanism that will allow the LGUs to report their expenditures funded by their shares in national wealth has already been identified in studies conducted under the Philippines Poverty Environment Initiative (PPEI). This is the creation of a Special Account in the General Fund (SAGF) in which LGUs would lodge their shares from National Wealth.</p> <p>There is already a draft Joint Memorandum Circular (JMC)</p>	<p>Consider including CSOs in monitoring the spending of shares from the national wealth.</p>

	<p>by DBM, DOE, DENR, DILG and DOF on the Enhanced Guidelines and Procedures on the release of the shares of the LGUs in the proceeds from the development and utilization of the National Wealth. The draft JMC is expected to be issued before the end of 2018. It contains a provision whereby LGUs are to create a SAGF through the passage of a local ordinance. Funds in the SAGF may only be used for programs and projects consistent with Section 294 of the 1991 LGC.</p> <p>After the JMC has been issued, the ENRDMT will be enhanced so that LGUs can report what these programs and projects are. The major categories are development and livelihood projects and lowering the cost of electricity.</p> <p>The Nature of Expenses currently in the ENRDMT includes the following:</p> <ul style="list-style-type: none"> <li>- Education, Culture &amp; Sports</li> <li>- Health, Nutrition and Population Control</li> <li>- Labor and Employment</li> <li>- Housing and Community Development</li> <li>- Social Services and Social Welfare</li> <li>- Economic Services</li> <li>- Others</li> </ul> <p>These can be used as sub-categories under development and livelihood projects, with the addition of Environment and Disaster Risk Management.</p>	
<p>[DILG/BLGF] Conduct a study on tracking the national government/LGU spending of extractive industry revenue, especially those earmarked for</p>	<p>DILG has yet to explore the possibility of conducting this study, in partnership with BLGF.</p>	<p>Consider including CSOs (e.g., independent body or academic institutions) in the team that will conduct the study to track the national government/LGU</p>

specific purposes.	The direct payments of extractive companies to LGUs (e.g. local taxes) go to the General Fund of the LGUs and they basically have the autonomy to use these funds as they see fit. Expenditure tagging has been looked into in earlier studies including one under PPEI. Since that time, there has been growing awareness of the need for measures to combat climate change. Another study based on the earlier ones might be able to come up with more actionable results.	share and spending of extractive industry revenue.  with a specific framework of analysis?
[DILG] Undertake an impact assessment of national wealth taxes, with a view to identifying tangible impacts to local communities and other stakeholders in order to determine the extent to which the EITI has contributed to improving public financial management and governance of the mining, oil and gas sectors.	DILG, thru PPEI, has completed a study entitled, "Assessment of the Impact of Social Development Management Programs of Large-Scale Mining Companies in Selected Host Communities in the Philippines" which intends to assess the impact of SDMPs of mining companies relative to the poverty situation of their host and neighboring communities (HNCs). Copy of which is available at: <a href="https://drive.google.com/file/d/0ByBQN2zXhQO8Q1JNM2o5S1U1cTA/view">https://drive.google.com/file/d/0ByBQN2zXhQO8Q1JNM2o5S1U1cTA/view</a>	Consider partnering with CSOs in discussing and presenting to the public the different studies conducted.
[DILG] Conduct a feasibility study to assess viability of PH-EITI disclosure as a component of the Seal of Good Local Governance for LGUs hosting mining.	This matter is being referred to the concerned Bureau - Bureau of Local Government Supervision (BLGS) of DILG.	Provide updates on the response of the specific BLGS and if there was an action point/resolution.

DEPARTMENT OF BUDGET AND MANAGEMENT - BUREAU OF TREASURY

<b>Recommendation from the Fourth Report</b>	<b>Updates/Progress</b>	<b>MSG Recommendations (for the Fifth Report)</b>
Provide a timeframe for the issuance and implementation of the joint circular intended to further accelerate and make more	To date, the DBM is still collating the inputs of the agencies concerned.  After consolidating the inputs, another meeting with the	Consider requiring an allocation plan on how the LGU shares will be spent before the release of the funds and a copy be publicly-disclosed for

<p>transparent the release of LGU shares in national wealth.</p>	<p>representatives of all the agencies concerned will be set to finalize the Joint Memorandum Circular providing for the enhanced procedures and guidelines on the allocation and release of the shares of local government units (LGUs) in the proceeds from the utilization and development of the national wealth.</p> <p>The JMC is intended to finalized and issued early next year.</p>	<p>purposes of transparency and for CSOs be able to monitor the same shares at the local level.</p>
<p>Consider extractive companies' certification of excise tax paid as prima facie proof of payment, and basis for computation of the LGU share.</p>	<p>Pursuant to Article 390 of the Implementing Rules and Regulations of the Local Government Code of 1991 (RA No. 7160), the computation and remittance of the shares of LGUs in the proceeds from the development and utilization of the national wealth shall be based on the submission of computation (as reflected in the certification) by the revenue collecting agencies to the DBM.</p> <p>Nevertheless, it is to be emphasized the proposed JMC seeks to streamline and expedite the entire process on the allocation and release of the shares of LGUs.</p>	
<p>Set specific deadlines for DBM/BTr action on releases, with effect of immediate approval/ release if unprocessed/ unacted upon after a specific period.</p>	<p>The processing time is within fifteen (15) calendar days upon full completion of documentary requirements, provided that the LGUs have existing Authorized Government Servicing Bank (AGSB).</p> <p>The BTr should provide the list of AGSBs of LGUs to collecting agencies to reduce delays in the release of funds. The list can be used by the collecting agencies to double-check if the LGU has an existing AGSB. If the LGU has no existing AGSB listed to the BTr, the LGU can inform the collecting agency and the BTr before endorsing the documentary requirements to DBM.</p>	

Take initial steps towards mainstreaming the reporting template within and among government agencies i.e., a study be undertaken of existing reporting mechanisms within the relevant agencies, and how these can be aligned with EITI standards/requirements.	This will be addressed in the proposed JMC to be issued by the agencies concerned.	
Start working on project- level reporting for the next country report (December 2018) in compliance with the agreement of the EITI Board at its 36th meeting in Bogotá.		

#### DEPARTMENT OF ENERGY

<b>Recommendation from the Fourth Report</b>	<b>Updates/Progress</b>	<b>MSG Recommendations (for the Fifth Report)</b>
Pursue measures to compel participation of Semirara Mining and Power Corporation (SMPC) in the EITI process.	Sent a letter dated 16 April 2018 to SMPC directing them to fully participate in the PH-EITI	Consider including CSOs in the process of compelling SMPC to participate in the EITI process.  Provide updates on SMPC's response to the letter.

#### NATIONAL COMMISSION ON INDIGENOUS PEOPLES

<b>Recommendation from the Fourth Report</b>	<b>Updates/Progress</b>	<b>MSG Recommendations (for the Fifth Report)</b>
Pursue parallel initiatives and qualitative assessment of IP development plans to help ensure the proper monitoring and reporting of IP royalties.		Consider participating actively in the PH-EITI MSG and TWG Meetings for better coordination.
NCIP must dedicate funding and resources to ensure that regional offices are able to regularly transmit IP royalty monitoring reports to NCIP Central Office.		Same. Please reiterate recommendation for the 5th report
Assess how the tool was used and then measure its effectiveness and efficiency and address gaps when found.		Same. Please reiterate recommendation for the 5th report

Undertake development of other tools to build capacities of IPs.		Same. Please reiterate recommendation for the 5th report
Prioritize IP-centric initiatives to help ensure proper monitoring and reporting of IP royalties.		Same. Please reiterate recommendation for the 5th report
Request for updates on the implementation of the directive.		Same. Please reiterate recommendation for the 5th report
Request regional NCIP offices to write an annual progress narrative to be included in PH-EITI reports.		Same. Please reiterate recommendation for the 5th report

## Chapter 3

### *Forging New Frontiers*

# Transparency in Small-Scale Mining in South Cotabato: A Pilot Report

## I. Background

PH-EITI recognizes the significant part of the small-scale mining (SSM) sector in the total mineral production of the country. Despite being small-scale in scope, the prevalence of SSM in highly mineralized areas such as Benguet, Camarines Norte, and Compostela Valley, its contribution to those who are directly dependent on this sector, and its impact to the environment and society, cannot be discounted.

Public perception on mining in general has been undesirable, primarily due to the public's lack of knowledge on the SSM sector. Hence, the Fifth PH-EITI Report has been expanded to include pilot reporting on SSM. The objective of pilot reporting is to bring the actual data and information from the SSM stakeholders operating on the ground to the public. In particular, PH-EITI intends to present to the public what the SSM sector has done and is doing, the contribution of the sector to the local government and communities, and issues and concerns on the ground. The data and information collected will be considered for future reforms in SSM policies, as well as to address the problems and needs of the sector. It is also PH-EITI's aim to lay the groundwork for transparency in the SSM sector, which would hopefully lead to the formalization of the sector.

To further solidify the realization of this vision for the SSM sector, initiatives have already been undertaken to make SSM more transparent and accountable. A three-day national SSM forum entitled, "National Summit: Bridging the Gap for SSM Sector" was held on 5-7 December 2018 in Manila, organized by the Office of the Assistant Secretary for Mining Concerns of the DENR. The

forum served as a venue to solicit comments, suggestions, and recommendations from the local government units (LGUs) and Provincial/City Mining Regulatory Boards concerned, with the end in view to formulate policies or amend existing policies to facilitate formalization of small-scale miners in the country, as well as to improve the SSM reporting system integrating EITI requirements. Parallel to this, the DENR-MGB, in collaboration with government, civil society, and development partners<sup>3</sup>, will hold a workshop in February 2019. This activity aims to present the proposed amendments to the SSM policies and SSM Safety Rules and Regulations, as well as to develop the national action plan and roadmap for SSM.

The House of Representatives also recently passed on third and final reading on 12 November 2018 the House Bill (HB) No. 8400, authored by the Committee on Ways and Means Chairperson Estrellita Suansing and co-authored by House Speaker Gloria Macapagal-Arroyo, requiring small-scale metallic/non-metallic and large-scale metallic/non-metallic mining contractors to participate in EITI.<sup>4</sup>

This chapter presents the results of the pilot reporting on SSM, focusing on the case of the Province of South Cotabato. The Province has initiated and established best practices in the governance and management of its SSM sector. This chapter, in particular, provides data and information on the production, employment, payments to national government agencies, and revenues of the provincial and municipal local government units (LGUs) for the fiscal year 2017 from the SSM sector in South Cotabato. The contextual information on the Province's SSM sector presented in this report is mainly based on the PH-EITI scoping study on SSM conducted and published in 2015.<sup>5</sup>

## A. Overview of SSM in the Philippines

### 1. Profile: Prevalence, Production, and Contribution

The Philippines is one of the most highly mineralized countries in the world with vast reserves of gold, silver, copper, nickel, and chromite. The SSM operations for metallic minerals in the country, however, are limited to gold, silver, and chromite under Executive Order (EO) No. 79.

Based on the 2016 Metallic Minerals Reserve Inventory of the Department of Environment and Natural Resources (DENR)<sup>6</sup>, the country has four (4) billion metric tons of gold reserves, 3.4 billion of silver reserves, and 137.28 million of chromite reserves.

Gold deposits are located in 48 provinces based on DENR Environmental Management Bureau (EMB)'s report citing Ban Toxics, as mentioned in the 2015 SSM scoping study on SSM. Figure No. 8 shows the map of provinces with gold deposits.

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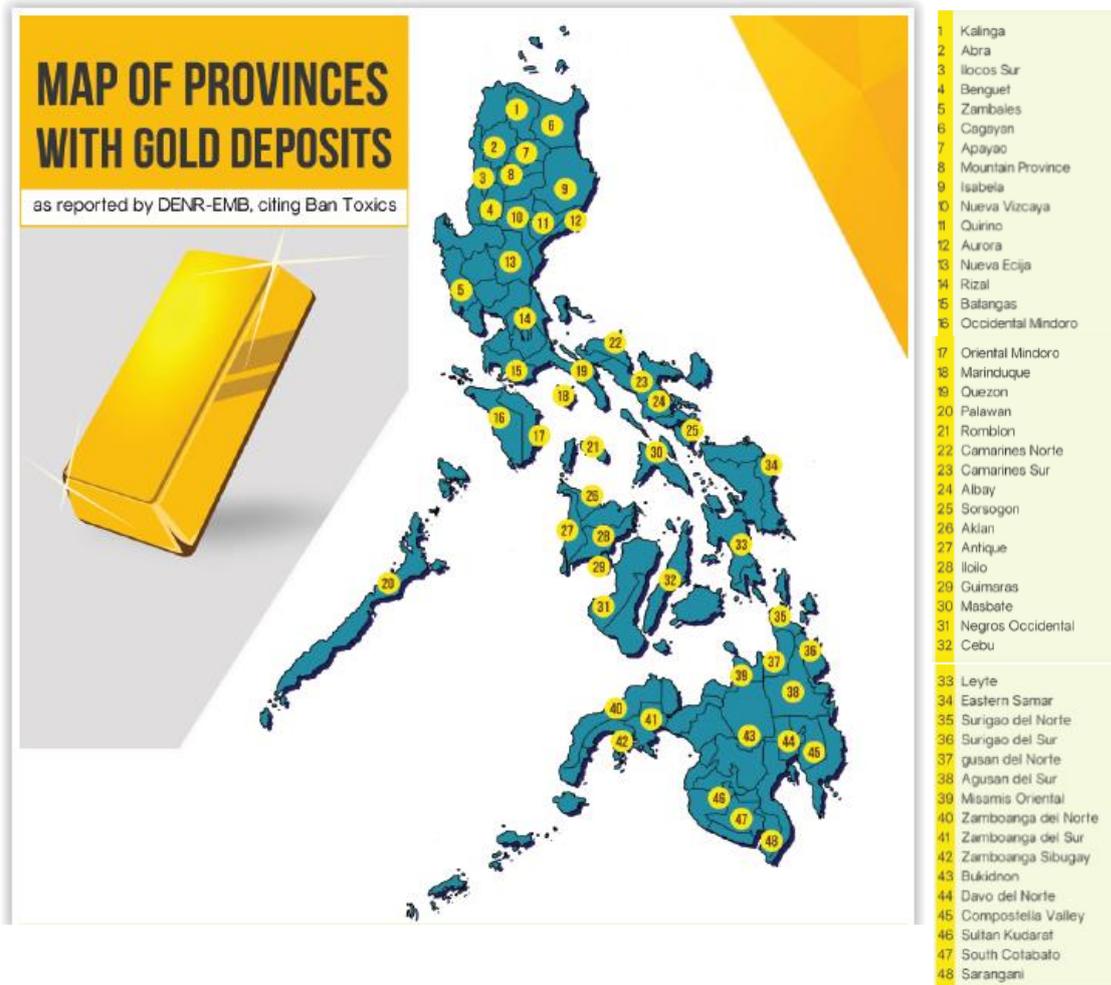
<sup>3</sup> The activity is being organized in partnership with the International Labor Organization, Environmental Management Bureau, Department of Labor and Employment, and Department of the Interior and Local Government, and other concerned agencies/entities and representative/s of SSM stakeholders

<sup>4</sup> House of Representatives. 2018. Committee Report No. 891. An Act Establishing the Fiscal Regime for the Mining Industry. Accessed at [http://www.congress.gov.ph/legisdocs/first\\_17/CR00891.pdf](http://www.congress.gov.ph/legisdocs/first_17/CR00891.pdf). Retrieved on 17 November 2018.

<sup>5</sup> Nuñez, Ma. Aleta C. PH-EITI Scoping Study on Small-scale Mining. 2015. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org))

<sup>6</sup> DENR. Compendium of Environment and Natural Resources (ENR) Statistics 2016. Retrieved at [https://www.denr.gov.ph/images/stories/DENR/RSD/2016/Table\\_1\\_Metallic\\_Minerals\\_Resource\\_Reserve\\_Inventory\\_of\\_the\\_Philippines\\_2016.xlsx](https://www.denr.gov.ph/images/stories/DENR/RSD/2016/Table_1_Metallic_Minerals_Resource_Reserve_Inventory_of_the_Philippines_2016.xlsx). Accessed on 11 November 2018.

Figure 8: Map of Provinces with Gold Deposits as reported by DENR-EMB, citing Ban Toxics<sup>7</sup>



### *Prevalence of SSM in the Philippines*

RA No. 7076 defines “small-scale mining” as “extraction of minerals that relies heavily on manual labor using simple implement and methods and does not use explosives or heavy mining equipment”. Referring to the provisions of RA No. 7076, SSM is restricted to an operation with annual production of 50,000 metric tons, maximum capital of Php10 million, and operated in an area of not more than 20 hectares. If a mining operation’s characteristics exceed any of the above, the MGB technically considers it as large-scale mining.<sup>8</sup>

SSM does not include sand and gravel quarry operations under LGU, but may include other non-metallic minerals such as silica, quartz, and magnesite, as per MGB Central Office. As mentioned, EO No. 79 limits small-scale metallic mining to the extraction of gold, silver, and chromite only. This is to avoid abuses in the weak enforcement of previous related laws and regulations such as issuances of SSM permits for nickel, copper, magnetite, and iron, which need to be extracted using highly mechanized equipment, thus, should not be considered small-scale mining, as per MGB Central Office.

<sup>7</sup> Nuñez, Ma. Aleta C. PH-EITI Scoping Study on Small-scale Mining. 2015. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org))

<sup>8</sup> Presentation of MGB Central Office during the Workshop on “Towards Mainstreaming EITI in PMRBs” on 25 June 2018 in Pasay City.

SSM is considered one of the primary sources of subsistence in mineralized areas such as in Benguet, Camarines Norte, and Compostela Valley, where there are few livelihood alternatives<sup>9</sup>. Around 300,000-500,000 individuals are engaged in SSM in more than 30 provinces<sup>10</sup> where artisanal and small-scale gold mining is widespread,<sup>11</sup> providing livelihood for around two million people.<sup>12</sup> Majority of those SSM workers are involved in *subsistence mining*, defined as “mining to support oneself or one’s family, but with little discretionary income”.<sup>13</sup>

A small-scale miner can earn from PhP900-PhP1,500 per gram of gold sold to buyers stationed at the mine site.<sup>14</sup> In South Cotabato, a small-scale miner earns PhP500-PhP1,000 each day, in contrast to a regular job that pays around P250 each day<sup>15</sup>, which is below the PhP287 current average income tax-exempt minimum wage outside NCR.<sup>16</sup>

After the issuance of Executive Order (EO) No. 79 in July 2012, all SSM operations should be undertaken only within the declared People’s Small-scale Mining Areas or Minahang Bayan in accordance with RA No. 7076. The DENR has formally declared 13 Minahang Bayan areas as of December 2018, as shown in Table No. 64. These are located in ten (10) provinces, including Quezon, Camarines Norte, Masbate, Antique, Eastern Samar, Davao Oriental, Sultan Kudarat, Agusan del Norte, Agusan del Sur, and Dinagat Islands.<sup>17</sup>

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<sup>9</sup> 2018 PH-EITI Roadshow

<sup>10</sup> Magno, Cielo. 2016. Extractive industries and the financing of child-inclusive social development in the Philippines: Trends and policy frameworks, UNRISD Working Paper, No. 2016-2, United Nations Research Institute for Social Development (UNRISD), Geneva

UN Industrial Development Organization. 2017. Follow the Money: The Philippines. Accessed at [https://www.unido.org/sites/default/files/files/2018-01/Philippines%20Report%20\\_20.11.17.pdf](https://www.unido.org/sites/default/files/files/2018-01/Philippines%20Report%20_20.11.17.pdf). Accessed on 11 November 2018.

<sup>11</sup> UN Industrial Development Organization. 2017. Follow the Money: The Philippines. Accessed at [https://www.unido.org/sites/default/files/files/2018-01/Philippines%20Report%20\\_20.11.17.pdf](https://www.unido.org/sites/default/files/files/2018-01/Philippines%20Report%20_20.11.17.pdf). Accessed on 11 November 2018.

Alternate Forum for Research in Mindanao, Inc. 2012. A Background Study of the Small-scale Gold Mining Operations in Benguet and South Cotabato and their Impact on the Economy, the Environment, and the Community. Bantay Kita Occasional Paper Series No. 2012-02.

<sup>12</sup> Magno, Cielo. 2016. Extractive industries and the financing of child-inclusive social development in the Philippines: Trends and policy frameworks, UNRISD Working Paper, No. 2016-2, United Nations Research Institute for Social Development (UNRISD), Geneva

<sup>13</sup> UN Industrial Development Organization. 2017. Follow the Money: The Philippines. Accessed at [https://www.unido.org/sites/default/files/files/2018-01/Philippines%20Report%20\\_20.11.17.pdf](https://www.unido.org/sites/default/files/files/2018-01/Philippines%20Report%20_20.11.17.pdf). Accessed on 11 November 2018.

<sup>14</sup> PH-EITI’s Briefing with SSM Association Heads at the Minahang Bayan Center on 15 November 2018.

<sup>15</sup> PH-EITI’s Data Collection Workshop at MGB RO XII on 11 October 2018.

<sup>16</sup> House of Representatives Press and Public Affairs Bureau. 9 October 2018. House Approves Tax Incentives from Small-scale Gold Miners on Third Reading. Accessed at <http://www.congress.gov.ph/press/details.php?pressid=10968>. Retrieved on 17 November 2018.

<sup>17</sup> <http://databaseportal.mgb.gov.ph/#/public/minahang-bayan>

Presentation of MGB Central Office during Bantay Kita’s 2nd Roundtable Discussion on Responsible Mining on 11 December 2018 in Mandaluyong City.

Table 64. People's Small-scale Mining Areas or Minahang Bayan Declared by the DENR as of December 2018

Location				Area (has)	Proponent	Commodity	Approval Date
Region	Province	Municipality	Barangay				
IV-A	Quezon	Buenavista	Manlana	332	Manlana Small-Scale Miners Association	Gold	12 October 1999
V	Masbate	Aroroy	Tinago, Pinanaan, Jaboyoan, and Lahong Interior	334	Rodel Lim Panes	Gold	13 March 2018
V	Camarines Norte	Paracale	Casalugan	26.43	PMRB-Camarines Norte/Sangguniang Bayan of Paracale, Camarines Norte	Gold	17 September 2018
V	Camarines Norte	Labo	Malaya	72.59	Magkamatao Small Scale Miners Association	Gold	2 October 2018
VI	Antique	Libertad	Igcagay	54	MGB RO No. VI	Silica, quartz	20 February 2018
VIII	Eastern Samar	Llorente	Waso	80	Waso and Binalay Small-Scale Mining Producers Association	Chromite	18 December 2015
XI	Davao Oriental	Banaybanay	Maputi	40	Development Community Mining Livelihood Cooperative	Chromite	28 January 2016
XI	Davao Oriental	Banaybanay	Pinatatagan	71	Pintatagan Small-Scale Mining Producer Cooperative	Magnesite	1 March 2017
XI	Davao Oriental	Lupon	Marayag	81	Matigdao Small-Scale Mining Producers Cooperative	Gold	7 February 2018
XII	Sultan Kudarat	Bagumbayan and Isulan	Chua and Bual	320	Provincial Government of Sultan Kudarat c/o Datu Jun K. Camsa	Gold	14 March 2018
XIII	Agusan del Norte	Cabadbaran	Del Pilar	20	Small-Scale Miners and Mineral Processors of Del Pilar, Cabadbaran City, Agusan del Norte	Gold	20 February 2018
XIII	Agusan del Sur	Rosario	Bayugan III	592	Masabong Village Small-Scale Miners Association	Gold	12 September 2012
XIII	Dinagat Islands	Tubajon	San Jose	1,176	Tubajon Peoples Small-Scale Mining Area	Chromite	2 December 2009

Since SSM operations are authorized only in declared Minahang Bayan, majority of SSM operations in the country are considered informal. With SSM operating below the standards and relying heavily on manual work, most of the miners are exposed to unsafe and unhealthy conditions, with considerable impact on the environment.

A total of 3,715 SSM operations are active based on the consolidated reports from MGB Regional Officer, however, the actual figure might be higher than this, according to the Mining Technology Division of the MGB Central Office.<sup>18</sup> Table No. 65 presents the number of active SSM operations per region.

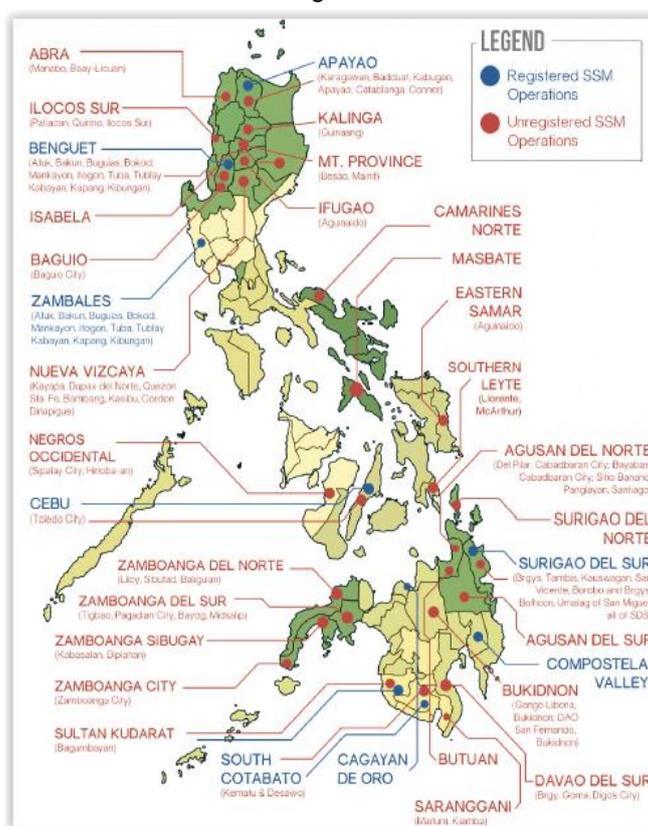
Table 65. Number of Active SSM Operations per Region

<b>Region</b>	<b>Active SSM Operations</b>
CAR	755
I	5
II	62
III	14
IV-A	31
IV-B	4
V	112
VI	2
VII	2
VIII	5
IX	14
X	3
XI	2082
XII	37
XIII	233
<b>Total</b>	<b>3,715</b>

Results of the 2015 PH-EITI scoping study on SSM also revealed that 44 provinces and 27 cities have 417 registered metallic small-scale metallic mining operations and 729 unregistered operations, as reported in a survey by LGUs. On the other hand, MGB Regional Offices in CAR, I, II, III, V, VI, VIII, IX, XI, XII, and XIII reported 196 registered SSM operations and 3,235 unregistered operations in the same survey. Figure No. 9 below shows a map of small-scale metallic operations in the country.

<sup>18</sup> Presentation of MGB Central Office during the Workshop on "Towards Mainstreaming EITI in PMRBs" on 25 June 2018 in Pasay City.

Figure 9. Map of Registered/Unregistered SSM Operations as reported by LGUs and MGB Regional Offices in 2015<sup>19</sup>



### SSM Production

The Philippines remains in the top 20 largest gold producers in the world. It ranks 19<sup>th</sup> in 2015, 17<sup>th</sup> in 2016, and 20<sup>th</sup> in 2017, with reported production of 48.5 metric tons in 2015, 46.6 metric tons in 2016, and 41.1 metric tons of gold in 2017.<sup>20</sup>

Table No. 3 shows the trends in gold production from SSM and large-scale mining based on the gold purchases of Bangko Sentral ng Pilipinas (BSP) from 2009-2017, as reported by the MGB.<sup>21</sup> These data came from four (4) gold buying stations in Quezon City, Baguio, Davao, and Zamboanga.<sup>22</sup>

The MGB mainly relies on the sale of gold to BSP as basis of reporting the production of gold from SSM, instead of reports of miners to P/CMRB because, 1) majority of the production is unregistered, 2) few registered miners do not fully report their monthly/annual production, and 3) P/CMRB's data/information on production is not completely or promptly shared with the MGB Central Office.<sup>23</sup>

<sup>19</sup> Nuñez, Ma. Aleta C. PH-EITI Scoping Study on Small-scale Mining. 2015. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org))

<sup>20</sup> World Gold Council. 2018. Accessed at <https://www.gold.org/goldhub/data/historical-mine-production>. Retrieved on 11 November 2018. Thomson Reuters. GFMS Gold Survey 2017. Accessed at [https://plataformaenergetica.org/sites/default/files/Thomson\\_Reuters\\_GFMS\\_GOLD\\_SURVEY\\_%202017.pdf](https://plataformaenergetica.org/sites/default/files/Thomson_Reuters_GFMS_GOLD_SURVEY_%202017.pdf). Retrieved on 11 November 2018.

<sup>21</sup> MGB. Mineral Industry Statistics from 2009-2017. Accessed at <http://databaseportal.mgb.gov.ph/#/public/documents/MEIPD/Mining%20Industry%20Statistics>. Retrieved on 21 November 2018.

<sup>22</sup> Nuñez, Ma. Aleta C. 2015. PH-EITI Scoping Study on Small-scale Mining. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org)) Jurado, F. J., Amurao, M. B. L., and Calubag, M. L. 2015. Philippine Small-scale Mining, Tax Issues, and Concerns. NTRC Tax Research Journal. Accessed at <http://www.ntrc.gov.ph/images/journal/j20151112b.pdf>. Retrieved on 11 November 2018.

<sup>23</sup> Nuñez, Ma. Aleta C. 2015. PH-EITI Scoping Study on Small-scale Mining. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org))

Based on the figures, the country had an average gold production of 25 metric tons from 2009 to 2017. An average of 37% or 7.77 metric tons of which are from SSM, while 63% or 17.3 metric tons are from large-scale mining.

As observed in Table No. 66, gold production from SSM was relatively high from 2009 and 2010 at an average of 25.7 metric tons and began declining in 2011 at 17.4 metric tons. Production significantly dropped in 2012 by -96.7% or 569 kilograms of gold produced from 2011. It further plunged to 182 kilograms in 2013 and remained below the 200-kilogram mark until 2017.

With regard to the trend on the percentage of gold production from SSM to total gold production of the country, from 2009-2011, majority of gold purchased by BSP came from the SSM sector at an average of 63% vis-à-vis gold bought from large-scale mining at 37%. However, SSM production plunged in 2012, in which only 4% of the total gold production came from SSM. It further went down the following year to 1% and remained below the 1% mark from 2014-2017.

Table 66. Volume of Gold Production based on BSP Purchases, 2009-2017

Year	Gold from Small-Scale Mines			Gold from Large-Scale Mines		Total (kg)
	Production Volume (kg)	Percent Distribution (%)	Growth rate (%)	Production Volume (kg)	Percent Distribution (%)	
2009	26,112	70.48		10,935	29.52	37,047
2010	25,232	62.32	-3.37	15,615	37.68	40,487
2011	17,389	55.88	-31.01	13,731	44.12	31,120
2012	569	3.90	-96.73	14,027	96.10	14,596
2013	182	1.06	-68.01	17,066	98.94	17,248
2014	156	0.85	-14.29	18,267	99.15	18,423
2015	63	0.31	-59.61	20,580	99.69	20,643
2016	140	0.61	1.22	22,913	99.39	23,053
2017	104	0.46	-25.71	22,595	99.54	22,699
Average	7,771.89		-37.19	17,303.22		25,035.11

Before the issuance of the Bureau of Internal Revenue (BIR) of the Revenue Regulation (RR) No. 6-2012 on 2 April 2012, the reported gold production from SSM was higher than the reported gold production from the large-scale mining sector, as indicated above. The BIR RR No. 6-2012 on the “Taxation of the Sale of Gold and Other Metallic Minerals to BSP” authorized the BSP to withhold and remit to the national government 2% excise tax and 5% creditable withholding tax on gold sold to the BSP. After BIR RR No. 6-2012 took effect in the second quarter of 2012, gold purchases of BSP from SSM plummeted to 4% in 2012 from 56% in 2011, as shown in Table No. 3.

Since 2012, more small-scale miners have been selling gold to traders or the black market,<sup>24</sup> which guarantees instant payment. Aside from the tax impositions, BSP implements certain requirements to purchase gold from SSM, which small-scale miners perceive as burdensome and difficult to meet, as shared in some of the forums participated in by PH-EITI in 2018.<sup>25</sup>

BSP, on the other hand, buys gold from all potential sources and does not verify whether the gold is produced from registered or unregistered SSM, as per the 2015 PH-EITI scoping study on SSM. However, with the declining trend in BSP’s gold purchases from SSM, BSP’s gold refinery facility is operating below its capacity, which may affect fees for gold refining and consequently discourage small-scale miners and traders further from selling their gold to the BSP.<sup>26</sup>

<sup>24</sup> Nuñez, Ma. Aleta C. 2015. PH-EITI Scoping Study on Small-scale Mining. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org)) House of Representatives Press and Public Affairs Bureau. 9 October 2018. House Approves Tax Incentives from Small-scale Gold Miners on Third Reading. Accessed at <http://www.congress.gov.ph/press/details.php?pressid=10968>. Retrieved on 17 November 2018.

<sup>25</sup> Benguet SSM Forum organized by the Jaime V. Ongpin Foundation, Inc. on 19 January and 24 April 2018.

<sup>26</sup> House of Representatives Press and Public Affairs Bureau. 9 October 2018. House Approves Tax Incentives from Small-scale Gold Miners on Third Reading. Accessed at <http://www.congress.gov.ph/press/details.php?pressid=10968>. Retrieved on 17 November 2018.

Fortunately, as a means to amend the status quo, the House of Representatives recently approved on third and final reading the HB No. 3297 on 8 October 2018, authored by Deputy Speaker Evelina Escudero, that will exempt small-scale miners from the payment of income and excise taxes from gold sold to the BSP.<sup>27</sup> With this bill, small-scale miners who had paid excise tax for gold sold to the BSP will also be given privilege to claim refund with the BIR.<sup>28</sup> The bill would amend Sections 32 on Gross Income and 151 on Mineral Products of RA No. 7076. This taxation reform would hopefully encourage small-scale miners to sell their gold to the BSP again, instead of the informal market.

### *SSM Contribution to the Economy*

The trend in the gross production value of gold from SSM from 2008-2017<sup>29</sup> is presented in Table No. 67, based on the MGB's Mineral Industry Statistics. The gross amount of gold purchased by BSP from SSM increased by 16.6% from PhP36.8 billion in 2009 to PhP42.9 billion in 2010, which was the highest production value from 2009-2017. It went down to -20.5% in 2011 at PhP34.1 billion. The estimated collections of excise tax also increased from PhP736 million in 2009 to PhP858 million in 2010. However, values drastically dropped by -96.5% at PhP1.2 billion starting in 2012. Production value plateaued in the following years at an average of PhP0.98 billion.

Table 67. Value of based on BSP Purchases from SSM, 2009-2017

	Gold from Small-Scale Mines (kg)	Value of Purchase by BSP (PhP)	Estimated 2% Excise Tax (PhP)	Growth rate (%)
2009	26,112	36.8 billion	736 million	
2010	25,232	42.9 billion	858 million	16.6
2011	17,389	34.1 billion	682 million	-20.5
2012	569	1.2 billion	24 million	-96.5
2013	182	0.3 billion	6 million	-75.0
2014	156	1.5 billion	30 million	4.0
2015	63	1.2 billion	24 million	-2.0
2016	140	1.0 billion	20 million	-1.7
2017	104	0.9 billion	18 million	-1.0

As mentioned earlier, the House of Representatives recently passed on third and final reading on 12 November 2018 the HB No. 8400, mandating all large-scale metallic/non-metallic and small-scale metallic/non-metallic mining contractors to pay to the government a margin-based royalty on income from operations, regardless of whether they are located within or outside mineral reservation.<sup>30</sup> Small-scale mining contractors, in particular, are required to pay a royalty of 1/10 of 1% of gross output. The bill, if passed as a law, will increase the revenue of the government from the mining industry in general.

<sup>27</sup> House of Representatives Press and Public Affairs Bureau. 9 October 2018. House Approves Tax Incentives from Small-scale Gold Miners on Third Reading. Accessed at <http://www.congress.gov.ph/press/details.php?pressid=10968>. Retrieved on 17 November 2018.

<sup>28</sup> House of Representatives Press and Public Affairs Bureau. 9 October 2018. House Approves Tax Incentives from Small-scale Gold Miners on Third Reading. Accessed at <http://www.congress.gov.ph/press/details.php?pressid=10968>. Retrieved on 17 November 2018.

<sup>29</sup> MGB. Mineral Industry Statistics from 2009-2017. Accessed at <http://databaseportal.mgb.gov.ph/#/public/documents/MEIPD/Mining%20Industry%20Statistics>. Retrieved on 12 November 2018.

<sup>30</sup> House of Representatives. 2018. Committee Report No. 891. An Act Establishing the Fiscal Regime for the Mining Industry. Accessed at [http://www.congress.gov.ph/legisdocs/first\\_17/CR00891.pdf](http://www.congress.gov.ph/legisdocs/first_17/CR00891.pdf). Retrieved on 17 November 2018.

## 2. General legal framework

Currently, the SSM sector in the Philippines is governed by RA 7076 and its revised implementing rules and regulations, DAO No. 2015-03. RA 7076 superseded Presidential Decree (PD) No. 1899 through EO No. 79 issued by the President in 2012 and through the Department of Justice Opinion No. 29 published in 2011.<sup>31</sup>

EO No. 79 harmonized national and local laws pertaining to mining, increased revenue of government from mining, and improved environmental and safety and health standards of the mining industry.<sup>32</sup> For the SSM sector, EO No. 79 provides for measures to improve the sector:

1. All SSM operations should be undertaken only within the declared Minahang Bayan. Hence, all SSM activities done outside the Minahang Bayan are considered illegal or informal.
2. Extraction of metallic minerals is limited to gold, silver, and chromite only. Mercury use, as well as hydraulicking and compressor mining, are strictly prohibited.
3. SSM shall comply with the requirements of Environmental Impact Statement System under PD No. 1586.
4. Provincial and City Mining Regulatory Boards (P/CMRB) should be instituted or activated to enhance transparency and accountability in SSM.
5. Government agencies concerned are mandated to provide technical assistance to SSM cooperatives and associations.

With regard to the technical assistance to be provided by the government, the MGB Central Office explained that this includes identification of common Tailings Storage Facility (TSF) for every Minahang Bayan to be declared.<sup>33</sup>

EO No. 79 also calls for collaborative efforts from the DENR, LGU, and the Department of the Interior and Local Government to supervise and monitor local chief executives.<sup>34</sup>

The P/CMRB, the multi-sectoral body that governs SSM at the local level, has the power to declare Minahang Bayan, award SSM Contracts, formulate policies, and settle disputes, conflicts or litigations over conflicting claims. It is chaired by the MGB Regional Director, and composed of the Provincial Governor or City Mayor, and representatives of SSM, large-scale mining, and NGO as members.

### *New Processing for the Declaration of Minahang Bayan*

DAO No. 2015-03 introduced enhancements but a longer procedure for the declaration of Minahang Bayan. A summary of these processes is presented below, with key changes highlighted in italics:

1. The petitioner files a proposal for an area to be declared as Minahang Bayan with the Board. *The MGB RO recommends to the Board other areas for possible Minahang Bayan declaration.*
2. The MGB RO determine its Area Status and evaluates its viability including delineation of a proposed mineral processing zone for the Initial Review Clearance of the DENR.
3. *The Board may consider the evaluation results of the MGB Director or deny if the proposed area is within areas closed to mining applications. If the Board considers the results, the issuance of formal notices follows.* These include notices to NCIP, LGUs, and owners of conflicted mining tenement.

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<sup>31</sup> Presidential Decree No. 1899, entitled "An Act Establishing Small-Scale Mining as a New Dimension in Mineral Development" Nuñez, Ma. Aleta C. 2015. PH-EITI Scoping Study on Small-scale Mining. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org))

<sup>32</sup> Presentation of MGB Central Office during the Workshop on "Towards Mainstreaming EITI in PMRBs" on 25 June 2018 in Pasay City.

<sup>33</sup> Presentation of MGB Central Office during Bantay Kita's 2nd Roundtable Discussion on Responsible Mining on 11 December 2018 in Mandaluyong City.

<sup>34</sup> Presentation of MGB Central Office during Bantay Kita's 2<sup>nd</sup> Roundtable Discussion on Responsible Mining on 11 December 2018 in Mandaluyong City.

4. The proposal may or may not be opposed. If there is opposition, this is referred to the Board for Resolution; if there is no opposition, the DENR Secretary issues clearance.
5. *The petitioner secures an Environmental Compliance Certificate for the entire Minahang Bayan area.*
6. *If all requirements are complied with, the Board declares the area as Minahang Bayan. Posting of notices on Minahang Bayan declaration on MGB RO, LGUs, and local and national newspapers follows.*
7. The Board may then accept applications for SSM contracts.

The evaluation sheet used by the MGB for the review of proposed Minahang Bayan is attached in Annex R.

### *New Requirements for SSM Contract and Environmental and Safety and Health Standards in SSM*

Additionally, DAO No. 2015-03 introduced stricter requirements to set the environmental standards for SSM. These include submission of an Environmental Compliance Certificate for the entire Minahang Bayan issued by the DENR RO; two-year Work Program; Certificate of Environmental Management and Community Relations Record (CEMCRR) or a clearance issued by the MGB RO if the applicant has proved his/her satisfactory record in environmental management and community relations in the past/present mining ventures; Potential Environmental Impact Management Plan<sup>35</sup> and Community Development and Management Program<sup>36</sup> approved by MGB RO. SSM contractors are also required to undertake mining activities based on a Board-approved Mining Plan, and schedule of tailings and waste management and mine site rehabilitation. They are also mandated to comply with rules and regulations on tree-cutting, mineral processing, and pollution control; water quality, water course diversion, excess siltation, and interference with existing land and water usage.

To set the safety and health standards for SSM, DAO No. 2015-03 also provides for additional requirements, including submission of an Annual Safety and Health Plan approved by MGB RO and to comply with DAO No. 97-30 or the "Small-scale Mine Safety Rules and Regulations". SSM contractors are further required to undertake mining without using explosives and blasting accessories and ingredients; heavy equipment; mercury; and without resorting to hydraulicking or compressor mining.

In selling gold produced, SSM contractors are required to sell it only to the BSP or its authorized buying stations. They are also mandated to pay all national and local taxes as provided for in the National Internal Revenue Code, royalties, government production share, occupation fee, and excise taxes.

DAO No. 2015-03 also provides for the creation of People's SSM Protection Fund, which is 15% of the national government's share of the internal revenue tax or production share due the government. The Board acts as Trustee of the Fund, which shall be used only for information dissemination and training of small-scale miners on safety, health, and environmental protection, and the establishment of mine rescue and recovery teams, including the procurement of rescue equipment necessary in cases of emergencies such as landslides, or tunnel collapse, etc. The fund shall also be made available to address the needs of the small-scale miners brought about by accidents and/or fortuitous events.

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<sup>35</sup> Potential Environmental Impact Management Plan (PEIMP) is a simplified Environmental Protection and Enhancement Program (EPEP) for large-scale mining companies required by DAO No. 2010-21, the Revised IRR of RA No. 7942

<sup>36</sup> Community Development and Management Program (CDMP) is a simplified Social Development and Management Program (SDMP) for large-scale mining companies required by DAO No. 2010-21, the Revised IRR of RA No. 7942

### 3. General issues

Majority of the SSM operations in the country is considered informal since only SSM operating within a Minahang Bayan is allowed by law. And currently, of the 3,715 active SSM sites identified by the MGB in all regions, only 13 Minahang Bayan areas in ten (10) provinces have been declared by the DENR, as earlier mentioned. Because most SSM operations are informal, they do not fully report income and pay the corresponding taxes and fees.

The stringent and long processes of declaring a Minahang Bayan introduced in DAO No. 2015-03 further constrain small-scale miners to formalize their operations. Despite this, during the various forums and consultations participated in by PH-EITI in 2018, small-scale miners generally expressed their interest to formalize and comply with the government requirements, citing the said stringent processes for application being the deal-breaker for formalizing on their end.<sup>37</sup> In a forum organized by PH-EITI, MGB CAR shared that the requirements for petition for Minahang Bayan are also more technical in nature, and most SSM applicants/petitioners are non-technical people.<sup>38</sup> Aside from concerns on the tedious processing of Minahang Bayan, it was also raised during the forums and roadshows organized by PH-EITI the difficulty in meeting the requirements of the National Commission on Indigenous Peoples (mentioned by Regions V and CAR).

In addition, the MGB identified some issues that slows down the formalization of small-scale miners:<sup>39</sup>

1. Many areas of interest to small-scale miners are closed to mining or within “no-go” zones
2. Voluminous requirements and tedious and costly processing for the formalization of SSM
3. Some illegal SSM operations are located in far-flung areas and are either difficult to be accessed or not accessible at all by motor vehicles
4. Some illegal SSM operations are controlled by local officials
5. Current SSM laws, rules, and regulations are burdensome for small-scale miners

As of writing, there are around 157 Minahang Bayan proposals submitted to the MGB Central Office. The same agency is also currently fast-tracking the processing of Minahang Bayan petitions, including ratification of 12 Minahang Bayan areas declared by LGUs in regions XI, XII, and XIII.<sup>40</sup>

Despite the measures taken by the MGB and moratorium issued by various LGUs to regulate the sector, SSM operations are still prevalent. Given the fact that the area and the families in the locality are mining dependent, an abrupt stoppage of SSM will cause difficulty for a large number of people to sustain their basic needs. In the recent PH-EITI Roadshow, Benguet LGU articulated that the current SSM policies almost phase out SSM operations, affecting a number of families because it is their major livelihood, hence, a major concern. It was also expressed, in some of the forums and consultations attended by PH-EITI<sup>41</sup>, that some miners would rather mine than steal to feed their families -- a reflection of what it is like for a number of families and individuals living in mining-dependent areas. On the other hand, however, SSM can stimulate significant local purchasing power, leading to a demand for goods and services produced in the locality, the income from which can benefit the locality.<sup>42</sup>

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<sup>37</sup> SSM forums PH-EITI participated in include: 1) Benguet SSM Forum organized by the Jaime V. Ongpin Foundation, Inc. on 19 January and 24 April 2018; and 2) Camarines Norte SSM Forum organized by the BAN Toxics on 12-14 February 2018

<sup>38</sup> Presentation of MGB CAR during the Workshop on “Towards Mainstreaming EITI in PMRBs” on 25 June 2018 in Pasay City.

<sup>39</sup> Presentation of MGB Central Office during the Workshop on “Towards Mainstreaming EITI in PMRBs” on 25 June 2018 in Pasay City.

<sup>40</sup> Presentation of MGB Central Office during the Workshop on “Towards Mainstreaming EITI in PMRBs” on 25 June 2018 in Pasay City.

<sup>41</sup> SSM forums PH-EITI participated in include: 1) Benguet SSM Forum organized by the Jaime V. Ongpin Foundation, Inc. on 19 January and 24 April 2018; and 2) Camarines Norte SSM Forum organized by the BAN Toxics on 12-14 February 2018

<sup>42</sup> Presentation of MGB CAR during the Workshop on “Towards Mainstreaming EITI in PMRBs” on 25 June 2018 in Pasay City.

MGB CAR shared, in a PH-EITI organized forum, that informal operations are fueled by lack of knowledge of the legal requirements, little incentives, traditional and cultural behaviors, additional expenses and tax burden, bureaucratic procedures to secure permits, limited sanctions with possibility to evade penalties through corruption.<sup>43</sup> The MGB Central Office, on the other hand, has been exerting efforts to communicate with and encourage small-scale miners to comply with government requirements to formalize their operations.

The MGB Central Office is also currently streamlining SSM policies to accelerate SSM formalization.<sup>44</sup> Among the highlights of the proposed changes are:

1. Reduction of various fees;
2. Recognition of conditional consents from existing mining application/permit/contract holders;
3. The required DENR initial review clearance toned-down to mere furnishing of copy of viability evaluation result;
4. ECC will not be required yet prior to declaration of a Minahang Bayan, but prior to the awarding of SSM contract;
5. The setting aside of the required majority Sanggunian Endorsements and Prior Informed Consent/Certificate of Non-Coverage from the NCIP in the Minahang Bayan declaration, but ensures compliance thereof prior to the awarding of the SSM contract;
6. Lessens the mandatory requirements for SSM contract applications; and
7. Allows the establishment of Mineral Processing Zone outside a Minahang Bayan.

Another issue in the SSM sector is the sale of gold. As earlier discussed, more small-scale miners started selling gold to traders in the black market that guarantees instant payment, while BSP's reports of gold purchases suddenly declined in 2012. This was after BIR authorized BSP to collect 2% excise and 5% creditable withholding taxes in 2012, coupled with BSP's strict requirements for gold purchasing. The MGB's data on SSM production is dependent on BSP gold purchases from SSM, and with the black market buying gold from SSM, the government will continue to have difficulty tracking and monitoring losses in gold production and recording potential revenues.

Lastly, the 2015 PH-EITI scoping study revealed that there is generally inadequate data on SSM, especially unregistered SSM operations, both from the national government and LGUs. SSM data and records are different (such as inventory of registered miners and payments made) between MGB Central Office, MGB ROs, and LGUs and there is no institutional mechanism established for data access and sharing among them. As per said study, in most regions, it is the MGB RO that handles recordkeeping; but in South Cotabato and provinces in the Cordillera Region, as part of the devolved functions of LGUs over SSM, LGUs keep records on SSM. Under DAO No. 2015-03, however, MGB ROs are now mandated to conduct an inventory and recordkeeping of all registered and unregistered SSM activities and all SSM related data and information.

## B. Transparency in SSM: EITI and SSM

### 1. PH-EITI Pilot Reporting on SSM

Pursuant to Requirement 6.3(a) of the EITI Standard<sup>45</sup> to disclose information about the contribution of the extractive industries, with "an estimate of informal sector activity, including but not necessarily limited to artisanal and small-scale mining", PH-EITI started engaging the SSM sector by

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<sup>43</sup> Presentation of MGB CAR during the Workshop on "Towards Mainstreaming EITI in PMRBs" on 25 June 2018 in Pasay City.

<sup>44</sup> Presentation of MGB Central Office during the Workshop on "Towards Mainstreaming EITI in PMRBs" on 25 June 2018 in Pasay City.

<sup>45</sup> The EITI International Secretariat also issued in July 2016 a Guidance Note on the Coverage of Artisanal and Small-scale Mining in EITI

commissioning a scoping study in 2015 and included contextual information about the sector in the previous PH-EITI reports to give a complete picture of the mining industry in the Philippines.

Additionally, PH-EITI conducted outreach to the SSM sector by participating in various SSM forums organized by USAID-funded CSOs across the country this 2018.<sup>46</sup> These forums covered provinces with considerable SSM operations and tackled the matters of formalization of the sector and making it transparent by including it in the PH-EITI framework.

As a necessary step towards including SSM in the EITI process, the PH-EITI Multi-stakeholder Group (MSG) has developed a reporting template for SSM and subjected the same to a forum-consultation workshop organized by PH-EITI for selected Provincial Mining Regulatory Boards or PMRBs (in Benguet, Quezon, Camarines Norte, Eastern Samar, Davao Oriental, South Cotabato, and Agusan del Sur) last 25 June 2018 in Pasay City.<sup>47</sup> The event capacitated key stakeholders from the MGB Central and Regional Offices (RO) and PMRB members from the LGU, large-scale and small-scale mining industries, and CSOs for the eventual SSM reporting. The format of the template is based on the report format prescribed by the MGB for the SSM contractors. Categories on payments made to national government agencies were added to the template to capture taxes, fees, and charges collected by government, as well as social and environmental initiatives of SSM contractors.

## 2. Province of South Cotabato as Pilot Site

Because of the advanced and progressive system established in regulating and managing the SSM sector, the Province of South Cotabato was identified as a prime site for SSM pilot reporting, as recommended by the MGB Central Office and endorsed by the PH-EITI MSG during its 52<sup>nd</sup> Meeting last 6 June 2018 in Manila. The Province is a pioneer in the participatory approach to governance and compliance monitoring of SSM operations, which is considered a model that can be followed by other PMRBs in the country.<sup>48</sup> The Province's Minahang Bayanihan Program<sup>49</sup> is a notable initiative, aiming to strengthen the SSM sector through public and private partnership between the Provincial, Municipal, and Barangay LGUs; SSM associations and processors; national government agencies; and NGOs.

In addition, the Province is one of the two pilot sites of Bantay Kita – Publish What You Pay Philippines (BK-PWYP) for its subnational EITI program. It aims to establish subnational MSG and strengthen local transparency and accountability.

To further improve the SSM reporting template, PH-EITI conducted a second consultation workshop and data collection last 11 October 2018 at the MGB RO No. XII in Koronadal City. Representatives of South Cotabato Provincial Environment Management Office (PEMO), MGB RO No. XII, NCIP RO No. XII, and T'boli Minahang Bayan Multi-purpose Cooperative (TBMPC) served as the key resource persons during the activity.

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<sup>46</sup> SSM forums PH-EITI participated in as resource person include: 1) Benguet SSM Forum organized by the Jaime V. Ongpin Foundation, Inc. on 19 January and 24 April 2018; 2) Camarines Norte SSM Forum organized by the BAN Toxics on 12-14 February 2018; 3) Negros Occidental SSM organized by Diocese of Kabankalan on 15 February and 23 April 2018; 4) South Cotabato Action Plan Co-Creation Workshop on 21 June 2018.

<sup>47</sup> "Towards Mainstreaming EITI in PMRBs" was held on 25 June 2018 in Pasay City and was attended by about 40 PMRB representatives of Benguet, Quezon, Camarines Norte, Eastern Samar, Davao Oriental, South Cotabato, and Agusan del Sur.

<sup>48</sup> Nuñez, Ma. Aleta C. 2015. PH-EITI Scoping Study on Small-scale Mining. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org))

<sup>49</sup> The Minahang Bayanihan Program was awarded with a Galing Pook Award in 2015, a national annual recognition given to top ten (10) with exemplary local governance programs.

PH-EITI also briefed the heads of registered SSM associations in the Province on the EITI reporting process last 15 November 2018 at the Minahang Bayan Center, T'boli, South Cotabato. Final consultation was done with the SSM association leaders to refine the reporting template and make it applicable to them.

As representatives of the SSM sector, association heads were given the same treatment as the large-scale extractive companies targeted for the Fifth PH-EITI Report. This means that they would have to execute waivers authorizing the BIR to disclose their organizations' tax information for fiscal year 2017, as a necessary step to their participation in the EITI reporting process. During the briefing session, it is worthy to note that the reporting requirements of EITI were well-received by the SSM associations.

It is PH-EITI's hope that through the pilot reporting on SSM, EITI reporting will be adopted and institutionalized by the Department of Environment and Natural Resources (DENR) – Mines and Geosciences Bureau (MGB) and implemented in other SSM areas in the country, with the Province of South Cotabato setting a standard in SSM reporting.

## II. Overview of SSM in South Cotabato

### A. Background

Region XII has the largest mineral deposits in the country with more than two (2) billion metric tons of gold ore reserves as shown in Figure No. 10. These gold ore reserves are distributed in the provinces of South Cotabato, Sarangani, and Sultan Kudarat.<sup>50</sup> Region XII also ranks third in terms of silver reserves as shown in Figure No. 11.

Figure 10. Gold Reserves Inventory by Region in 2016

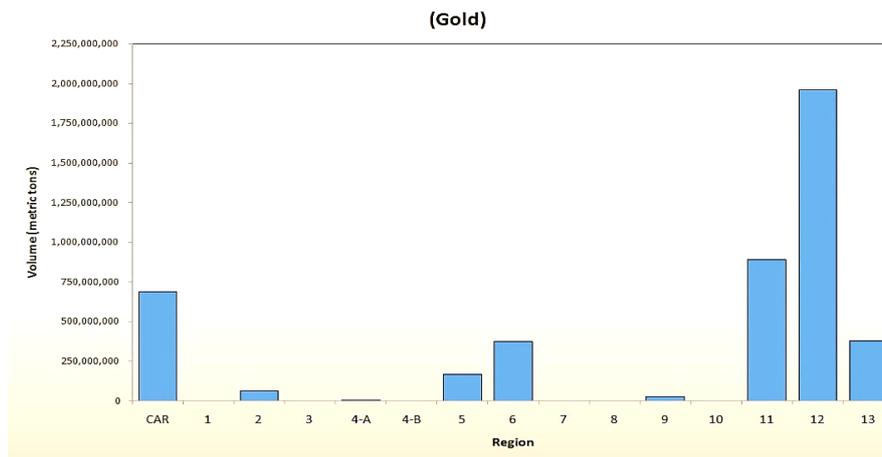
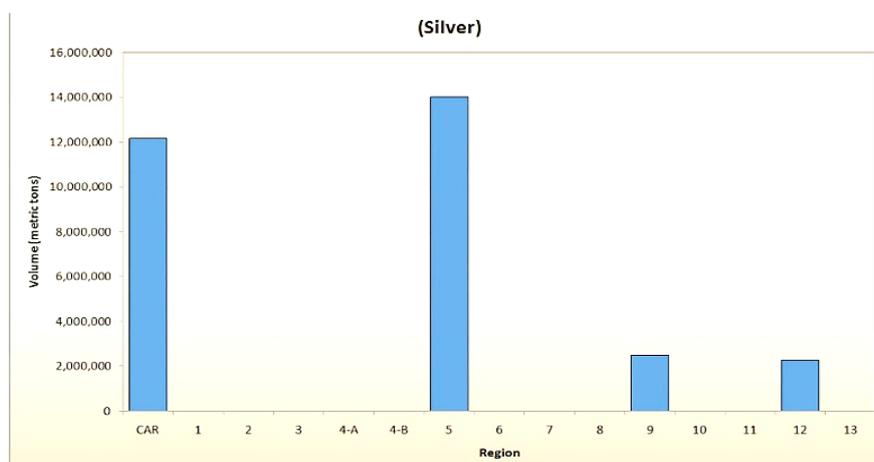


Figure 11. Silver Reserves Inventory by Region in 2016



South Cotabato is a first-class province with a total land area of 3,706 square kilometres and a total population of 915,000 as of 2015<sup>51</sup>. The Province also hosts T'boli, B'laan, and Manobo indigenous cultural groups.<sup>52</sup>

<sup>50</sup> Philippine Statistics Authority. Estimation of the Geologic Mineral Reserve of the Small-scale Gold Mines in the Philippines. Retrieved at <https://psa.gov.ph/sites/default/files/ssmenra.pdf>. Accessed on 3 November 2018.

<sup>51</sup> Philippine Statistics Authority. 2016. Population of Region XII based on the 2015 Census of Population. Retrieved at <https://psa.gov.ph/population-and-housing/title/Population%20of%20Region%20XII%20-%20SOCCSKSARGEN%20Based%20on%20the%202015%20Census%20of%20Population%29>. Accessed on 3 November 2018.

<sup>52</sup> NCIP Central Office. Projects/Entities with Issued Compliance Certificate (Certification Precondition) Per Region. November 2015.

The Province's gold and silver reserves are concentrated in the Municipalities of T'boli and Tampakan. Gold and silver mining and processing, as well as agriculture, are the Province's major economic activities.<sup>53</sup>

The T'boli Municipality is a first-class municipality with a population of 91,453 as of 2015<sup>54</sup>. It hosts SSM activities that have been in operation for more than 30 years. These are particularly situated at Barangays Kematu and Desawo, where there are three (3) Minahang Bayan areas declared by the PMRB (even prior to EO No. 79, as discussed in the next section). TBMPC, one of the SSM associations in the area, said that their organization has been in operation since 1984<sup>55</sup>.

## B. Small-scale Miners and SSM Associations in the Province

### *Data from MGB RO No. XII on Registered Miners and Licensed SSM Associations*

As of December 2018, the MGB No. XII has an inventory of 168 registered small-scale miners, employed in one of the following six (6) SSM associations, as shown in Table No. 68. Of the total registered miners, 45 are women and 123 are men.

Four (4) associations out of six (6) have SSM licenses issued by the MGB RO No. XII in May-July 2016, which will be effective only as soon as they are granted with SSM contracts by the PMRB.<sup>56</sup>

Table 68. MGB RO XII Inventory of SSM Associations as of December 2018<sup>57</sup>

<b>Name of Association</b>	<b>No. of Members</b>	<b>No. of Men &amp; Women Workers</b>	<b>Location</b>	<b>Status</b> (as of December 2018)
1. T'boli Integrated Small-Scale Mining Contractors Association, Inc. (TISSMAI)	32	5 women, 27 men	Sitio T'daan Latang, Kematu, T'boli	With SSM License-SOCOT No. 001-XII-2016 issued on 26 May 2016
2. Desawo Integrated Small-Scale Mining Association, Inc. (DISSMAI)	31	8 women, 23 men	Desawo, T'boli	With SSM License-SOCOT No. 002-XII-2016 issued on 23 June 2016
3. T'boli Minahang Bayan Multi-Purpose Cooperative (TBMPC)	24	7 women, 17 men	Lugan 3, Poblacion, T'boli	With SSM License-SOCOT No. 003-XII-2016 issued on 8 July 2016
4. Maguan Clan Small-Scale Miners Association, Inc. (MCSSMAI)	58	16 women, 42 men	Sitio Tunnel, Kematu, T'boli	With SSM License-SOCOT No. 004-XII-2016 issued on 28 July 2016
5. Lam-Asam Small-Scale Miners Association, Inc.	10	4 women, 6 men	Desawo, T'boli	No SSM License as of December 2018
6. Fludi Tuan Small-scale Mining Cooperative	13	5 women, 8 men	Purok Pagasa, Edwards, T'boli	No SSM License as of December 2018
<b>TOTAL</b>	<b>168</b>	<b>45 women, 123 men</b>		

<sup>53</sup> MGB RO No. XII. 2018. Fact Sheet for the Province of South Cotabato.

<sup>54</sup> Philippine Statistics Authority. 2018. 2018 Philippine Standard Geographic Code. Accessed at <https://psa.gov.ph/classification/psgc/?q=psgc/barangays/126316000>. Retrieved on 3 November 2018.

<sup>55</sup> PH-EITI's Data Collection Workshop at the MGB RO XII on 11 October 2018.

<sup>56</sup> PH-EITI's Briefing with SSM Association Heads at the Minahang Bayan Center on 15 November 2018.

<sup>57</sup> MGB RO No. XII. Inventory of Registered Small-scale Miners in South Cotabato as of November 2018.

The MGB RO No. XII maintains a logbook of registered small-scale miners per SSM association and disaggregated by gender, which is being updated from time to time. MGB RO No. XII requires miners to submit government issued ID and proof of citizenship (such as birth certificate, marriage certificate, barangay clearance, or community tax certificate) to register.

As per PEMO, TISSMAI, DISSMAI, TMBMPC, and MCSSMAI that are mentioned above are active, together with Datu Legel Small-Scale Mining Association (DLSSMAI) and Fagalas/Tolik Clan Small-Scale Mining Association, Inc. (F/TCSSMAI). Five (5) of these associations (TISSMAI, TMBMPC, MCSSMAI, F/TCSSMAI, and DLSSMAI) submitted report on 2017 production to the Province, as discussed in the section on *SSM Production in the Province*.

It was also observed that the MGB RO No. XII has a record of nine (9) registered small-scale mining operators (both individuals and associations) in South Cotabato in 2017. This is based on its official database of operating mines and quarries in Region XII for 2017, which is available on the agency's website.

### *Data from the Province on Registered SSM Operators and Miners in 2017*

In 2017, there are a total of 159 SSM operators recorded by the Province, located at Barangays Kematu and Desawo in T'boli. As per record of the Province, there are 624 men and six (6) women hired by these individual SSM operators to work in tunnels/adits<sup>58</sup> (total of 630 workers). Based on the same record, 433 workers are locals and 224 are identified as migrants, coming from other municipalities/provinces (total of 657 workers).

It can be observed that there is a slight difference in the Province's record of total number of workers by gender (630 workers) vis-à-vis if locals or migrants (657 workers). This may be because there are migrants coming from other areas that are working but not registered yet with the Province. As per MGB RO No. XII, small-scale miners are migratory, moving from one place to another, depending on where they can extract high-grade ores.<sup>59</sup>

Out of 159, 49 operators were issued with *individual SSM contract* by the Provincial Governor; on the other hand, 110 operators have no permit. Out of the 49 *individual SSM contract* holders, 1 contract was issued in 2015, 40 contracts were granted in 2016 and eight (8) in 2017.

The Province, through PEMO, maintains a database of SSM operators, and their workers disaggregated by gender and locals/migrants, as well as active/inactive tunnels/adits with geographical coordinates.

### *Federation of SSM Associations*

The SSM associations abovementioned fall under a federation created in 2014, namely, the *Small-scale Association of South Cotabato*, which directly coordinates with ten (10) member associations. The federation officially became part of the PMRB as member representing the SSM sector after it was issued with a special order by the DENR Secretary on 22 October 2014. Almost all small-scale miners in the Province are members of these ten (10) associations, except for some migrants.

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<sup>58</sup> Tunnel is defined as an underground passage; while adit is a horizontal passage from the surface into a mine, as contrasted to a shaft which is a vertical entry passage.

<sup>59</sup> PH-EITI's Briefing with SSM Association Heads at the Minahang Bayan Center on 15 November 2018.

It is worthy to note that the federation is led by a female president, whom PH-EITI met during its briefing with SSM association heads at the Minahang Bayan Center in T'boli last 15 November 2018. Three (3) of the member associations also have women as their leaders. TMBMPC and LASSMAI are both headed by female presidents, voted by their respective member miners; MCSSMAI has a female officer-in-charge and a female vice president voted by their members. The federation was instrumental in coordinating with its member associations to appreciate the EITI process and follow reporting requirements.

## C. PMRB-declared Minahang Bayan Areas in the Province

As earlier mentioned, 13 Minahang Bayan areas located in the provinces of Quezon, Camarines Norte, Masbate, Antique, Eastern Samar, Davao Oriental, Sultan Kudarat, Agusan del Norte, Agusan del Sur, and Dinagat Islands have been formally declared by the DENR as of December 2018, based on the MGB's Central Database Portal.<sup>60</sup> South Cotabato is not included in the official list of MGB Central Office, as of December 2018.

On the other hand, the MGB RO No. XII and the Province of South Cotabato reported that there are three (3) Minahang Bayan areas in T'boli, declared by the PMRB even prior to the issuance of EO No. 79, as per the 2015 PH-EITI scoping study on SSM. As per the same study, the MGB Central Office explained that these PMRB-declared Minahang Bayan may have been "deemed approved", after it was endorsed to the DENR Secretary and the 30-day period lapsed.

One of the Minahang Bayan areas in T'boli, where a number of SSM associations are operating, is situated within the tenement area of Tribal Mining Corporation (TMC).<sup>61</sup> This 20-hectare SSM area at Barangay Kematu in T'boli is also the first Minahang Bayan declared by the PMRB in 1994 in South Cotabato through EO No. 12.<sup>62</sup> The PMRB mediated in negotiating with TMC to allow local small-scale miners to extract in this Minahang Bayan area.<sup>63</sup>

As mentioned in the 2015 PH-EITI scoping study on SSM, the second Minahang Bayan declared on 21 October 1999 through EO No. 21, which has a total area of 81 hectares, is located at Barangay Desawo, T'boli. Regarding the third Minahang Bayan, the study referred to the reports of MGB RO No. XII and the Provincial Government, since there were no documents provided. Detailed information on the three (3) Minahang Bayan areas in South Cotabato is presented in the 2015 PH-EITI scoping study on SSM.

The MGB Central Office is fast-tracking the processing of ratification of PMRB-declared Minahang Bayan areas but are not yet registered at the DENR. These include Minahang Bayan in South Cotabato, and other areas in Regions XI, XII, and XIII.<sup>64</sup> As of writing, the two (2) Minahang Bayan areas at Barangays Kematu and Desawo have been registered at the MGB Central Office. As per the

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<sup>60</sup> <http://databaseportal.mgb.gov.ph/#/public/minahang-bayan>

<sup>61</sup> PH-EITI's Data Collection Workshop at the MGB RO XII on 11 October 2018.

The 85-hectare contract area of TMC is under exploration period and covered by Mineral Production Sharing Agreement (MPSA) No. 090-97-XI issued on 20 November 1997 and will expire on 20 November 2022, as per the Mining Tenements Management Division of the MGB.

<sup>62</sup> Nuñez, Ma. Aleta C. 2015. PH-EITI Scoping Study on Small-scale Mining. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org))

<sup>63</sup> Presentation of South Cotabato PEMO during the Bantay Kita's 2<sup>nd</sup> Roundtable Discussion on Responsible Mining on 11 December 2018 in Mandaluyong City.

<sup>64</sup> Presentation of MGB Central Office during the Bantay Kita's 2<sup>nd</sup> Roundtable Discussion on Responsible Mining on 11 December 2018 in Mandaluyong City.

same agency, the endorsement of these was returned to the MGB RO No. XII on 3 October 2018 due to the following:<sup>65</sup>

1. For Minahang Bayan at Barangay Kematu, T'boli (which is also within the tenement area of TMC), the area falls within a critical watershed that is considered a “no-go” zone, based on the NAMRIA Integrated map of Region XII.
2. For Minahang Bayan at Barangay Desawo, T'boli: 1) the area falls within a critical watershed that is considered a “no-go” zone, based on the NAMRIA Integrated map of Region XII; and 2) need to secure FPIC from the indigenous cultural community or NCIP Certification of Non-overlap.

## D. SSM Policies in the Province

The Revenue Code of 2005 of South Cotabato provides for the rules and regulations on SSM, mineral processing operations, and transporting of mineral ores within the jurisdiction of the Province. It also details the PMRB structure and its duties and functions. The Revenue Code of 2011 added additional application requirements for securing SSM, mineral processing, and ore transport permits, as well as reporting requirements.

The amended Revenue Code of 2011 of the Province also provides for policies on provincial taxes, fees, charges, and other impositions, which as per PEMO, has been effective in increasing the collections of the Province, the Municipality of T'boli, and Barangays Kematu, Desawo, Edwards, and Poblacion. All fiscal data and information presented in this report within the 2017 period are covered by the Revenue Code of 2011.

To further enhance the revenue collection of the Province, the Revenue Ordinance No. 2017-01 or the 2017 Revenue Code of South Cotabato was issued by the Provincial Governor, which took effect in April 2018 and amended the impositions for SSM in the Revenue Code of 2011. Details on the changes on the provincial impositions are discussed in section on *SSM Revenue Streams and Payments to the Local Government and National Government*.

The Province also enacted the Provincial Environment Code of 2010,<sup>66</sup> which contains comprehensive measures for protecting and enhancing the environment, rehabilitating degraded areas, and utilization of natural resources for the benefit of the constituents. It also provides stricter policies for mining and quarrying such as banning of open-pit mining method and compliance with the Environmental Impact Statement System under PD No. 1586.

To strengthen the SSM permitting and monitoring system and set the safety and health standards in SSM operations, the Provincial Governor issued EO No. 39 in 2013, “An Order Intensifying Small-scale Permitting and Safety Regulation”.<sup>67</sup> EO No. 39 further requires SSM contractors, associations, processors, and individual workers engaged in mining and quarrying to register with the PEMO and attend orientations related to mine safety and disaster risk and environmental management. This is a prerequisite for the Province’s issuance of SSM identification card valid for two (2) years. The SSM identification card is one of the requirements before engaging in any form of SSM activities.

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<sup>65</sup> Memorandum of MGB Central Office to the MGB RO No. XII dated 3 October 2018  
Interview with the MGB’s Mining Technology Division on 13 December 2018

<sup>66</sup> The Environment Code of the Province of South Cotabato. Accessed at <http://www.southcotabatonews.com/2010/10/environment-code-of-province-of-south.html>. Retrieved on 24 October 2018.

<sup>67</sup> EO No. 39 of the Province of South Cotabato, series of 2013. An Order Intensifying Small-scale Permitting and Safety Regulation

### III. SSM Permitting, Contractual Arrangements, and Operations in the Province

As stated earlier, the South Cotabato PMRB is special in structure. The same applies for the policies pertaining to the SSM permitting and contractual arrangements discussed in this section, as well as governance and monitoring of SSM as discussed in the next section. In the regulation and management of SSM in South Cotabato, DAO No. 2015-03 co-exists with the ordinances issued by the Province.

#### A. Licensing for SSM Associations

As part of the additional requirements of DAO No. 2015-03, individual or cooperative of small-scale miners applying for SSM contract are mandated to secure an SSM license from the PMRB through the MGB RO No. XII and pay a fee Php1,000.00 to the MGB RO No. XII. The following is the list of requirements for an applicant to comply with:

1. Accomplished application form for SSM License;
2. Payment of application fee of Php1,000.00 to the MGB RO No. XII; and
3. Proof of registration with the Securities and Exchange Commission (SEC), Cooperative Development Authority (CDA), or Department of Trade and Industry (DTI).

The SSM license makes the applicant eligible to become a holder of the SSM contract. It has a five (5)-year validity period if the licensee has not been granted yet with SSM contract. The SSM license is coterminous with the SSM contract, which means that it will take effect as soon as a SSM contract is awarded, as discussed earlier.

There has been no SSM license issued after 2016, as per MGB RO No. XII. Only the four (4) SSM licenses issued to TISSMAI, DISSMAI, TMBMPC, and MCSSMAI mentioned earlier are still valid as of MGB RO No. XII reported a total collection of Php4,000 for the application fees on SSM licenses.

#### B. SSM Permitting

Based on DAO No. 2015-03, upon the issuance of SSM license, SSM contract applicants will have to pay Php20,000.00 to the MGB RO. Once approved, the MGB RO endorses the application to the PMRB. A set of requirements is detailed in DAO No. 2015-03, which the applicant needs to comply with. If all requirements are met, the PMRB awards the SSM contract. No SSM contracts have been awarded by the MGB RO to any SSM association, since the issuance of DAO No. 2015-03, as per MGB RO No. XII.

The PMRB Resolution No. 03 of South Cotabato issued in 2011 allows members of registered SSM associations and associations themselves to apply for *individual SSM contract*, as per PEMO. This is to allow each individual contract holder to take responsibility for his/her actions, instead of the whole association suffering when a member commits violation.<sup>68</sup>

Instead of a SSM license, as per DAO No. 2015-03, the Province's EO No. 39 requires applicants to register with the PEMO and attend orientations related to mine safety and disaster risk and environmental management for the issuance of SSM identification card. This is to improve the

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<sup>68</sup> Philippine Daily Inquirer. 2014. A template for small-scale mines. Retrieved on 12 December 2018. Accessed at <https://newsinfo.inquirer.net/655359/a-template-for-small-scale-mines>.

permitting and monitoring system of the Province. As a result of this enhanced registry system, almost all small-scale miners are registered, except for some migrants from other areas. As mentioned earlier, the Province has the highest number of registered SSM operations in the country.

The applicant is also required to submit to the Province the following requirements, as per Revenue Code of 2011 and EO No. 39 (*marked with asterisk*):

1. Sketch/survey plan of the proposed area;
2. Small-scale mining and work program approved MGB RO No. XII\*;
3. Memorandum of Agreement (MOA) with the landowner;
4. MOA with the SSM association;
5. Certification from the Barangay;
6. Certification from the Tribal Council interposing no objection on the SSM application if the area is applied within the ancestral domain\*;
7. Certification from the Municipal Environment and Natural Resources Office (MENRO);
8. Business permit;
9. Area status clearance from MGB RO No. XII certifying that the applied site is not within highly critical disaster-prone areas\*;
10. Field verification report; and
11. Zoning certification.

The applicant for *individual SSM contract* is also required to pay the following<sup>69</sup>:

1. SSM mining permit fee of Php3,000.00;
2. Filing fee of Php3,500.00;
3. Processing fee of Php300.00; and
4. Verification fee of Php3,600.00.

If all requirements are complied with, the *individual SSM contract* signed by the Provincial Governor is awarded. The validity of *individual SSM contract* is two (2) years, and renewable subject to verification by the PMRB as long as the *individual SSM contract* holder complies with its contractual obligations, RA 7076 and DAO No. 2015-03, and any ordinance of the Province.

The Province also sets limitations on contracts/permits issued, limiting issuance to one (1) contract/permit for individuals in a mining area within the Province. For associations or corporations, it is limited to two (2) contracts/permits covering a mining area within the Province, with the option to operate another two (2) permits that belong to another person/entity or a total of four (4) permits in the entire Province.

## C. SSM Contractual Arrangements

An *individual SSM contract* is executed between a registered member of a SSM association and the Province of South Cotabato through the Provincial Governor.

The *individual SSM contract* holder has the following key obligations, as stipulated in the contract:

1. Undertake mining activities in accordance with a mining plan duly approved by the Provincial Governor/PMRB;
2. Abide by the mine safety rules and regulations, particularly DAO No. 97-30, s. 1997;
3. Pay all taxes, royalties or government production share;
4. Comply with rules and regulations on environmental protection and conservation, particularly on tree-cutting, mineral processing, and pollution control;
5. File with the PMRB a detailed monthly production financial report under oath
6. Assume responsibility for the safety of their mine workers

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<sup>69</sup> The South Cotabato Revenue Code of 2017 also requires the SSM contract applicant to pay an environmental fee of Php50.00

7. Allow access to the Provincial Government or the PMRB to inspect contract area and examine records for monitoring compliance
8. Police small-scale mining contract area from any illegal mining operations
9. Recognize and respect the rights, customs and traditions of indigenous cultural communities over their ancestral lands and allocate royalty payment of not less than 1% of the value of the gross output of the minerals sold
10. Assist in the development of host and neighboring communities in accordance with its Social Development and Management Program (SDMP) approved by the Provincial Governor; and
11. Rehabilitate or remediate areas affected by small-scale mining operations even after the contract has expired.

## D. Permitting for Mineral Processor

As mandated by DAO No. 2015-03, small-scale mineral processing shall be undertaken only through centralized custom mills within mineral processing zones designated by LGU under a Mineral Processing License (MPL). Custom mills are required to be registered with the BIR to be authorized to withhold royalties, production share, or other taxes due the government.

To secure an MPL, an applicant will have to file the application with PMRB and pay Php50,000 to the MGB RO. A set of requirements is detailed in DAO No. 2015-03, which the applicant needs to comply with. If all the requirements are met and the application is approved by the PMRB, the applicant registers the same, and the PMRB awards the MPL.

The Revenue Code of 2011 of South Cotabato allows members of SSM associations to apply for mineral processing permit, provided that the applicant submits to the Province the following requirements:

1. Letter of request for verification addressed to PEMO Chief;
2. Inspection/verification report of PEMO;
3. Work plans, plant site, mill and plant layout design, indicating the safety and anti-pollution measures and devices, and as plant capacity that shall not exceed 50,000 tons of mill per year;
4. Accomplished form of application for mineral processing permit;
5. Flow sheet of plant operation;
6. Environmental Compliance Certificate (ECC) of the processing plant;
7. Barangay Resolution;
8. Zoning certification;
9. Certification from MENRO; and
10. Business permit.

The mineral processing permit applicant is also required to pay the following<sup>70</sup>:

1. Application fee for mineral processing permit amounting to Php6,000.00;
2. Filing fee of Php3,600.00; and
3. PD 1856 fee of Php20.00.

The local revenue code further provides that the processing plant should be located within a Mineral Processing Zone designated by the Mayor and recommended by the PMRB.

If all the requirements are complied with, the Province, through the Provincial Governor, awards the mineral processing permit to the qualified person/corporation. The permit is valid for four (4) years, and renewable (but not to exceed a total of 25 years) as long as the mineral processor complies with the terms and conditions stipulated in the permit, as follows:

1. Submit the following reports to the Provincial Governor, copy furnished the MGB Regional Director:
  - a. Monthly Report on Production Sales and Inventory of Metallic/Non-metallic Minerals and Employment as prescribed in MGB Form No. 31-10 within 15 days after the end of each month;

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<sup>70</sup> The South Cotabato Revenue Code of 2017 also requires the Mineral Processing Permit applicant to pay: 1) processing fee of Php300.00; 2) verification fee of Php1,000.00; and 3) environmental fee of Php50.00.

- b. Quarterly Energy Consumption Report as prescribed in MGB Form No. 3118 within 15 days after the end of each quarter;
  - c. Integrated Annual Reporting MGB Form no. 31-16 within two (2) months after the end each year; and
  - d. Other reports as the Provincial Governor and/or PMRB may require.
2. Use the best available appropriate anti-pollution technology and facilities to protect the environment in compliance with the requirements of the ECC and PD No. 984 which should be undertaken in coordination with the Environmental Management Bureau/DENR RO;
  3. Respect the rights of women workers to participate in policy and decision-making process affecting their rights and benefits, and not discriminate on the basis of gender;
  4. Pay fees, taxes and other obligation in accordance with existing laws, rules and regulations;
  5. Comply with laws, rules and regulations on safety and health standards and environmental protection, enhancement and rehabilitation;
  6. Comply with all obligations stipulated in its ECC;
  7. Give preference to goods and services produced locally;
  8. Give preference to local residents in all types of employment for which they are qualified, and should be capacitated through trainings, symposia, seminars, and workshops;
  9. Limit alien employment to those requiring highly specialized training and experience;
  10. In cases where foreign technologies are utilized and where alien executives are employed, an effective program of training under studies shall be undertaken; and
  11. Utilize the best available appropriate and efficient processing technology.

## E. Ore Transport Permit

The application for OTP is filed with the PMRB, together with other documents and requirements as may be required by PMRB. The OTP applicant is also required to pay the following<sup>71</sup>:

1. Filing fee of PhP5,000.00, which is a one-time payment;
2. OTP application fee of PhP500.00; and
3. Another fee of PhP500 for every renewal of OTP.

The OTP has two (2) types<sup>72</sup>:

1. OTP from tunnel to ore processing plant; and
2. OTP from ore processing plant to buyer.

If all the requirements are complied with, the Province, through the Provincial Governor, issues Ore Transport Permit (OTP) that is valid for 15 days. The OTP should specify the following, as per local revenue code and EO No. 39 of the Province:

- Origin (name/s of tunnel/s), volume, and value of non-processed mineral ores, mineral products or mill tailings;
- Destination or name of processing plant where non-processed mineral ores, mineral products or mill tailings will be delivered;
- Name of buyer/s for processed ores; and
- Period covered, but in no case shall exceed a period of fifteen (15) days from date of application.

As per PEMO<sup>73</sup>, it has an internal control on the transportation of ores from the tunnel to the mineral processing plant through the issuance of delivery receipts. For example, for one ton of ores declared to be transported by an SSM operator, the latter pays P1,100.00 to PEMO. The PEMO then issues a delivery receipt. PEMO's mining inspectors are present to verify the volume of ores declared in the OTP to be transported vis-à-vis the actual volume of ores transported. If, for example, the operator transported only 800 kilos, the remaining balance of 200 kilos can be used within 15 days upon

<sup>71</sup> The South Cotabato Revenue Code of 2017 also requires the OTP applicant to pay: 1) processing fee of PhP300.00; 2) verification fee of PhP300.00; and 3) environmental fee of PhP50.00.

<sup>72</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

<sup>73</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

issuance of OTP. After 15 days, balance is forfeited. However, it can be extended for another 15 days if approved by PMRB. Monthly report on revenues from OTP is prepared.

## F. Renewal of Permits

For the renewal of the permits issued until 2017, the PMRB issued Resolution No. 12 in 2016 to streamline the requirements for the renewal of SSM and quarrying permits and other mining related permits/licenses. The following requirements will have to be complied, together with other basic requirements as provided for by laws and Provincial ordinances:

1. Business permit;
2. Clearance from MENRO/CENRO;
3. Area Verification Report conducted by PEMO; and
4. Annual Environmental Management and Social Responsibility Project Report.

Another requirement is a copy of a verified letter-request for renewal of a SSM contract or mineral processing permit with the PMRB through PEMO. However, the permit renewal applicants will have to present proof of payment of taxes, rentals and royalties, verified production and integrated annual reports and other supporting documents that PMRB requires before said renewal is approved.

## G. SSM Operations in the Province

The MGB RO No. XII and the Province jointly conduct an inventory of unregistered and registered SSM activities. Based on their record for 2017<sup>74</sup>, there were 159 tunnels and adits<sup>75</sup> identified in 2017<sup>76</sup>. Of this figure, only 32 had permits or the operators were granted with *individual SSM contracts* by the Provincial Governor *and* within the Minahang Bayan (considered legal). Meanwhile, 17 were issued with permits, *but* outside the Minahang Bayan (considered illegal, hence, no longer renewed).

On the other hand, 110 had no permits (considered illegal). Out of 110, 16 had operations within the Minahang Bayan, 42 had no operations within the Minahang Bayan, 16 had operations outside Minahang Bayan, and 36 had no operations outside the Minahang Bayan. Tunnels/adits without operations are being monitored by the Province and MGB RO No. XII since they can conduct operation again anytime, as per PEMO.

Table No. 69 presents the number of SSM tunnels/adits owned by SSM operators that were either issued with *Individual SSM Contracts* by the Provincial Governor or have no permits.

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<sup>74</sup> MGB RO No. XII and Province of South Cotabato. 2018. Inventory of Small-scale Mining Sites

<sup>75</sup> Tunnel is defined as an underground passage; while adit is a horizontal passage from the surface into a mine, as contrasted to a shaft which is a vertical entry passage.

<sup>76</sup> Only 60 of the 159 tunnels/adits were found active or with operations; 99 were inactive or without operations, in which three (3) were found abandoned.

Table 69. Number of SSM Tunnels/Adits Owned by SSM Operators with and without *Individual SSM Contracts* Issued by the Provincial Governor

Location of SSM tunnels/adits	With SSM contracts	Without SSM contracts	Total number of SSM tunnels/adits
Within Minahang Bayan at Barangay Kematu	27	36	63
Within Minahang Bayan at Barangay Desawo	5	22	27
Within TMC's MPSA No. 090-97-XI	5	15	20
Within TMC's APSA No. 051-XI	12	37	49
<b>Total</b>	<b>49</b>	<b>110</b>	<b>159</b>

The Province has a map of SSM operations for 2017 in two (2) Minahang Bayan areas in T'boli posted at the PEMO satellite office at the Minahang Bayan Center, T'boli, as shown in Photo No. 1.

Photo No. 1: Maps of SSM operations at Barangays Kematu and Desawo posted at the Minahang Bayan Center in T'boli



In a recent PMRB meeting on 30 October 2018, the MGB Regional Director ordered that all *individual SSM contracts* signed by the Provincial Governor should be recalled. This is to comply with the requirements of the DAO No. 2015-03, mandating PMRB Chair to issue the SSM contract to qualified applicants. On 12 November 2018, the Provincial Governor affirmed the MGB Regional Director's directive by issuing a Provincial Order, recalling all temporary SSM contracts issued from January 2017 to present, for failure to submit necessary requirements stipulated in DAO No. 2015-03. Said Order was received by the Provincial Environment and Natural Resources Office on 15 November 2018, and received by the Office of the Mayor and MENRO of T'boli on 19 November 2018.

As per MGB RO No. XII, SSM associations with terminated temporary SSM contracts will need to file application again with the PMRB, together with the mandatory requirements<sup>77</sup>. For those operating in Minahang Bayan within the TMC tenement area, one of the prerequisites would be the need to secure an agreement with TMC allowing SSM associations to operate within their area.<sup>78</sup> The new SSM contract that will be awarded to qualified applicant shall be signed by the PMRB Chair.

As discussed in the section on "Governance, Institutional Oversight and Monitoring of SSM in the Province", South Cotabato PMRB has a special structure that is different from what is prescribed by DAO No. 2015-15.

<sup>77</sup> PH-EITI's Briefing with SSM Association Heads at the Minahang Bayan Center on 15 November 2018.

<sup>78</sup> PH-EITI's Briefing with SSM Association Heads at the Minahang Bayan Center on 15 November 2018.

## H. Mineral Processing Activities in the Province

Ore processing operations are located in areas at Barangays Poblacion and Edwards in T'boli, which the Municipality has declared as mineral processing zones based on its municipal zoning.<sup>79</sup> This was also observed by PH-EITI during its field visit last 15 November 2018.

The Province reported a total of 92 ball mills and carbon-in-pulp (CIP) plants in T'boli. Table No. 70 presents the number of balls mills and CIP plants per area and number of those with and without minerals processing permits.

Table 70. Number of balls mills and CIP plants per area and mineral processing permit holders

Location	Total number of mineral processing permit holders	Total number of mineral processors without permit	Total number of balls and CIP plants
Purok Oro 1, Barangay Poblacion, T'boli	7	7	14
Purok Lugan 3, Barangay Poblacion, T'boli	25	27	52
Purok Chavez, Edwards, T'boli	9	5	14
Purok Pag-asa, Edwards, T'boli	17	6 1 permit on process	24
<b>TOTAL</b>	<b>58</b>	<b>45</b>	<b>104</b>

Based on Table No. 7, the PEMO identified a total of 104 ball mills and CIP plants in the Province, 58 of which are operating with mineral processing permits, 45 have no permits, and one (1) has permit that is being processed, as of writing. Majority of the processing plants are located at Purok Lugan 3, Barangay Poblacion, T'boli, where more mineral processing operations have no permits.

As earlier mentioned, the Province issues a separate OTP from tunnel to mineral processing plant. Mineral processing also is done by either an individual or an association.<sup>80</sup>

Not all SSM associations have their own processing plant, which MGB RO No. XII perceives as a concern that the data related to processing would not be reported accurately.<sup>81</sup>

## IV. Governance, Institutional Oversight and Monitoring of SSM in the Province

The MGB RO XII and the Province of South Cotabato, through the PMRB, regulate SSM metallic activities, including quarry of sand and gravel. As specified under DAO No. 2015-03, the PMRB shall be composed of MGB Regional Director as Chairperson, and the Provincial Governor and representatives of large-scale and SSM and an environmental NGO (one per sector) as Members.

The 2011 Revenue Code of South Cotabato also provides for a special composition of the PMRB, as shown in Table No. 71. The PMRB is composed of the MGB Regional Director as Chairperson; the Provincial Governor as Vice Chairperson; and Governor-appointed SSM representative, large-scale mining representative, and non-government organization representative as Members. The PMRB regularly meets on quarterly basis, and during emergency meetings, as the need arises.

<sup>79</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

<sup>80</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

<sup>81</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

Table 71. South Cotabato PMRB Composition

Chairperson:	Regional Director of MGB RO No. XII or his/her representative
Vice Chairperson:	South Cotabato Provincial Governor or his/her representative
Members:	<p>A representative from and nominated by a duly recognized provincial association of small-scale mining operators, appointed by the Governor;</p> <p>A representative nominated by a duly recognized provincial association of large-scale mining operators, appointed by the Governor;</p> <p>A representative from an environmental NGO, duly nominated by the provincial federation or consortium of duly accredited organization/NGO in South Cotabato, appointed by the Governor.</p>

While the DAO No. 2015-03, IRR of RA 7076, specifies a prescribed PMRB composition, South Cotabato has maintained its unique PMRB structure, with the Provincial Governor sitting as Vice Chairperson.

PEMO reported that the South Cotabato PMRB plans to expand its composition in the future the composition of its members to include representatives from the sand and gravel and the grassroots sectors.<sup>82</sup> The Province, through BK-PYWP, has been conducting dialogues and has established partnership with the grassroots, especially those affected by SSM and quarry operations. The planned expansion of PMRB would enable the grassroots sector to participate in decision-making and developing policies.

The South Cotabato PEMO, which was created in 2007, provides the secretariat support to the PMRB, arranging for meeting schedules, preparing the minutes of the meeting, and keeping records related to small-scale mining. The PEMO also acts as the monitoring arm of the PMRB for both small-scale metallic mining and quarry operations. The Provincial Environment Code of 2010 tasks PEMO to monitor the mining, as well as quarrying activities, in the Province, in coordination with concerned agencies.

The PEMO has 29 employees with regular positions and 22 staff under “Job Order” status, as of December 2018. The PEMO has three divisions: 1) Mines and Geosciences Division; 2) Forest and Inland Water Division; and 3) Environmental Management Division. The Mines and Geosciences Division has five (5) regular and 12 contractual employees dedicated to small-scale mining and quarry regulation and monitoring.

On the other hand, the Mine Management Division of the MGB RO No. XII has 12 staff tasked to work on small-scale metallic mining concerns, in coordination with PEMO.

SSM associations are also required by PEMO and MENRO to conduct self-monitoring of their mining activities.<sup>83</sup>

The Province has utilized technologies such as CCTV cameras installed in strategic areas to ensure 24-hour surveillance and monitoring, as well as Global Positioning System for geo-hazard assessment. This is especially useful to monitor SSM operations and ore transport done at night and operations in high-risk areas, as per PEMO.

<sup>82</sup> Presentation of South Cotabato PEMO during the Bantay Kita's 2<sup>nd</sup> Roundtable Discussion on Responsible Mining on 11 December 2018 in Mandaluyong City.

<sup>83</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

Other mechanisms established to ensure regular monitoring of SSM activities, as per 2015 PH-EITI scoping study on SSM, include the following:

- Multipartite Monitoring Team, established under DAO No. 2010-21, IRR of RA 7942, conducts SSM monitoring.
- The checkpoint at the entrance of Barangay Kematu is regularly manned to check delivery receipts of transported ores. Transporting of ores are allowed on within the 6:00am–5:00pm set by PEMO.
- The checkpoint at the T'boli highway is manned by inspectors from the Provincial and Municipal Government that audits the documentation of the trucks containing ores. The policy of no permit, no transport is being implemented in T'boli.
- The Province has CCTV cameras installed in strategic mining exit points to ensure 24-hour surveillance and monitoring.

As mentioned above, the Province issues a special OTP for transporting ores from tunnel to mineral processing zone. As per PEMO, it has an internal control on this through delivery receipts. PEMO's mining inspectors regularly checks the volume of ores declared to be transported vis-à-vis the actual volume of ores transported.<sup>84</sup>

The PEMO shared that because they handle a number of responsibilities and priorities, including monitoring of sand and gravel operations, aside from small-scale metallic mining, and because they lack manpower, the conduct of regular verification/reconciliation and monitoring reportorial requirements has become a challenge for them and is seen as an area that needs improvement.<sup>85</sup>

### *South Cotabato's Minahang Bayanihan Program*

As earlier mentioned, the Province is a pioneer in the participatory approach to governance and compliance monitoring of SSM operations.<sup>86</sup> Conceptualized by PEMO, the Province started in 2011 a program for SSM called *Minahang Bayanihan Program* (or "*mining with the spirit of communal unity*"), conceptualized by PEMO and was awarded with a Galing Pook Award in 2015, a national annual recognition given to top ten (10) with exemplary local governance programs. The Program has strengthened the SSM sector in the Province through public and private partnership between the Provincial, Municipal, and Barangay LGUs; SSM associations and processors; national government agencies; and NGOs that include BAN Toxics which has been active in promoting the adoption of mercury-free technologies for gold production.<sup>87</sup>

In the early stage of the implementation of the Program, PEMO shared that in 2011, the Province stopped all SSM operations without permit, and initiated communication with small-scale miners. The Province recognizes that the indigenous peoples have been dependent on mining for sustenance since time immemorial, hence, helping them to organize and comply with policies would be more pragmatic, as per PEMO. The Province started tapping, influencing, capacitating, motivating key IP leaders in SSM (identified to have potential influence over small-scale miners) to comply with laws, rules, and regulations. The Province also consulted with the IP leaders in policy decision-making, which resulted in the stoppage of hydraulicking and establishment of ID system to prevent child labor. The Province utilized technologies such as CCTV cameras and GPS system for monitoring, as earlier mentioned.

The implementation of Minahang Bayanihan Program has been effective and, in turn, has produced the following outcomes: participatory decision-making, sustained dialogue, and improved partnership

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<sup>84</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

<sup>85</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

<sup>86</sup> Nuñez, Ma. Aleta C. 2015. PH-EITI Scoping Study on Small-scale Mining. (Volume II of Second PH-EITI Report) ([www.ph-eiti.org](http://www.ph-eiti.org))

<sup>87</sup> South Cotabato PEMO. Presentation on Minahang Bayanihan Program during the "Towards Mainstreaming EITI in PMRBs" on 25 June 2018 in Pasay City and Bantay Kita's 2nd Roundtable Discussion on Responsible Mining on 11 December 2018 in Mandaluyong City.

among indigenous peoples, small-scale miners, LGUs, national government agencies, CSOs such as Bantay Kita and BAN Toxics, and other stakeholders; increased local revenue from both the small-scale mining and quarry industries; increased budget for SSM program that led to the establishment of Minahang Bayan Center in T'boli; more organized, capacitated, and well-informed small-scale miners and stakeholders; increased participation and involvement of SSM stakeholders; improved compliance to laws, rules, and regulations; social and environmental awareness; and strengthened transparency and accountability in the sector.

In addition, the Program has started strengthening mining tourism and the jewelry-making industry to provide sustainable livelihood for the wives of small-scale miners. It has already provided technical and financial assistance of PHP350,000.00 to T'boli Jewelers Association, which has been actively joining trade fairs in the region. The Province has also promoted its gold on national level in May and November 2018 through the BAN Toxics's Compassionate Gold program, which aims to promote mercury and child labor-free gold jewelry and accessories.

The Minahang Bayan Center in T'boli was established as a satellite office of PEMO to make permit application more accessible to small-scale miners. It also serves as venue for trainings and other activities for small-scale miners.

The best practices of the Province in its governance and management of the SSM sector has been showcased to Mozambique, Vietnam, and Mongolia SSM stakeholders during their study visits in the Province.

The Province is also one of the pilot areas in the country for Open Government Partnership and one of its commitments is "open mining". Hence, the Province will be developing the Extractive Industry Transparency E-systems and Channels (EI-TECH) Software, in partnership with BK-PWYP. The software aims to make SSM and quarry applications online and build a database of SSM contractors and volume of minerals extracted per contractor and make it accessible to the public.

The Province also plans to provide miner insurance, savings, and micro-lending assistance. In addition, the Province intends to completely eradicate the use of mercury by establishing government-operated processing facility and implementing "*convert now, pay later*" scheme. The Province will assist small-scale miners to convert to mercury-free processing technology, so that gold produced would meet the criteria of Compassionate Gold, introduced and promoted by BAN Toxics. Compassionate Gold will enable small-scale miners to sell gold at a higher price point.

## V. Reportorial Requirements

### *Individual SSM Contract Holder*

The *individual SSM contract* holder, as stipulated in its contract, is obliged to submit to the PMRB a detailed monthly production and financial report under oath. The South Cotabato PEMO consolidates the monthly reports from SSM contract holders and submits to the MGB RO No. XII a notarized annual report of production for SSM. PEMO shared that the production reports they receive from SSM associations are not notarized, and this is another area PEMO sees that also needs to be improved.

The 2011 Revenue Code further requires the *individual SSM contract* holder to submit to the Provincial Governor, a monthly report on sales and inventory of SSM operations, in addition to report on production, copy furnished the PMRB and the MGB Regional Director within fifteen (15) working

days after the end of each month. The *individual SSM contract* holder is also required to submit sworn integrated annual report to the Provincial Governor, copy furnished the PMRB and the MGB Director within two (2) months after the end of each year.

Failure or delay on the report submission is subject to administrative sanctions such as fines or non-renewal of contract. Failure also to immediately report accidents in the mine area carries administrative sanctions.

The 2011 Revenue Code provides for penalties and fines for late or non-submission of reports. In case of renewal of applications, the contractor is required to secure a written certification from PMRB/MGB affirming timely submission of the required reports.

- Late or non-submission of the reports shall be a ground for withholding of pending transactions or the processing of mining applications with the MGB Regional Office.
- Non-submission of reports shall be a ground for denial of the renewal of application.

The following fines are imposed under the 2017 Revenue Code for the late or non-submission of the required reports, and shall be paid to the Provincial Treasurer:

Table 72. Fines for late or non-submission of reports

Late submission of the required reports, including copies to be furnished to the MGB/PMRB.	Fines
1 <sup>st</sup> violation	PhP1,000.00
2 <sup>nd</sup> violation	PhP2,000.00
3 <sup>rd</sup> violation	PhP3,000.00
Non-submission of the required reports, without justifiable cause, after one (1) month from the prescribed reporting.	
1 <sup>st</sup> violation	PhP2,000.00
2 <sup>nd</sup> violation	PhP3,000.00
3 <sup>rd</sup> violation	PhP4,000.00

The total fine for non-submission of the required reports at any time shall not exceed five thousand pesos (P5,000.00).

### *Mineral Processing Permit Holders*

Mineral processing permit holders are also required by the 2011 Revenue Code to submit to the Provincial Governor a quarterly production and activity report in prescribed form, who may however require them to submit other reports related to the plant operations. The Provincial Governor or his/her authorized representative shall conduct an on-site inspection of deliveries of cyanide, and other substances as well as validation of the reports submitted for which the operators may be charged a verification and inspection fee therefrom.

## VI. Revenue Streams from SSM (SSM Payments to Local Government and National Government)

### *Provincial Government of South Cotabato*

Same with other local government units in the country, in keeping with their local autonomy and power to generate income, the Province of South Cotabato imposes taxes and fees on SSM by enacting local ordinances. The payments collected by the Province from SSM in 2017 are based on the 2011 Revenue Code of South Cotabato:

Table 73. South Cotabato's Taxes, Fees, and Charges Imposed on SSM as of 2017

<b>Taxes, Fees, and Charges</b> (as per Provincial Revenue Code of 2011)	<b>Rate (PhP)</b>
Mineral Tax	1,000.00/metric ton
A. Small-scale Mining Permit	
▪ Mining Permit Fee	3,000.00 (valid for 2 years)
▪ Filing Fee	20.00/hectare
▪ Processing Fee	20.00/hectare
▪ Verification Fee	3,600.00
▪ Projection Fee	100.00
B. Processors Permit	
▪ Processors Permit Fee	6,000.00 (valid for 4 years)
▪ Filing Fee	3,600.00
▪ PD 1856 Fee	20.00
C. Ore Transport Permit	
▪ Ore Transport Permit Fee	500.00 (valid for 15 days)
▪ Filing Fee	5,000.00
Delivery Receipt	75.00/stub
Surcharge on Late Payment	25% of the amount due
Interest on Unpaid Tax	2%/month not to exceed 72% of tax due or 36 months interest
Other taxes	
Income Tax based on NIRC (RA 8424)	
Special Import Tax (if applicable)	
Tariff Duties (if applicable)	
Value Added Tax (EO 273)	
Excise Tax	

The imposed taxes and fees include mineral tax or sales tax on metallic minerals at PhP1,000.00 per metric ton, small-scale mining permit fee at P3,000.00 that is renewable every two (2) years, filing fee at PhP20.00 per hectare, processing fee at PhP20.00 per hectare, verification fee at PhP3,600.00, projection fee at PhP100.00. Payments are made to the Province through the Provincial Treasurer's Office.

As discussed earlier, the Province issues Mineral Processors Permit that is renewable every four (4) years and Ore Transport Permit (OTP) that is valid for 15 days. Each permit also has corresponding fees:

- For mineral processors, the Province receives PhP6,000.00 for every processors permit, PhP3,600.00 for filing fee, and PhP20.00 for PD 1856 fee.
- For OTP, the Province collects PhP500.00 for OTP application and PhP5,000.00 for filing fee.

There are also other fees imposed such as delivery receipt at PhP75.00 per stub, surcharge on late payment which is 25% of the amount due, and interest on unpaid tax which is set at 2% per month and not exceeding 72% of tax due or 36 months interest.

As mentioned earlier, aiming to enhance the revenue collection of the Province, the 2017 Revenue Code of South Cotabato was issued and is being implemented since April 2018. This issuance amended the 2011 Revenue Code, increasing mineral tax to PhP1,100.00 per metric ton (from PhP1,000.00) and included additional impositions such as:

1. Environmental fee for SSM Permit;
2. Processing, verification, and environmental fees for Mineral Processing Permit; and
3. Processing, verification, and environmental fees for Ore Transport Permit.

Table No. 74 presents a comparison of the Province's impositions under 2011 and 2017 Revenue Codes:

Table 74. South Cotabato's Taxes, Fees, and Charges Imposed on SSM  
(comparison between the 2011 and 2017 Revenue Codes)

<b>Taxes, Fees, and Charges</b>	<b>Rate (PhP)</b> (as per 2011 Revenue Code)	<b>Rate (PhP)</b> (as per 2017 Revenue Code)
Mineral Tax	1,000.00/metric ton	1,100.00/metric ton
Small-scale Mining Permit		
▪ Mining Permit Fee	3,000.00 (valid for 2 years)	3,000.00 (valid for 2 years)
▪ Filing Fee	20.00/hectare	3,600.00
▪ Processing Fee	20.00/hectare	300.00
▪ Verification Fee	3,600.00	3,600.00
▪ Projection Fee	100.00	No longer in 2017 Revenue Code
▪ Environmental Fee		50.00
Processors Permit		
▪ Processors Permit Fee	6,000.00 (valid for 4 years)	6,000.00 (valid for 4 years)
▪ Filing Fee	3,600.00	3,600.00
▪ PD 1856 Fee	20.00	No longer in 2017 Revenue Code
▪ Processing Fee		300.00
▪ Verification Fee		1,000.00
▪ Environmental Fee		50.00
Ore Transport Permit		
▪ Ore Transport Permit Fee	500.00 (valid for 15 days)	500.00 (valid for 15 days)
▪ Filing Fee	5,000.00	5,000.00
▪ Processing Fee		300.00
▪ Verification Fee		300.00
▪ Environmental Fee		50.00
Delivery Receipt	75.00/stub	
Surcharge on Late Payment	25% of the amount due	25% of the amount due
Interest on Unpaid Tax	2%/month not to exceed 72% of tax due or 36 months interest	2%/month not to exceed 72% of tax due or 36 months interest

## Municipal Government of T'boli

The Municipality of T'boli also imposes taxes and fees on SSM based on its 2003 Local Revenue Code, which include the following:

- A. Business Tax
- B. Regulatory Fees
  1. Mayor's Permit (MP) Fee based on graduated rate depending on asset size or number of workers, whichever will yield the higher fee or at the rate of 10% of the annual tax due but not less than the prescribed minimum
    - Tunnel operator or "producer" at PhP150-2,500 (PhP150-250-cottage; PhP750-small; PhP1,500-medium; PhP2,500-large)
    - Ballmill operator or "contractor" at PhP150-1,500 (PhP150-cottage; PhP500-small; PhP1,000-medium; PhP1,500-large)
    - Gold buyer or "dealer" at PhP250-1,000 (PhP200-cottage; PhP400-small; PhP800-medium; PhP1,000-large)
    - Processing plant owner or "processor" at PhP150-1,500 (PhP150-cottage; PhP500-small; PhP1,000-medium; PhP1,500-large)
  2. Garbage Collection (GC) Fee
  3. Municipal Treasurer's Office (MTO) Clearance Fee
  4. Occupation Fee (OF)
  5. Police Clearance Fee (PC)
  6. Real Property Tax Clearance Fee (RPT)
  7. Secretary's Fee (SF) on issued clearances
  8. Sanitary Inspection Fee (SIF)
  9. Zoning Compliance Fee (ZCF)
  10. Business Identification Number (BIN) Fee
  11. Annual Building Inspection Fee (ABIF)
  12. Weight and Measure (W/M) Fee
  13. Permit Fee on Agricultural Machinery and Equipment (PFAME)
- C. Tax on Mining Operations, which is equivalent to 2% of gross receipts of preceding year

Table No. 75 presents the range of taxes and regulatory fees paid in 2017 to the Municipality according to the SSM related activity individuals are engaged in, including tunnel operation, ball mill operation, gold processing, and gold buying.

Table 75. Range of Taxes and Regulatory Fees Paid according to SSM Related Activity

Tax and Regulatory Fees	SSM Related Activity			
	Tunnel operation (PhP)	Ball mill operation (PhP)	Gold processing (PhP)	Gold buying (PhP)
Business Tax	25.00-125,143.00	40.00-17,323.00	1,815.00-28,405.00	3,63.000-5,250.00
Regulatory Fees				
Mayor's Permit (MP) Fee	200.00-24,980.00	31.009-1,400.00	425.00-1,512.00	30.000-800.00
Garbage Collection (GC) Fee	300.00-12,950.00	800.00	200.00-2,500.00	250.00
Municipal Treasurer's Office (MTO) Clearance Fee	20.00-768.00	20.00	20.00-22.00	20.00
Occupation Fee (OF)	100.00-26,400.00	50.00-800.00	100-2,000.00	100.00
Police Clearance Fee (PC)	22.00-770.00	22.00-44.00	22.00	22.00
Real Property Tax Clearance Fee (RPT)	22.00-770.00	22.00	22.00	22.00
Secretary's Fee (SF) on issued	20.00-806.00	20.00	20.00	20.00

clearances				
Sanitary Inspection Fee (SIF)	100.00-5,200.00	100.00-250.00	100.00-400.00	10.000
Zoning Compliance Fee (ZCF)	350.00-37,850.00	250.00-300.00	250.00-1,000.00	250.00
Business Identification Number (BIN) Fee	300.00	300.00	N/A	N/A
Annual Building Inspection Fee (ABIF)	N/A	200.00-7,876.00	N/A	N/A
Weight and Measure (W/M) Fee	N/A	N/A	60.00	N/A
Permit Fee on Agricultural Machinery and Equipment (PFAME)	200.00	N/A	N/A	N/A
Tax on Mining Operations				

The Municipality of T'boli also has a local ordinance issued in 1989, prohibiting the transport of mineral ores outside the municipality.<sup>88</sup> The local ordinance further mandates that the mineral ores should be transported only to the industrial zone/mineral processing zone. The Municipality charges PhP600.00 for every violation of this local ordinance, or a 30-day imprisonment based on the discretion of the court.

The Municipality issued another local ordinance in 1993, requiring all extractors, processors, buyers, and transporters of “mine tailings” removed and transported from the milling area to any processing plants to secure municipal clearance and pay PhP0.02 per kilo as clearance fee. For every violation of this local ordinance, the Municipality shall fine PhP2,000.00 or two-month imprisonment for first offence; PhP3,500.00 or four-month imprisonment; and PhP5,000.00 and cancellation of the business permit or six-month imprisonment, or both such fine and imprisonment at the discretion of the court.

### *Payments to the MGB RO No. XII*

Based on DAO No. 2015, the MGB RO shall collect from an SSM Contract applicant an application fee PhP1,000.00 for SSM License, as earlier mentioned. This will be followed by complying with all the requirements for SSM Contract application detailed in Section 10 of DAO No. 2015-03, before the MGB RO collects an application fee of PhP20,000.00 for metallic minerals, as discussed above.

Table 76. Fees Collected by MGB RO No. XII from SSM in South Cotabato

<b>Fees (as per DAO No. 2015-03)</b>	<b>Rate (PhP)</b>
Application fee for SSM License	1,000.00
Application fee for SSM Contract	20,000.00

There is no declared mineral reservation in South Cotabato, thus, there is no royalty paid to MGB RO No. XII.<sup>89</sup>

<sup>88</sup> Municipal Ordinance No. 4, series of 1989. A Municipal Ordinance Prohibiting the Transport of Stone Ore Outside the Municipality of T'boli, Province of South Cotabato.

<sup>89</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

## VII. Contributions of SSM (Results of EITI Pilot Reporting for SSM)

### A. SSM Production in the Province

#### *SSM production report from MGB RO No. XII*

As per MGB RO No. XII's mineral production report for 2017, a total of 2.179 metric tons of gold ore and 14.088 metric tons of silver were produced by nine (9) SSM operators, with a total value of PhP3,953,520.00 for gold and PhP281,177.64 for silver.<sup>90</sup> The agency also includes in its database of mining operators in the Province the following:

1. Datu Legel Sakam Clan
2. Herminigildo Omanan
3. Fagalas/Tolik Clan Small-Scale Mining Association, Inc. (FTCSSMAI)
4. Maguan Clan Small-Scale Mining Association, Inc. (MCSSMAI)
5. Rosanita Mamerga
6. Jimmy Pericon
7. T'boli Minahang Bayan Multi-Purpose Cooperative (TMBMPC)
8. Lito Paciente
9. Myrna Tuastumban

#### *Production reported by individual SSM contract holders to the Province*

A summary of the volume and value of production for 2017 declared and reported by nine (9) *individual SSM contract* holders to the PEMO is presented in Table No. 14<sup>91</sup>. Included also are the number of employees engaged in the production disaggregated by gender, as well as excise tax estimated by PEMO.

The nine (9) *individual SSM contract* holders reported a total of 3,760.59 metric tons of mineral ores produced in 2017, with a total declared value of PhP1,707,622.59. From this figure, a total estimated excise tax of PhP1,687.80 is computed by PEMO, which should be paid to the Bureau of Internal Revenue.

A total of 205 employees (166 males and 39 females) were engaged by nine (9) SSM associations in 2017, as presented in the table.

Table 77. SSM Production Volume and Value in 2017

SSM Contractor	Production volume (metric tons)	Value (PhP)	No. of employees by gender	Estimated excise tax (PhP)
1. Datu Legel Small-Scale Mining Association (DLSSMAI)	379.96	379,962.00	1 male, 1 female	370.74
2. Herminigildo Omanan	No operation	0.00	3 males, 1 female	0.00
3. Fagalas/Tolik Clan Small-Scale Mining Association, Inc. (FTCSSMAI)	2,124.99	157,860.00	4-35 males, 0-4 females (depending on	155.84

<sup>90</sup> MGB RO No. XII. 2017. Mineral Production by Province and Commodity.

<sup>91</sup> Note: TISSMAI and Marina Sereneo are not included in the MGB RO No. XII's directory of SSM operators.

			months)	
4. Maguan Clan Small-Scale Mining Association, (MCSSMAI) Inc.	1,095.70	1,035,000.00	0-49 males, 1-24 females (depending on months)	1,029.46
5. T'boli Integrated Small-Scale Mining Contractors Association, (TISSMAI)* Inc.	76.88	51,740.00	8-25 males, 1-2 females (depending on months)	64.81
6. Rosanita Mamerga	24.44	24,440.00	20 males, 1 female	17.06
7. Jimmy Pericon	No operation	0.00	4 males, 1 female	0.00
8. Marina Sereneo*	2.44	2,400.00	5 males, 1 female	1.83
9. T'boli Minahang Bayan Multi-Purpose Cooperative (TMBMPC)	56.18	56,180.00	3-24 males, 2-4 females (depending on months)	48.06
<b>TOTAL</b>	<b>3,760.59</b>	<b>1,707,622.00</b>		<b>1,687.80</b>

\* Not included in the list of SSM operators of MGB RO No. XII

As observed in the table, the declared production value of nine (9) SSM contractors for 2017 is very low, with combined projected excise tax that is almost insignificant. It was generally recognized that SSM contractors do not fully report their actual production and value.<sup>92</sup> PEMO relies, however, on the production reports submitted monthly by SSM contractors, even though not notarized. PEMO considers this is one area that needs to be improved, since SSM contracts require submission of notarized reports.

PEMO also shared that during inspection, mining inspectors are not concerned whether ores are high grade or low grade. As discussed earlier, another area that needs improvement and requires priority, as per PEMO, is the conduct of verification. They had findings that a number of data reported were unreconciled (e.g. delivery receipts vis-à-vis report, audited data vis-à-vis report). PEMO said they had penalized those who had unreconciled reports.

### Gold sales

Small-scale miners sell extracted gold ores to buyers/traders stationed at the mining site, which guarantees instant payment.<sup>93</sup> A SSM association shared that there are licensed gold buyers in the informal market, which pay taxes, and some of the dealers in the black market are foreigners. Gold ores are sold at Php900-1500 per gram of gold based on the estimated grade and gold content of ores, which miners determine by eye. Ores are considered high grade if there are ten (10) grams of gold or more per “puyong” or a bag of unmilled ores weighing 50 kilograms per bag.

There are currently no data on production from processing to market and no SSM association also has done this yet, according to PEMO. However, PEMO estimates that the black market buys an average of 50 grams of gold each day from the SSM operators.

An SSM association shared that they do not declare or report their buyers since they belong to the informal market. Buyers (some of which have licenses/business permit/mineral processing permit)

<sup>92</sup> PH-EITI's Data Collection Workshop at the MGB RO XII on 11 October 2018.

<sup>93</sup> PH-EITI's Data Collection Workshop at the MGB RO XII on 11 October 2018.

issue “receipts” to SSM operators, which is usually a simple documentation of transaction made between them.

*Production sharing scheme between individual SSM contract holder and landowner, association, and IP communities*

Royalty payment to landowners, SSM association, and IP communities is not on cash basis but in the form of “puyong” or bags of unprocessed gold ores weighing 50 kilograms per bag. This is based on an agreed or negotiated production sharing scheme, as specified in their respective Memorandums of Agreement. For example, if there are 200 bags of ores produced, ten (10) bags of ores will be paid to landowners as royalty. Normally, landowners receive share from small-scale miners if the ores mined are from the surface to areas up to six feet deep; they do not normally have share if the ores mined are beyond six feet deep.<sup>94</sup>

## B. Revenues of the Province of South Cotabato and the Municipality of T’boli from SSM

### *Province of South Cotabato*

For 2017, South Cotabato Province collected a total amount of PhP4,584,167.37, as shown in the following table. This value is a significant increase from the collections of the Province in 2013 and 2014 amounting to PhP760,000.00 and PhP1,065,685.00, respectively, coming mainly from mineral tax, SSM mining permit fee, and verification fee.

For the sharing of proceeds from the mineral tax, the 2011 Revenue Code of South Cotabato provides for a 30%-30%-40% sharing scheme among the province, municipality, and barangay, respectively. This is remitted to municipal and barangay LGUs on monthly basis, as per PEMO.

Of the PhP2,121,560.00 mineral tax collection, PhP678,656.10 was the 30% share of the Province. Hence, from the total collection of PhP4.58 million in 2017, PhP3,141,263.47 was distributed to the Province. It is also noted that the mineral tax share of the Province in 2017 was slightly higher than its share in 2013 and 2014, amounting to PhP624,480.00 and PhP612,885.00, respectively.

The 30% share also of PhP678,656.10 was remitted to T’boli Municipality, while the remaining 40% share of PhP764,247.80 was distributed to Barangays Kematu, Desawo, Edwards, and Poblacion in T’boli Municipality, as per PEMO.

Table 78. South Cotabato’s Total Collection from SSM in 2017

<b>Taxes, Fees, and Charges</b> (as per Provincial Revenue Code of 2011)	<b>2017 Collection (PhP)</b>
<b>Total Mineral Tax</b>	2,121,560.00
Actual Provincial Share (30%)	678,656.10
A. Small-scale Mining Permit	
▪ <b>SSM Mining Permit Fee</b>	211,500.00
▪ <b>Filing Fee</b>	355,820.00
▪ <b>Processing Fee</b>	102,680.00

<sup>94</sup> PH-EITI’s Data Collection Workshop at the MGB RO XII on 11 October 2018.

▪ <b>Verification Fee</b>	189,600.00
▪ <b>Projection Fee</b>	-
▪ <b>Occupation Fee*</b>	248,050.37
▪ <b>Governor's Permit Fee*</b>	190,600.00
B. Processors Permit	
▪ Processors Permit Fee	
▪ Filing Fee	
▪ <b>PD 1856 Fee</b>	10,960.00
C. Ore Transport Permit	
▪ <b>Ore Transport Permit Fee</b>	111,000.00
▪ Filing Fee	
<b>Delivery Receipt</b>	351,075.00
<b>Fines/Penalties/Surcharges</b>	691,322.00
Interest on Unpaid Tax	2,462,607.37
<b>TOTAL</b>	<b>4,584,167.37</b>

\* not in the 2015 PH-EITI scoping study on SSM, but collected in 2017

On the other hand, South Cotabato reported a total income of PhP16,878,911.20 from the sand and gravel sector, more than thrice higher than the revenue from the small-scale metallic mining sector.

### *Municipality of T'boli*

According to the T'boli Municipal Treasurer, the Municipality collected a total revenue of PhP1,013,106.07 in 2017 from the revenue streams indicated in Table No. 16. These taxes and regulatory fees were paid by individual tunnel operators, ball mills and processing plant owners, and gold buyers, as presented in the same table.

Table 79. Summary Taxes and Regulatory Fees Collected by the T'boli Municipality from Various SSM Related Activities

Tax and Regulatory Fees	SSM Related Activity				Total (PhP)
	Tunnel operation (PhP)	Ball mill operation (PhP)	Gold processing (PhP)	Gold buying (PhP)	
Business Tax	280,731.32	222,876.12	88,287.59	8,880.30	600,775.33
Regulatory Fees					
Mayor's Permit (MP) Fee	57,110.00	35,231.24	6,937.50	800.00	100,079.00
Garbage Collection (GC) Fee	29,480.00	47,750.00	6,800.00	250.00	84,280.00
Municipal Treasurer's Office (MTO) Clearance Fee	1,762.00	1200.00	142.00	20.00	3,124.00
Occupation Fee (OF)	58,450.00	13,900.00	4,050.00	200.00	76,600.00
Police Clearance Fee (PC)	1,782.00	1,320.00	154.00	22.00	3,278.00
Real Property Tax Clearance Fee (RPT)	1,760.00	1,342.00	154.00	22.00	3,278.00
Secretary's Fee (SF) on issued clearances	1,854.00	1,280.00	182.00	40.00	3,356.00
Sanitary Inspection Fee (SIF)	11,900.00	7,550.00	1,400.00	100.00	20,950.00
Zoning Compliance Fee (ZCF)	87,700.00	15,600.00	3,500.00	250.00	107,050.00

Business Identification Number (BIN) Fee	900.00	900.00	N/A	N/A	1,800.00
Annual Building Inspection Fee (ABIF)	N/A	8,076.00		N/A	8,076.00
Weight and Measure (W/M) Fee	N/A	N/A	60.00	N/A	60.00
Permit Fee on Agricultural Machinery and Equipment (PFAME)	400.00	N/A	N/A	N/A	400.00
<b>Total (PhP)</b>	<b>533,829.32</b>	<b>357,025.36</b>	<b>111,667.09</b>	<b>10,584.30</b>	<b>1,013,106.07</b>
Type and number of taxpayers	From 52 tunnel operators	From 64 ball mill operators	From 9 gold processors	From 2 gold buyers	From 127 individual taxpayers

Mentioned above that the 30% share of PhP678,656.10 from the total mineral tax collection of the Province in 2017 was remitted to T'boli Municipality. Hence, increasing the Municipality's total revenue from SSM to PhP1,691,762.17 in 2017.

In addition to the revenue streams mentioned above, the 2003 Local Revenue Code of T'boli also imposes Tax on Mining Operations, which is an annual tax equivalent to 2% of gross receipts of the preceding year. The 2017 revenue collection report received by PH-EITI from the Municipal Treasurer in November 2018 has no data on Tax on Mining Operations, since the Municipality has no collection of this, as of writing.

## C. Revenues of National Government from SSM

### 1. Mines and Geosciences Bureau Regional Office No. XII

As discussed earlier, MGB RO No. XII issued SSM licenses to TISSMAI, DISSMAI, TMBMPC, and MCSSMAI between May to July 2016. No SSM license has been issued since then. Thus, MGB RO No. XII reported a total collection of PhP4,000.00 for the application fees in 2016, which is not covered by the Fifth PH-EITI Report.

On the other hand, no SSM contracts have been awarded to any SSM association as of December 2018.

Table 80. Fees Collected by MGB RO No. XII from SSM in 2017

<b>Fees (as per DAO No. 2015-03)</b>	<b>Rate (PhP)</b>
Application fee for SSM License	None (except for the PhP4,000.00 for the four SSM licenses issued in 2016)
Application fee for Small-scale Metallic Mining Contract	None

### 2. Bureau of Internal Revenue

As discussed earlier, SSM associations would need to execute waivers authorizing the BIR to disclose their organizations' tax information for fiscal year 2017, as a necessary step to their participation in the EITI reporting process. This was well-received by the SSM associations. In fact, the Federation President informed PH-EITI that they would conduct their meeting with member associations supposed to be scheduled last 20 November 2018.

Of all the SSM association in South Cotabato, only the T'boli Integrated Small-Scale Mining Contractors Association, Inc. (TISSMAI) submitted signed BIR waiver to PH-EITI on 13 December 2018. PH-EITI forwarded the same to the BIR Revenue Region No. 18 - Koronadal City.

As per the Federation President, SSM associations were not able to meet with their members, and the federation was not also able to meet their member associations to discuss the BIR waivers, as of December 2018. SSM associations are currently complying with the recent Order from the Provincial Governor.

The Provincial Governor recently issued a Provincial Order on 12 November 2018, which was received by the Office of the Mayor and MENRO of T'boli on 19 November 2018, recalling all temporary *individual SSM contracts* issued by the Provincial Governor from January 2017. This is to comply with the requirements of the DAO No. 2015-03, which mandates the PMRB Chair to issue SSM contract to qualified applicants. As per MGB RO No. XII, SSM associations with terminated temporary SSM contracts will need to file application again with the PMRB, together with the mandatory requirements<sup>95</sup>.

### 3. National Commission on Indigenous Peoples Regional Office No. XII

NCIP RO No. XII<sup>96</sup> said that their agency does not receive any payment from the SSM sector. NCIP RO No. XII also shared that no SSM association has gone through FPIC process to date. Once an FPIC is conducted, the SSM association (the proponent) forges a Memorandum of Agreement with affected IP communities represented by IP organization, in which agreements on royalty, benefits, and duties and responsibilities are indicated.

One SSM association said that each of their operator pay “royalties” in the form of “puyong” or bags of gold ores to affected IP communities, as discussed earlier. However, these are not recorded. NCIP RO No. XII also has no record of these royalties.

### 4. Bureau of Customs

Wharfage fees imposed by the Bureau of Customs are not applicable to small-scale miners in South Cotabato, since gold ores directly go to the black market in general.<sup>97</sup>

The Municipality of T'boli also has a local ordinance issued in 1989 mandating that the mineral ores should be transported only to the mineral processing zone/industrial zone, and not outside the municipality.

## D. Social and Environmental Expenditures

With regard to the social and environmental initiatives of the SSM sector, the Local Revenue Code also requires the *individual SSM contract* holders to implement community development and environmental rehabilitation activities, as stipulated also in their contract.

SSM associations spend for environmental programs such as tree planting in mining areas (seedlings are bought from the PEMO), planting along the rivers, and river clean-up. There is no minimum

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<sup>95</sup> PH-EITI's Briefing with SSM Association Heads at the Minahang Bayan Center on 15 November 2018.

<sup>96</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

<sup>97</sup> PH-EITI's Data Collection Workshop at MGB RO XII on 11 October 2018.

requirement on this and is mostly voluntary.<sup>98</sup> PEMO reported that SSM associations conducted clean-up drive and planted bamboos along Kematu River in 2017.<sup>99</sup>

PEMO said that environmental activities of SSM associations are usually implemented alongside projects of PEMO during the environmental month, which happens every June. MENRO also requires associations to plant bamboos along rivers to prevent flooding.

SSM associations coordinates with MENRO and PEMO. PEMO identifies areas that are prone to landslides, which are then recommended to SSM associations for rehabilitation. PEMO itself assists associations in identifying what tree species to be planted in these areas and how these species should be propagated.

SSM associations conduct self-monitoring of their environmental projects as this is required by PEMO and MENRO.

SSM associations also implements various community development projects such as granting of scholarships, distribution of school supplies, feeding programs, construction of school buildings, among others, which are under the Community Development and Management Program.

PEMO said that these social and environmental programs implemented by SSM associations yearly are audited (based on documentations, not on expenditure) as part of the process in renewing contracts/permit. Internally, within the SSM associations, documentations are prepared for submission to PEMO. But there is currently no report format on social and environmental projects implemented.

## VIII. Conclusion and Recommendations

### Registration of Small-scale Miners/Associations

As mentioned above, the Province has the highest number of registered SSM operations in the country, owing to their advanced registry system. Except for some migrants, almost all small-scale miners are registered and are members of one of the ten (10) SSM associations, which are all organized under a federation. With these organized small-scale miners and associations, monitoring of the Province and the MGB RO No. XII of SSM activities is strengthened.

The federation is also an entry point to introduce EITI reporting process to the SSM sector. In fact, during the briefing of PH-EITI for the SSM associations in the Province last 15 November 2018, the federation was instrumental in coordinating with its member associations to make them appreciate the EITI reporting process and requirements.

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<sup>98</sup> PH-EITI's Data Collection Workshop at the MGB RO XII on 11 October 2018.

<sup>99</sup> South Cotabato PEMO. Presentation on Minahang Bayanihan Program during the Bantay Kita's 2nd Roundtable Discussion on Responsible Mining on 11 December 2018 in Mandaluyong City.

## Recordkeeping

The MGB RO No. XII also maintains an inventory of SSM miners and associations and their members, disaggregated by gender and location. The Province also maintains a more detailed database of registered SSM operators, with number of workers per operator, disaggregated by location, gender, and if locals or migrants.

The joint effort of MGB RO No. XII and the Province to establish an inventory of registered and unregistered operations and identified tunnels/adits with geographical coordinates, which are continuously monitored, is also commendable. This database is also maintained by PEMO. The information provided in the database can also support the EITI process by making it available and easily accessible to the public.

The Province's Extractive Industry Transparency E-systems and Channels (EI-TECH) Software that will be developed in partnership with BK-PWYP would be instrumental in enhancing data disclosure.

## Production Reports

In terms of reporting, though admitted that production and value are not fully reported, the fact that the SSM operators are reporting to the Province is already a good start. Data reported would need to be made more accurate and reliable. On the part of the Province and MGB RO No. XII, reporting of SSM operators may be improved by jointly conducting validation of their production reports and declared value so that correct taxes and fees may be collected.

As presented above, the Province also projects excise taxes from the reported production. This also can be improved if there will be a mechanism in place to track payments of excise taxes to the BIR, especially from those SSM operators that were granted with contracts.

The issuance of separate OTP from tunnel to ore processing plant and OTP from ore processing plant to buyer can also enhance tracking the source and destination of gold ores, and monitoring the volume and value for each transaction, especially for those distributed to the informal market. Again, monitoring can be enhanced by conducting verification to make data more accurate and reliable.

Production reports submitted by SSM associations to the Province can also be improved if PEMO enforces the requirement to file it under oath or submit a notarized report.

## Gold Sales

Almost all gold produced from SSM in the Province go to the black market, resulting in revenue losses and lack of data on where gold is distributed. With the recent approval of HB No. 3297 by the House of Representatives, exempting small-scale miners from the payment of income and excise taxes from gold sold to the BSP, this reform would hopefully encourage small-scale miners to sell their gold to the BSP again, instead of the informal market. It would also be more encouraging for the small-scale miners if there will be a BSP buying station within the T'boli Municipality and if the requirements for purchasing gold from SSM would be simplified for small-scale miners.

## Coordination between the MGB RO No. XII and the Province

The findings that: 1) the MGB RO No. XII and the Province have different inventories of SSM operators in 2017; and 2) the gold production reports from SSM in 2017 of the MGB RO No. XII and the Province are different in terms of production volume and value, reflects lack of coordination and

data sharing between the two. It also affirms the results of the 2015 PH-EITI scoping study on SSM that this is a general trend in all regions in the country. This can be improved in the Province if there would be an institutional mechanism established for better coordination and data sharing between the MGB RO No. XII and the Province.

### Declaration of Minahang Bayan and Enforcement of DAO 2015-03

There are two (2) challenges the SSM sector in South Cotabato would have to face. One is the status of the ratification of two (2) PMRB-declared Minahang Bayan areas in T'boli. Fortunately, this has been registered at the MGB Central Office. However, it was recently returned to MGB RO No. XII for rectification, as of writing. This entails that it would take another long time again for the small-scale miners to operate in a Minahang Bayan recognized by DENR at the national level, especially with the current directive from the Province and MGB to comply with DAO No. 2015-03.

Another is the current moratorium on small-scale metallic mining and recent order of the MGB RO No. XII and the Province, recalling all issued SSM contracts since January 2017 to fulfill the requirements of DAO No. 2015-03. This is a major concern, since it would affect workers directly engaged in mining and their families (especially those engaged in downstream industries such as jewelry and accessory production), and the current situation might force them to undertake illegal operations to sustain their families. For the local and national government, this would be a primary concern as there would be more losses in gold production and potential revenues.

The Province has proven that government can facilitate the SSM formalization, as discussed earlier, even if its local policies are different from the existing national laws. Nevertheless, the Province would still need to update its recent ordinance, the Revenue Code of 2017, harmonizing the specific rules and regulations on SSM with DAO No. 2015-03. In particular, it would need to include provisions on licensing and harmonize the permitting system for small-scale miners and mineral processors and reportorial requirements with DAO No. 2015-03.

The following presents status and updates on the recommendations generated from the 2015 PH-EITI scoping study on SSM:

Table 81. Status/Updates on the Recommendations from the PH-EITI Scoping Study on SSM

Recommendations from the 2015 PH-EITI scoping study on SSM	Updates
1. Improving Compliance with the Laws Prior to Inclusion of	Revenues Streams from SSM in EITI Reporting
Revisit some of the requirements and procedures under the DAO No. 2015-03, and align with the policies of the law and to ensure that compliance of the law is facilitated and not hindered, or to provide mechanisms for its implementation such as the requirement of an ECC for the entire Minahang Bayan within 12 months considering the interest and liability of the proponent, the cost, the sufficiency of the period given, and compliance expected of all SSM contract operators but chargeable to the proponent of the Minahang Bayan and ECC, among others	The MGB Central Office is currently streamlining SSM policies to accelerate SSM formalization. Among the highlights of the proposed changes are: <ol style="list-style-type: none"> <li>1. ECC will not be required yet prior to declaration of a Minahang Bayan, but prior to the awarding of SSM contract;</li> <li>2. Reduction of various fees;</li> <li>3. Recognition of conditional consents from existing mining application/permit/contract holders;</li> <li>4. The required DENR initial review clearance toned-down to mere furnishing of copy of viability evaluation result;</li> <li>5. The setting aside of the required majority Sanggunian Endorsements and Prior Informed Consent/Certificate of Non-Coverage from the NCIP in the Minahang Bayan declaration, but ensures compliance thereof prior to the awarding of the SSM contract;</li> <li>6. Lessens the mandatory requirements for SSM contract applications; and</li> <li>7. Allows the establishment of Mineral Processing Zone outside a Minahang Bayan.</li> </ol>
Promote the full implementation of RA 7076 by all concerned agencies based on clear mandates and roles, including the coordination and delineation of functions between the MGB Regional Offices and the LGUs and addressing the challenges in complying with the law such as the permitting/contracting requirements, direct access to credit and government financial institutions in lieu of financiers, sale of gold to BSP, safe and environment-friendly mining technologies, among others.	As mentioned above, the MGB RO No. XII and the Province of South Cotabato are coordinating their efforts so that the Province's SSM sector can comply with DAO No. 2015-03
2. Inclusion of SSM Contextual Data to Provide a Comprehensive Picture on the Mining Industry	PH-EITI has included contextual information about the SSM sector in the first four (4) PH-EITI reports. It will still be included in the Fifth Report.
3. Strengthening the P/CMRB and the Federations and Associations to Facilitate Future EITI Reporting	
Strengthening the P/CMRBs in the different provinces to serve as a central repository of SSM data in the province, with established record-keeping and data-sharing systems and mechanism in place	PH-EITI organized a forum-workshop, "Towards Mainstreaming EITI in PMRBs" last 25 June 2018 in Pasay City, to capacitate key stakeholders for the inclusion of the SSM sector in the EITI process. The basics of EITI reporting and mainstreaming the EITI process in the PMRB framework were introduced to the MGB Central Office representatives, MGB Regional Directors, and PMRB members (from the LGU, large-scale and small-scale mining industries, and CSOs) in areas where there is a declared Minahang Bayan (including Benguet, Quezon, Camarines Norte, Eastern Samar, Davao Oriental, South Cotabato, and Agusan del Sur).
Encourage the formation of federations and associations and/or strengthen existing ones to support SSM and to act as potential conduits or clearing houses for the reconciliation of data from individual small-scale miners and cooperatives.	For implementation in the future

# Chapter 4

## *Forging New Frontiers*

# Beneficial Ownership Disclosure

## I. Introduction

### Background

Knowing who the real owners are of extractive companies has been on top of the agenda for many EITI-implementing countries for some time now. Not only does the EITI Standard 2016 requires implementing countries to disclose beneficial ownership<sup>[1]</sup> (BO) information by 2020 but recent events have also brought into light the value of such disclosures.

In April 2016, a huge online leak of documents known as the Panama Papers shocked the world. The leak showed how clients of a firm called Mossack Fonseca were able to launder money, avoid sanctions, and evade paying taxes by setting up firms in countries considered to be tax havens. In Azerbaijan, a lucrative gold mine was granted to a consortium of companies which was later to be revealed in the Panama Papers to be effectively controlled by the president's family and close associates. In the Philippines, Senator Joel Villanueva filed Senate Resolution No. 612 last February 6, 2018, which directs the Committee on Public Information and Mass Media of the Senate to conduct an inquiry on mandatory dissemination of BO information of extractive companies amidst the foreign ownership issue of media firm Rappler.

Opaque company ownership poses risks to government, impacted communities, and even to other extractive companies. The involvement of politically exposed persons<sup>[2]</sup>(PEPs) in the extractives sector, as illustrated in the Azerbaijan case, is a potential breeding ground for corruption. Corporations can also take advantage of setting subsidiaries in tax havens to avoid paying taxes in countries where they operate. Exacting accountability would prove to be difficult when the real owners hide under a veil of layers and layers of corporations.

The Philippine Extractive Industries Transparency Initiative (PH-EITI) Multi-Stakeholder Group (MSG) can opt not to implement BO disclosure and take the risks that opaque extractives ownership poses. It can, however, also opt to forge yet another new frontier and reap the benefits of increased ownership transparency. BO disclosure can be a means for PH-EITI to contribute to implementing government policies, minimizing corruption and undue advantage in the extractives sector, protecting the right of the people to know, and leveling the playing field for all extractive companies. BO disclosure, if done efficiently and effectively, can be a potential game-changer in how extractives contracts are granted and regulated in the country.

***The value of extractives ownership transparency.*** In the Democratic Republic of Congo (DRC), USD 1.36 billion was lost from five mining deals hidden behind a complex company ownership structure in the period 2010-2012. This amount already translates to about the same as the country's average annual revenue from its extractives sector. Global estimates put losses of developing countries at about USD 1 trillion each year due to corrupt or illegal deals hidden upon layers and layer of anonymous companies. These loopholes in the system are seen by advocates to be mitigated by beneficial BO disclosure. In a study conducted conducted by Ernst and Young titled "2016 Global Fraud Survey", it was found that 91% of senior executives believe it is important to identify BO of entities they do business with.

## Philippine Context

BO and PEP reporting in the Philippines has precedence and is backed by existing regulations and reportorial requirements. It faces constraints, however, in terms of capacity of existing government systems and data privacy requirements. The country is also unique because, unlike in other countries such as Indonesia and the UK where BO disclosure is driven by a reform agenda beyond the extractives, it is EITI that is at the forefront of BO discussions.

## EITI Standard and Beneficial Ownership Disclosure

Implementing countries including the Philippines comply with a set of requirements called the EITI Standard. BO disclosure is highlighted under Requirement 2.5 of the 2016 Standard. The Standard identified specifically the required and recommended action steps for implementing countries to follow.

Required	Recommended
<p>Documentation of MSG discussion and government policy on BO disclosure including details of the legal framework, actual disclosure practices, and any reforms that are planned or underway related to BO</p> <p>Disclosure of BO by January 1, 2020 for corporate entity (ies) that apply for, or hold participating interest in an exploration or production license or contract</p> <p>Gaps or weaknesses in reporting on beneficial ownership information to be included in the country report</p> <p>MSG agreement on approach for participating companies assuring the accuracy of BO information</p> <p>Disclosure of legal owners and share of ownership of such companies</p>	<p>Publicly available register of BOs of corporate entities that bid for, operate or invest in extractive assets</p> <p>Information on how to access information on existing filings by companies to corporate regulators, stock exchanges or agencies regulating extractive industry licensing</p>

There are five (5) required and two (2) recommended action steps under the requirement. PH-EITI has so far published a BO Roadmap and commissioned a scoping study in 2017 which provided details on government policy on BO disclosure and documentation of MSG discussions on how to go about disclosing BO information. This BO pilot report aims to provide a narrative of the gaps and weakness in reporting, MSG agreement on approach for participating companies, and ways forward.

***Moving towards BO disclosure.*** Major policy reforms aimed at BO disclosure have swept many parts of the world. The Fifth Anti-Money Laundering Directive (5AMLD) of the European Union obliges member states to grant public access to BO information of EU-based companies and to create a list of PEPs. EU Member States will have to implement these rules into their national legislations by January 20, 2020. In Indonesia, the president signed “*Presidential Regulation No. 13 of 2018 on Implementation of Principles for Identifying the Beneficial Owner of Corporation in the Framework of Preventing and Combating Money Laundering and Financing of Terrorism Criminal*”

*Offence*” which came into effect on 5 March 2018. In India, the Ministry of Corporate Affairs amended rules on beneficial ownership this year in view of promoting corporate transparency. A global movement towards BO disclosure is definitely underway alongside the commitment of 51 other EITI-implementing countries to meet the 2020 deadline.

## Existing PEP reporting obligations and BO disclosure

As previously mentioned, BO disclosure and reporting for PEPs are not entirely new to the Philippines. Existing laws and regulations already provide a framework that can cater to the requirements under the Standard. It must be noted, however, that EITI reporting requirements were not considered in the crafting of these policies. Hence, certain disclosures required by the Standard must be integrated into the country’s existing reporting systems.

The table below provides a column for the specific disclosure required under the Standard, the legal basis for the existing reporting obligation, and the reporting requirement which can potentially be a source of the disclosure required.

Disclosure	Legal Basis and Provisions	Reporting Requirement
Identity of Beneficial Owners	<p>Republic Act No. 9160 or the Anti Money Laundering Act for covered entities</p> <p>Republic Act No. 8799 or the Securities Regulation Code (SRC) for publicly-listed companies</p> <p>Securities and Exchange Commission (SEC) Memorandum Circular No. 17 for all registered domestic corporations, both stock and non-stock</p>	<p>Disclosure of PEPs and BOs of clients</p> <p>Form 17-A as required by the SEC (disclosure of beneficial owners with ownership of least 5%)</p> <p>General Information Sheet as required by the SEC (disclosure of beneficial owners with direct or indirect ownership of 25%)</p>
Legal Owners of Corporate Entities	Batas Pambansa Bilang 68 or the Corporation Code of the Philippines	General Information Sheet as required by the SEC
Financial Interests of PEPs	Republic Act (RA) No. 6713 or Code of Conduct and Ethical Standards for Public Officials and Employees	Statement of Assets, Liabilities, and Net Worth (SALN) as required by the Civil Service Commission (CSC)

The Anti-Money Laundering Act’s (AMLA) implementing rules and regulations (IRR) requires covered entities to disclose of BO and PEPs among their clients. These covered entities, however, are entirely financial institutions such as banks and not explicitly extractive companies.

Corporations are required to submit General Information Sheets (GIS) to the SEC on a yearly basis. GIS includes information on the company’s stockholders which includes their name, nationality, current residential address, tax identification number (TIN), number of shares subscribed and percentage of ownership, and the top twenty (20) stockholders in number of shares subscribed.

Most recently, SEC issued Memorandum Circular (MC) No. 17 series of 2018 which now mandates all registered domestic corporations in the country to report beneficial ownership. In contrast to the 5%

threshold set by the MSG, the said MC set the reporting requirement threshold to 25% direct and indirect ownership.

Public officials and employees are required to file a SALN. The said document is a declaration of assets, liabilities, and business and financial interests of an official/employee, of his or her spouse, and of his or her unmarried children under 18 years old still living in their parents' households. The submission of a SALN is required under Section 8 of Republic Act (RA) No. 6713. In the Philippines, public officials and employees are barred from holding financial interests in contracts and other privileges granted by government - extractives licenses include, under RA 6713 or the Code of Ethics and Ethical Standards for Public Officials and Employees. According to Resolution 9476 of the Commission on Elections, natural or juridical persons involved in the extraction of the country's natural resources are not allowed to contribute to election campaigns. These policies are designed to avoid the use of authority granted to public officials and employees to influence decisions in favor of their interests or that of their benefactors. Such conditions breed corruption and put other competent companies at a disadvantaged position when it comes to licensing and regulation.

## II. PH-EITI Pilot Reporting on BO

The PH-EITI MSG in its 53<sup>rd</sup> Meeting agreed to a pilot reporting for select companies. This pilot reporting was envisioned by the MSG to surface reporting challenges and also possible solutions to issues encountered by reporting entities. It is worth noting, however, that since the third reporting cycle of PH-EITI, companies are already asked to disclose a list of their legal owners though not down to the details required by the EITI Standard. The list includes corporate and individual entities.

### Methodology

It was agreed by the MSG that the in-depth BO pilot reporting be on a voluntary basis. As an implication, the entirety of the approved BO reporting template was not made part of the reporting template provided to all reporting companies covered by the fifth country report publication.

The BO reporting template was adopted from the template of the EITI International Secretariat. To ensure that it caters to local context and demands, the reporting template was opened to members of the MSG for review and inputs. A BO reporting template was approved during the 52<sup>nd</sup> MSG Meeting which then included additional fields and changes in terminologies.

Data collection was done through the PH-EITI Online Reporting in the Extractives (ORE) Tool. The approved BO reporting template was integrated into the existing system to which reporting entities already have access to. In lieu of attestation present in traditional paper reporting templates, only authorized representative (AR) accounts of reporting companies are allowed to submit and finalize data submissions.

To assist companies in their data submission, the PH-EITI Secretariat developed a briefer and conducted separate briefings with the targeted companies.

### Scope

Target companies were identified in a technical working group (TWG) meeting which consisted of representatives from government agencies, extractive companies, and civil society organizations (CSOs). After PH-EITI's outreach activities to companies, only OceanaGold Philippines Inc. (OGPI) managed to submit their data within the set timeline. OGPI is the contract holder and operator of the Didipio Gold and Copper Project in Kasibu, Nueva Vizcaya.

The approved BO reporting template consists of two forms - company identification form for the operator and BO declaration form for every BO/entity. The approved fields for the BO form include:

- **BO Company Identification:** Full legal name of the company, country of registration, SEC Registration Number, Contact address, Type of Ownership (e.g., publicly listed, private company)
  - If publicly listed or related to a publicly listed form: Name of stock exchange, link to stock exchange findings, is the company a wholly-owned subsidiary of a publicly listed company, name of publicly-listed owners with more than 5% holdings/ownership
  - If privately owned: Full name of direct shareholders (e.g., legal owners of the company whether individual or corporate)
  
- **BO Declaration Form**
  - Corporate Entities: Full legal name of the company, country of registration, SEC Registration Number (if locally registered company), and business address.
  - Individual Entities:
    - Personal Information: Full name as it appears on government issued ID, date of birth, TIN (tax identification number), civil status, name of spouse and/or common law partner, name of children, nationality, country of residence, business address, business contact number, business email address, employment status, annual income, affiliations, have you ever been convicted of a crime involving tax evasion, money laundering, and/or corruption
    - Politically exposed persons: Are you currently holding public office and if yes what position, if not current have you ever been a public office and if yes what position/s, applicable dates, do you have relatives up to the 3rd degree of affinity or consanguinity who held public office, enumeration relatives and their designation
  - Ownership of Entity: layer of ownership (e.g., first, second), number of shares held, percentage of total shares held, number of voting rights, percentage of total voting rights, date when beneficial ownership interest was acquired.

It was discussed with the volunteer companies that the extent of reporting be exhausted until it is feasible. This is in recognition of certain constraints such as instances where data can no longer be retrieved. In these cases, we asked companies to identify such challenges.

The MSG has agreed that corporate and individual entities with direct and indirect ownership of at least 5% in succeeding corporate layers be reported.

### III. Findings

The BO scoping study commissioned by PH-EITI in 2017 and the BO pilot reporting demonstrated clear challenges and opportunities on how BO disclosure can be implemented in the country.

#### Discussion and analysis

Data submitted by OGPI showed mostly corporate entities. Majority of the ownership of OGPI is owned by a holdings company - OceanaGold (Philippines) Holdings registered in the Philippines. OceanaGold Corporation, which is registered in Canada and listed in the Toronto Stock Exchange, is the main firm with 100% ownership of the Singaporean-registered subsidiary Australasian Netherlands Investments B.V. The latter then owns 100% of a subsidiary registered in the Netherlands under the same name. The Dutch firm subsequently owns 99.997% of the holdings firm with a controlling majority of OGPI.

Layer of Ownership	Name of Company	Registered in	Shares Held	% of Total Shares	Voting Rights	% of Voting Rights
1st	OceanaGold (Philippines) Holdings, Inc.	Philippines	577, 495	99.9991%	577, 495	99.9991%
2nd	Australasian Netherlands Investments B.V.	Netherlands	132,496	99.9970%	132,496	99.9970%
3rd	Australasian Netherlands Investments B.V.	Singapore	41	100%	41	100%
4th	OceanaGold Corporation	Canada	393,732,186	100%	393,732,186	100%

While only OGPI reported their ownership structure using the approved BO template, 31 of the 54 operators targeted by the PH-EITI Fifth Reporting cycle disclosed their legal owners. Of the total 148 legal owners disclosed, 93 or 63% of the total are already individual entities while the remaining 37% or 55 are corporate owners. Percentage of ownership, however, was not required. Hence, the level of ownership and control held by the individual owners cannot be ascertained. This is important in ascertaining beneficial ownership. The 148 legal owners reported by the 31 reporting entities were visualized using an online platform called Onodo. The said visualization is available in the PH-EITI website.

It is also worth noting that of the 55 operating entities in the Philippines, 38 are partly-owned or subsidiaries of publicly-listed firms here and abroad. This implies that listed corporate shareholders of these operators are subjected to strict ownership disclosures required by the stock exchanges they are listed in. The remaining 17 operators are privately-owned firms - 9 metallic (7.79% of production), 6 non-metallic (18.7% of production), and 2 oil and gas.

Eight of the 9 privately-owned metallic firms reported their legal owners. Of the total, 5 firms have only individuals as their owners which means that they do not have subsequent corporate layers. Of the six (6) privately-owned nonmetallic firms, none disclosed their owners.

## Gaps and weaknesses

*Government systems.* While existing reporting obligations for corporations and PEPs were identified in previous sections as opportunities, they also come with constraints. The CSC, for instance, do not have a centralized database where it keeps the SALNs of all public officials and employees. Accessing GIS and other reports from SEC's registry comes with a financial cost. Both the SALN and GIS are also scanned when posted online hence are not searchable. This makes connecting the dots between PEPs and BOs rather challenging.

*Data Privacy.* Some targeted companies have flagged data privacy concerns. Under the Data Privacy Act (DPA) of 2012, disclosure of personal information is governed by strict standards. Personal information refers to any information from which the identity of an individual is apparent or can be reasonably ascertained to an individual. Under the MSG-approved BO template, 21 fields are required for individual entities. While the National Privacy Commission (NPC) has yet to review the approved template, six information, while not all applicable, can be easily categorized as unique to an individual while the remaining 15 information, when put together with other information, can ascertain to an individual.

## IV. Recommendations

The Philippines is at a unique position in BO disclosure given its existing reporting mechanisms and entry points for reforms which PH-EITI can tap into to implement BO disclosure. A mix of partnerships, integrated reporting, and creativity in how they will be enforced are needed.

### Entry Points for Reforms and Institutionalization

In Indonesia, BO disclosure is backed by a presidential decree (similar to an executive order) which covers not only extractive companies. With the very recent issuance of SEC MC No. 17, BO disclosure can now be enforceable and also sustainable in the long-run. In the short to medium term, the MSG may also choose to take a mix of the following options to institutionalize BO disclosure in the extractives in the Philippines:

Agency Concerned	Entry Point for Reform	Recommendations
Department of Environment and Natural Resources (DENR) - Mines and Geosciences Bureau (MGB)	Last July 03, 2018, the DENR lifted its moratorium on the issuance of exploration permits through Administrative Order 2018-13.	PH-EITI can take advantage of this development by engaging MGB on the possible integration of BO disclosure as one of the requirements in acquiring exploration permits.
	<p>Executive Order 79 series of 2012 has put the granting of new mining contracts into halt since it was issued. This is pending the passage of a new mining fiscal regime. Last November 12, 2018, the House of Representatives approved on third and final reading House Bill No. 8400 establishing a new mining fiscal regime. It is now up to the Senate to hear the measure.</p> <p>Another provision under EO 79 is the shift to a competitive public bidding system in granting mining contracts from the previous first-come, first served basis system.</p>	While it remains uncertain whether the new mining tax measure will pass into a law under the 17 <sup>th</sup> Congress, it remains an opportunity for PH-EITI and MGB to include BO disclosure as a requirement under the new mining contracting regime which will be in force once government decides to lift the moratorium on new mining contracts.

	Last July 03, 2018, MGB issued Memorandum Circular No. 2018-02 known as Guidelines for Compliance Monitoring and Rating/Scorecard of Mining Permits/Contracts.	While the two aforementioned entry points for reforms already pertains to the mining sector, they only apply to new and upcoming mining licenses. To cover existing ones, the PH-EITI MSG can engage the MGB to include BO reporting as one of the reportorial requirements of mining contractors under DAO 2018-02.
Department of Energy	Last December 27, 2017, the Department of Energy implemented a new contracting system called Philippine Conventional Energy Contracting Program (PCECP).	Similarly, PH-EITI can also take advantage of this development to engage the DoE and have BO reporting as a reporting requirement for new and existing service contractors.
Securities and Exchange Commission (SEC), Mines and Geosciences Bureau (MGB), Department of Energy (DoE), CSC, Philippine Stock Exchange (PSE), and Department of Finance (DoF)-PH-EITI	Automatic exchange of information	SEC, MGB, AMLC, DoE, CSC PSE, and DoF-PH-EITI can all work together in crafting an inter-agency memorandum of agreement or administrative order on automatic EOI to be sanctioned by the NPC under Section 20(d) of the DPA's IRR. An EOI should ideally cover data and information required by the Standard through the existing forms mandated by SEC as per existing regulations particularly MC No. 17.

While passing a law is a long-term endeavor, PH-EITI MSG may also input more specific BO disclosure provisions in existing EITI institutionalization bills filed in the 17<sup>th</sup> Congress – both in the House of Representatives and the Senate. Another option would be to course through these provisions in the drafting of the implementing rules and regulations (IRR) of the measure once enacted into law.

## On Reporting Requirements and Adapted Implementation

The MSG will need to reconsider the fields included in its approved BO reporting template in consideration of the DPA. It is recommended to take an integrated approach by adopting existing forms such as those prescribed by the SEC - Form 17A and GIS, since they have legal precedence and in light of the recent issuance of MC No. 17 by the SEC. Doing this, however, would entail lesser fields required than the MSG-approved BO reporting template. On the other hand, this would be more efficient for reporting entities since they will only need to submit the same set of documents, less risky for PH-EITI, and also sufficient to meet the requirements of the EITI Standard. Of the four required information by the 2016 Standard, three is covered by the MC while the MSG-approved template covers all required information. The Standard recommends the disclosure of four other information as shown below.

<b>EITI Standard 2016 Requirement</b>	<b>SEC Requirement as per MC No. 17</b>	<b>MSG-approved reporting template requirements</b>
<ul style="list-style-type: none"> <li>Identify of the BO*</li> </ul>	<ul style="list-style-type: none"> <li>Complete name</li> </ul>	<ul style="list-style-type: none"> <li>Full name</li> </ul>
<ul style="list-style-type: none"> <li>Nationality*</li> </ul>	<ul style="list-style-type: none"> <li>Citizenship</li> </ul>	<ul style="list-style-type: none"> <li>Nationality</li> </ul>
<ul style="list-style-type: none"> <li>Country of Residence*</li> </ul>		<ul style="list-style-type: none"> <li>Country of Residence</li> </ul>
<ul style="list-style-type: none"> <li>Level of Ownership*</li> </ul>	<ul style="list-style-type: none"> <li>% of Ownership</li> </ul>	<ul style="list-style-type: none"> <li>% of Ownership</li> </ul>
<ul style="list-style-type: none"> <li>National Identity Number**</li> </ul>	<ul style="list-style-type: none"> <li>Tax Identification No.</li> </ul>	<ul style="list-style-type: none"> <li>Tax Identification No.</li> </ul>
<ul style="list-style-type: none"> <li>Date of Birth**</li> </ul>		<ul style="list-style-type: none"> <li>Date of Birth</li> </ul>
<ul style="list-style-type: none"> <li>Residential or Service Address**</li> </ul>	<ul style="list-style-type: none"> <li>Residential Address</li> </ul>	<ul style="list-style-type: none"> <li>Business address</li> </ul>
<ul style="list-style-type: none"> <li>Means of Contact**</li> </ul>		<ul style="list-style-type: none"> <li>Business contact number and email address</li> </ul>
		<ul style="list-style-type: none"> <li>Civil status</li> </ul>
		<ul style="list-style-type: none"> <li>Name of spouse and/or common law partner</li> </ul>
		<ul style="list-style-type: none"> <li>Name of children</li> </ul>
		<ul style="list-style-type: none"> <li>Employment status</li> </ul>
		<ul style="list-style-type: none"> <li>Annual income</li> </ul>
		<ul style="list-style-type: none"> <li>Affiliations</li> </ul>
		<ul style="list-style-type: none"> <li>Have you ever been convicted of a crime involving tax evasion, money laundering, and/or corruption</li> </ul>

\*Required Disclosures

\*\*Recommended Disclosures

Should the MSG decides to pursue the current and more comprehensive BO declaration form, seeking legal advice or exemption from the NPC is an option. It may be argued that the information needed is necessary in carrying out PH-EITI's mandate and functions. A separate reporting process for covered extractive companies would also have to be considered and institutionalized.

Since the EITI Standard requires BO information of "corporate entity(ies) that bid for, operate or invest in extractive assets" be disclosed, this would entail BO disclosure for at least 409 firms - 305 mining contracts, 82 coal service contracts, and 22 oil and gas contracts. It is recommended that BO information of all local firms holding interests in the 409 contracts be disclosed through an automatic exchange of information (EOI) agreement with the SEC.

The MSG is also recommended to set a threshold in its definition of PEPs. According to the Inventory of Government Human Resources (IGHR) of the CSC, there are about 2,420,892 personnel in government service as of August 22, 2017. Given the current system constraints, it would be challenging to match individuals given the immensity of the entire government service. If, however, the rationale of identifying PEPs among BOs of extractive companies is to know if there is conflict of interest, it would then be more efficient and effective to limit PEPs of interest to those at more senior-level positions or certain salary grades who are capable of influencing decisions within government. This would effectively narrow the data needed to be processed down to individuals who actually matters.

The MSG may consider narrowing down PEPs to persons holding third-level positions which is covered by the Career Executive Service (CES). These positions include undersecretary, assistant secretary, bureau director, bureau assistant director, regional director, assistant regional director, department service chief, and other executive positions of equivalent rank as may be classified by the CES Board, all of whom are appointed by the President. As of October 2018, there are about 7,744 CES Officers and CES eligibles listed in the CES Board website.

To cover senior appointees and elective officials, those classified as non-career service personnel must be included. Positions included in this classification include elective officials and their personal or confidential staff; secretaries and other officials of Cabinet rank who hold their positions at the pleasure of the President and their personal or confidential staff(s); chairman and members of commissions and boards with fixed terms of office and their personal or confidential staff; contractual personnel requiring special or technical skills and emergency and seasonal personnel. According to the same IGHR survey, there are about 190, 917 personnel considered as non-career service personnel. Of the total, there are 19,442 elective personnel and 35,441 coterminous personnel. The remaining number accounts for casual and contractual personnel.

The combined number of third level positions, elective personnel, and coterminous personnel translates to a total of 62,627 personnel which is just about 2.5% of the total government human resources in 2017. The MSG will need to confirm with the CSC if they have a masterlist of personnel that falls under non-career service personnel. It must be recalled that the CSC does not maintain a central database of PDS and SALNs as mentioned in the BO scoping study commissioned by PH-EITI in 2017. Once this masterlist is available, the BO database may be compared with the PEPs database.

## On Setting up a Public Registry and Opening BO Data

Only a very few countries have so far established a BO public registry. The United Kingdom (UK) was the first country to set up one in 2016 with over four (4) million companies registered in the registry to date. Ukraine followed suit during the same year with more than 250,000 firms registered as of April 2018.

Setting up and sustaining a public registry begins with the question of who will be responsible for the undertaking. In the UK and Ukraine, it was the corporate regulator who established the registry. In the Kyrgyz Republic, it is the extractives regulator who established the registry.

Given the unique context of the Philippines where EITI is at the forefront of BO disclosure discussions, it is recommended that PH-EITI set up a separate registry and simply integrate its BO disclosure to its existing platform, the Contracts Portal. It is suggested that the Contracts Portal be repurposed to disclose not only contracts but also ownership. This brings several advantages.

First, PH-EITI will need not to set up a new platform. Secondly, ownership information becomes tied with contracts information adding further context to the BO data. Should modifications or data entries be needed, PH-EITI can easily modify the platform and input data. It is recommended that inputting and updating data be done with the help of the automatic EOI to be implemented by the agencies identified above. Given the repurposing, it is recommended that the portal be rebranded. A suggestion would be is to rename it to CORE (Contracts and Ownership Registry for the Extractives) Portal.

**Setting an open registry model for other countries.** The United Kingdom currently hosts one of the first and largest BO register when it launched the Persons with Significant Control (PSC) in 2016. The PSC's data is freely available and is published under an open data license. Opening up the BO data to the public means users can freely access and reuse the data. This comes with benefits since it is easier to compare BO datasets with other datasets. For example, an analysis made by Global Witness helped surfaced PEPs in the PSC dataset. More importantly, it helps in generating demand from users. In the case of the UK, 2 billion annual data searches was generated since the data was made open and free which pales in comparison with the 6 million access requests during 2014-15.

## V. Uses of BO Data

BO disclosure should not be the end but rather a means to an end. BO data can have many applications for government, industry, and civil society. Making sure that the data is used helps sustain the initiative. Without concrete applications and test cases, BO disclosure will simply lose momentum.

Below is a table of prospective data users and possible applications of BO data to their line of work. PH-EITI MSG may champion the use of BO data to these stakeholders in order to demonstrate the value of BO disclosure.

Data User	Application
Mines and Geosciences Bureau and Department of Energy	Similar to the practice in public procurement of goods and services, MGB and DoE can use BO data to identify red flags among individuals who are related to erring companies in their evaluation of applications.
CSC, Department of Interior and Local Government, and the Ombudsman	The CSC and DILG can use BO data in implementing the Code of Conduct and Ethical Standards particularly in looking at potential conflicts of interests.
Commission on Elections	The Commission on Elections can use BO data to strictly implement Resolution 9476 on Campaign Finance Contributions of extractive companies.
Securities and Exchange Commission	The Securities and Exchange Commission can use BO data particularly on nationality of owners in ensuring that the foreign ownership requirements under the Philippine constitution is followed by extractive companies.
Bureau of Internal Revenue and Anti-Money Laundering Council	The BIR and AMLC can use BO data to identify possible red flags in tax evasion among firms who set up subsidiaries in tax havens.
Civil Society Organizations (CSOs)	CSOs can use the data for reform agenda and also to better inform their constituent communities on who the ultimate owners are of extractive companies they host.
Investors and private sector	Foreign companies can use BO data to help inform their investment decisions. Local companies and investors can use BO data in identifying potential conflict of interests.

## VI. Conclusion

BO disclosure can be a potential game-changer in the way extractives licenses are granted and regulated. It helps companies, communities, and governments know who they are dealing with. It helps level the playing field for companies by flagging potential conflicts of interest and cases of tax evasion.

The Philippines has one year to disclose BO information. While significant progress has been made in various fronts, certain challenges still need to be addressed. As the country faces validation once again on the same year as the BO disclosure deadline, it is imperative that the MSG consider viable options.

Expectations also need to be managed. Internationally, implementing countries are struggling to pull off BO disclosure. Regionally, the Philippines has just joined the ranks of Indonesia in having an enabling policy specific to BO disclosure but still lacks a publicly-available register similar to that in Myanmar. Despite this, the Philippines has several levers to pull in its bid to forge yet another new frontier - BO disclosure.

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[1]A beneficial owner (BO) is a “natural person(s) who directly or indirectly ultimately owns or controls the corporate entity”

[2]a politically exposed person (PEP) is a natural person who is or who has been entrusted with prominent public functions.