

Validation of the Philippines

Report on initial data collection and stakeholder consultation

Abbreviations

AEPEP	Annual Environmental Protection and Enhancement Program
AFRIM	Alternative Forum for Research in Mindanao
ARMM	Autonomous Region of Muslim Mindanao
BIR	Bureau of Internal Revenue
BOI	Board of Investment
BSP	Bangko Sentral ng Pilipinas
CCO	Chemical Control Order
CeMAP	Cement Manufacturers Association of the Philippines
CLRF	Contingent Liability and Rehabilitation Fund
CMRB	City Mining Regulatory Board
COMP	Chamber of Mines of the Philippines
CRO	Community Relations Offices
CSO	Civil Society Organization
CTWG	Community Technical Working Group
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
DMTG	Development of Mining Technology and Geosciences
DMPF	Declaration of Mining Project Feasibility
DOJ	Department of Justice
ECA	Environmentally Critical Area
ECC	Environmental Compliance Certificate
ECP	Environmentally Critical Projects
EGF	Environmental Guarantee Fund
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EMB	Environmental Management Bureau
EP	Exploration Permit
EPEP	Environmental Protection and Enhancement Program
EWP	Environmental Work Program
FMR/DP	Final Mine Rehabilitation and/or Decommissioning Plan
FPIC	Free Prior and Informed Consent
FTAA	Financial or Technical Assistance Agreement
HNC	Host and Neighbouring Communities
IA	Independent Administrator
ICC	Indigenous Cultural Communities
IEC	Information, Education and Communication
LGU	Local Government Unit
IPP	Investment Priority Plan
IPs	Indigenous Peoples
ITH	Income Tax Holiday
LBMA	London Bullion Market Association
LGU	Local Government Unit
LSNM	Large Scale Non-Metallic Mining
MGB	Mines and Geosciences Bureau
MMT	Multipartite Monitoring Team
MOEP	Mineral Ore Export Permit
MPSA	Mineral Production Sharing Agreement
MRF	Mine Rehabilitation Fund

MSC	Multi-Stakeholder Council
MSG	Multi-Stakeholder Group
MTF	Monitoring Trust Fund
NCIP	National Commission on Indigenous Peoples
NIRC	National Internal Revenue Code
OTP	Ore Transport Permit
PD	Presidential Decree
PEISS	Philippine Environmental Impact Statement System
PH-EITI	Philippine Extractive Industries Transparency Initiative
PMRB	Provincial Mining Regulatory Board
RCF	Rehabilitation Cash Fund
RO	Regional Office
RRMI	Rapu-Rapu Minerals, Inc.
RRPI	Rapu-Rapu Processing, Inc.
SDP	Social Development Program
SDPM	Social Development and Management Program
SSM	Small-Scale Mining
SSMC	Small-Scale Mining Contract
SSMP	Small-Scale Mining Permits
TIMTA	Tax Incentives Management and Transparency Act
VAT	Value Added Tax

Table of Contents

Abbreviations	2
Executive Summary	6
Introduction	12
Part I – MSG Oversight	18
1. Oversight of the EITI process.....	18
1.1 Overview.....	18
1.2 Assessment.....	18
<i>Government engagement in the EITI process (#1.1)</i>	18
<i>Industry engagement in the EITI process (#1.2)</i>	22
<i>Civil society engagement in the EITI process (#1.3)</i>	26
<i>MSG governance and functioning (#1.4)</i>	30
<i>Work plan (#1.5)</i>	35
Part II – EITI Disclosures	40
Award of contracts and licenses.....	40
2.1 Overview.....	40
2.2 Assessment.....	40
<i>Legal framework (#2.1)</i>	40
<i>License allocations (#2.2)</i>	41
<i>License registers (#2.3)</i>	44
<i>Contract disclosures (#2.4)</i>	47
<i>Beneficial ownership disclosure (#2.5)</i>	49
<i>State participation (#2.6)</i>	51
3. Monitoring and production.....	55
3.1 Overview.....	55
3.2 Assessment.....	55
<i>Overview of the extractive sector, including exploration activities (#3.1)</i>	56
<i>Production data (#3.2)</i>	56
<i>Export data (#3.3)</i>	58
4. Revenue collection.....	60
4.1 Overview.....	60
4.2 Assessment.....	60
<i>Materiality (#4.1)</i>	60
<i>In-kind revenues (#4.2)</i>	68
<i>Barter and infrastructure transactions (#4.3)</i>	69
<i>Transport revenues (#4.4)</i>	69
<i>Transactions between SOEs and government (#4.5)</i>	70
<i>Subnational direct payments (#4.6)</i>	72
<i>Level of disaggregation (#4.7)</i>	75

<i>Data timeliness (#4.8)</i>	76
<i>Data quality (#4.9)</i>	77
5. Revenue management and distribution.....	86
5.1 Overview	86
5.2 Assessment.....	86
<i>Distribution of revenues (#5.1)</i>	86
<i>Sub-national transfers (#5.2)</i>	88
<i>Additional information on revenue management and expenditures (#5.3)</i>	91
6. Social and economic spending	94
6.1 Overview	94
6.2 Assessment.....	94
<i>Social expenditures (#6.1)</i>	94
<i>SOE quasi fiscal expenditures (#6.2)</i>	96
<i>Contribution of the extractive sector to the economy (#6.3)</i>	97
Part III – Outcomes and Impact	99
7.1 Overview	99
7.2 Assessment.....	100
<i>Public debate (#7.1)</i>	100
<i>Data Accessibility (#7.2)</i>	106
<i>Lessons Learned and follow-up on recommendations (#7.3)</i>	106
<i>Outcomes and impact of implementation (#7.4)</i>	110
8. Impact analysis (not to be considered in assessing compliance with the EITI provisions).....	113
Annexes	119

Executive Summary

The government of the Philippines committed to implement the EITI on 6 July 2012 by enacting Executive Order 79 on wide-ranging mining reforms including the EITI. An interim Multi-Stakeholder Group (MSG) was formed in August 2012 and a permanent MSG was appointed at the first EITI National Conference on 18-19 January 2013. The country was accepted as an EITI Candidate on 22 May 2013 at the EITI Board's meeting in Sydney.

On 2 June 2016, the Board agreed that the Philippines' Validation under the 2016 EITI Standard would commence on 1 January 2017. This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures¹ and applied the Validation Guide² in assessing the Philippines' progress with the EITI Standard. While the initial assessment has not yet been reviewed by the MSG or been quality assured, the Secretariat's preliminary assessment is that the Philippines has met the requirements of the EITI Standard.

Overall conclusions

The Philippines presents a uniquely dynamic case of EITI implementation, with its fast-paced, innovative and engaged MSG undertaking both strategic discussions linking the EITI to national priorities for the extractive sector as well as the technical detail of reporting. While the extractive industries account for a mere 0.6% of GDP in 2015 (EITI, 2016), all three stakeholder groups have used the EITI to address local demands for information and identify areas for reform, above and beyond the minimum requirements of the EITI Standard. The mining sector remains highly controversial in the Philippines, given a long history of social strife surrounding both large- and small-scale mining and strong anti-mining sentiment amongst certain segments of civil society. Thus, the Philippines has used EITI reporting to disclose mining, oil and gas contracts through an online resource contracts portal³, to track implementation of extractive companies' Social Development and Management Programs (SDMPs), to monitor small-scale mining and to present geographically-disaggregated EITI data in a user-friendly way through a data portal⁴. The MSG's engagement in formulating recommendations and actively following up on their implementation has ensured the EITI has had a tangible impact, particularly in terms of reform of government systems, from the first PH-EITI Report.

A key strength of EITI implementation has been strong engagement from all three stakeholder groups. Since the country became an EITI candidate in 2013, the government has supported the EITI through public statements, enabling legal backing by executive orders and funding for EITI. Representatives from agencies such as the Mines and Geosciences Bureau (MGB), the Department of Finance (DOF), the Bureau of Internal Revenue (BIR), the Department of the Interior and Local Government (DILG), the Union of Local Authorities of the Philippines (ULAP) and the Department of Energy (DOE) have actively contributed

¹ <https://beta.eiti.org/document/validation-procedures>

² <https://beta.eiti.org/document/validation-guide>

³ <http://contracts.ph-eiti.org/>

⁴ While technically hosted by Bantay Kita, the data portal draws on EITI and MGB data: <http://bkdataportal.weebly.com/>

to the work of the MSG, provided data for PH-EITI Reports and supported embedding EITI reporting in government systems. Representatives from the mining, oil and gas industries have actively engaged in scoping, data collection and dissemination of EITI Reports, although companies in the coal sector have not matched this participation. Civil society members represent a broad cross-section of non-governmental actors, including statutory gender and geographical mixes, and there is ample evidence of active and frequent outreach and consultations with communities hosting extractive industries and other interested stakeholders. The MSG has met frequently – over 38 times in four years – and kept extensive records of its detailed discussions.

Having focused EITI implementation on large-scale metallic mining, oil and gas, and coal, the MSG's data collection work has covered a relatively small and well-structured sector, albeit overseen by two different regulators (the MGB and the DOE). In preparing its first EITI Report, covering 2012, the MSG elaborated a system of tax confidentiality waivers for reporting companies to sign allowing the BIR to disregard confidentiality provisions of the Tax Code and participate in EITI reporting. While company compliance with reporting and quality assurance procedures improved from the first to the third EITI Reports, the MSG has thus far proven unsuccessful in engaging the sole material coal company despite numerous different attempts at outreach. While the non-participation of this company, accounting for 3.17% of total government extractives revenues means that all aspects of Requirement 4.1 have not been met, the broader objective of comprehensive disclosure of taxes and revenues has clearly been achieved through the government's full disclosure of revenues received and the MSG's transparency on gaps in company reporting.

Despite this weakness in the comprehensiveness of its reporting, the PH-EITI MSG and secretariat have actively followed up on recommendations from EITI Reports. Statutorily embedded in the Cabinet-level Mining Industry Coordinating Council (MICC), EITI has from the start operated as a diagnostic tool to inform the government's reform priorities, primarily in the mining sector under EO 79 of 6 July 2012. Within six months of publication of its first EITI Report in December 2014, the MSG had already followed up on recommendations related to arrears in central government transfers to Local Government Units, weaknesses in oversight by the National Commission on Indigenous Peoples (NCIP) and improvements in the management of mining licenses. PH-EITI's communication work is also highly impressive, contributing to awareness raising, dissemination and use of data amongst difference audiences interested in the extractive industries.

Recommendations

While the following report includes recommendations for specific improvements the MSG may wish to consider implementing, the following is a list of strategic recommendations that could help the Philippines make even greater use of the EITI as an instrument to support reforms.

- To further strengthen implementation, each constituency is encouraged to ensure that their representatives' attendance at MSG meetings is consistent and at sufficiently high level to allow the MSG to take decisions and follow up on agreed matters.
- To further strengthen implementation, the MSG could consider entrenching EITI funding in

government budgeting.

- PH-EITI should continue to work with the MGB and DOE on the reforms underway with regards to online cadastres, and verify that these cadastres include the date of application for any licenses and contracts that are issued in the future.
- Building on the work related to contract transparency so far, PH-EITI could consider publishing the remaining contracts pertaining to oil and gas, mining and coal companies operating in the country, and MoAs with IPs. The PH-EITI could also summarise the key terms of the contracts for better public consumption.
- It is recommended that PH-EITI considers piloting beneficial ownership reporting in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. PH-EITI may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold consultations with government agencies on how to make such disclosures mandatory.
- PH-EITI could consider studying the efficiency of operations of state-owned companies, particularly in relation to the management of SOEs' stakes in extractives projects.
- PH-EITI should work with DOE to ensure that up to date production values for coal are disclosed.
- PH-EITI should continue to work with MGB on ensuring that the recommendations related to monitoring and accuracy of production data are considered and followed up. PH-EITI may wish to explore opportunities to improve the reporting and monitoring of export data.
- In order to strengthen implementation, PH-EITI should continue its active efforts to encourage and facilitate company participation, including through mainstreaming.
- PH-EITI is encouraged to work with government agencies on the reforms related to LGU tax records. Given the low level of materiality, PH-EITI could reconsider the costs and benefits of reconciling subnational flows although it is noted that reconciliation is as much a means of building capacity and outreach to LGUs. PH-EITI is also encouraged to continue its strategic engagement with the Autonomous Region of Muslim Mindanao (ARMM) with a view to including them in future reports.
- In light of the stakeholder support for project level reporting, PH-EITI is encouraged to consider disaggregating data by project. PH-EITI may wish to proceed to project-level EITI reporting ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.
- In order to strengthen implementation, it is recommended that PH-EITI strengthens its efforts to





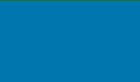


publish more up to date EITI reports in order to ensure that the data is more relevant and useful to the public.

- PH-EITI could consider continuing to work on transparency related to IP royalties, including disclosure of all royalty transfers and other benefits to IPs, disclosure of community development plans for use of royalties, and tracking of the implementation of such plans.
- In order to strengthen implementation, it is recommended that PH-EITI works with DBM on making the calculations of the revenue share publicly accessible on a routine basis.
- In order to strengthen implementation, PH-EITI could consider looking into tracking the spending of extractive industry revenue earmarked for specific purposes.
- PH-EITI is encouraged to work with companies and MGB on the follow up on recommendations related to SDMP.
- To further strengthen implementation, the government is encouraged to strengthen the MICC's role in following up on EITI recommendations to further link PH-EITI to ongoing reforms and sustain the momentum of EITI evidence-based reforms.
- To further strengthen implementation, the MSG may wish to consider undertaking an impact assessment, 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.

Figure 1 – initial assessment card

EITI Requirements		LEVEL OF PROGRESS				
Categories	Requirements	No	Inadequate	Meaningful	Satisfactory	Beyond
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Revenue management and expenditures (#5.1)					
	Subnational transfers (#5.2)					
	Distribution of revenues (#5.3)					
Socio-economic contribution	Social expenditures (#6.1)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes and impact of implementation (#7.4)					

Legend to the assessment card

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	The country is compliant with the EITI requirement.
	The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Introduction

Brief recap of the sign-up phase

On 6 July 2012, President Benigno Aquino III issued Executive Order 79, a comprehensive reform of the mining sector that stated: *“in order to improve transparency, accountability, and governance in the sector, the government shall support and commit participation in the EITI”* (President of the Philippines, 2012). The Department of Foreign Affairs (DFA) had led internal consultations on the prospects of EITI implementation since 2007 (Mines and Geosciences Bureau, 2012).

An interim multi-stakeholder group (MSG) met initially on 22 August 2012. The full MSG held its first meeting on 29 January 2013 (PH-EITI, 2013). On 4 April 2013, Presidential Spokesperson Secretary Edwin Lacierda delivered an address on EITI on behalf of President Benigno Aquino III at an official press conference (President of the Republic of the Philippines, 2013). This was supported by a joint statement on the Philippine Implementation of the EITI the same day, signed by the three parties, and Secretary Elisea ‘Bebet’ Gozun, Presidential Advisor for Climate Change, was appointed MSG Chair (Republic of the Philippines, 2013). The Philippines was admitted as an EITI Candidate by the EITI Board at its meeting in Sydney on 22 May 2013 (EITI, 2013).

Objectives for implementation and overall progress in implementing the work plan

Section I of the MSG’s January 2013 ToR defines the objectives and mission of PH-EITI, including five key mandates (PH-EITI, 2013): ensuring sustained political commitment for the initiative and mobilizing resources to sustain its activities and goals; setting the strategic direction required for effectively implementing the initiative in the Philippines; assessing and removing barriers to its implementation; setting the scope of the EITI process; and ensuring that the initiative is effectively integrated in the reform process outlined under EO 79 and any other related government reform agenda.

Every successive PH-EITI work plan has included objectives aligned with national priorities. The PH-EITI website contains a detailed narrative description of how the work plan was elaborated and explains the issues that PH-EITI aims to address, the rationale behind the objectives, the planned activities and how the different elements of the EITI process link to other reform efforts. The 2016 work plan includes the following five objectives: show the direct and indirect contribution of the extractives sector to the economy; improve public understanding of the management of natural resources and public availability of data; strengthen national resource management / strengthen government systems; create opportunities for dialogue and constructive engagement in natural resource management in order to build trust and reduce conflict among stakeholders; and pursue and strengthen the extractive sector’s contribution to sustainable development.

While objectives have remained consistent, PH-EITI implementation has proved dynamic with the work plan regularly consulted as the MSG assesses progress. Recommendations of the EITI Reports are routinely translated into future work plans that are launched at national conferences in February. The 2014, 2015 and 2016 work plans include clear timeframes for completion of each activity. In 2014, all 25 planned activities were completed, 39 of 48 in 2015 and only 35 of 54 in 2016, due to funding constraints.

The main activities not yet completed in 2016 included establishing an online EITI reporting tool, dissemination of the 2014 PH-EITI Report, formulation of recommendations to address LGU concerns about EITI reporting, focus group discussions and assessment of extractives investment since the start of EITI implementation.

History of EITI Reporting

The Philippines has produced three EITI Reports covering the fiscal years 2012 - 2014 and is currently preparing its fourth report covering fiscal year 2015. The MSG has published reports with a two-year time-lag. Yet from the start, PH-EITI Reports provided an impressive amount of detailed information on the mining, oil and gas sector, innovating in a number of manners by including coverage of resource reserves, explanation of contracts, policies on ancestral lands and rehabilitation funds.

Additional details on the Philippines' EITI Reports are provided in Annex C.

Summary of engagement by government, civil society and industry

Permanent members of the MSG were selected at the first national Philippines EITI (PH-EITI) workshop on 18-19 January 2013, which was followed by outreach to targeted stakeholder including local government units, indigenous peoples, academia, provincial officials and religious groups in the January-February 2013 period (PH-EITI, 2013). Analysis of meeting attendance shows that attendance in the 2013-2016 period has been most consistent from five of the six government members, all five civil society seats or their alternates, and at least two of the five industry representatives at all meetings. Stakeholder engagement in the design, implementation and monitoring of the EITI process has been constantly strong.

Additional details on MSG members' meeting attendance are provided in Annex B.

Key features of the extractive industry

The Philippine economy is the fifth-largest in ASEAN, with an estimated GDP of USD 292 billion in 2015 (World Bank, 2016). The country holds the fifth-largest mineral reserves valued at USD 1.39 trillion (PH-EITI, 2016) (BusinessWorld, 2016), including the world's second largest deposits of gold and fifth-largest of nickel, with significant deposits of gold, silver, iron ore, nickel and copper (Mines and Geosciences Bureau, 2016). Yet the extractive industries accounted for only 0.75% of GDP, close to 4% of government revenue and 11.5% of exports in 2014 (PH-EITI, 2015).

The Philippines boasts 40 large-scale metallic mines, although the government estimates that only 3% of the 9 million ha identified as holding mineral resources were being mined in 2016 (Reuters, 2016). While lower global commodity prices have caused a slump in the Philippines' mining sector, with production value falling 23% in 2015, nickel, gold and copper have continued to dominate output (Mines and Geosciences Bureau, 2016). The 300,000-400,000 employed in artisanal and small-scale mining (ASM) also play a key role, accounting for 60% of gold production over the decade to 2016 (Manila Bulletin, 2016). A new tax regime caused a drop in gold production from 31,120kg in 2011 to 15,762kg in 2012, before recovering to 18,423kg in 2014 (US Geological Survey, 2016). However, the Philippines became the world's largest nickel exporter (and largest nickel supplier to China) in 2015, following Indonesia's ban on

unprocessed mineral exports in 2014 (Reuters, 2016). Data from the COMP shows between USD 20 billion and USD 30 billion in mining investments planned in the decade to 2016 (Bloomberg, 2016).

The Philippines produces only modest levels of oil and gas, at 8,400 barrels of crude and 4,500 mmscf of natural gas a day in 2014 (Department of Energy, 2016). The Malampaya deep-water natural gas project, operated by Shell in partnership with Chevron and the Philippine National Oil Company (PNOC), accounts for over 90% of natural gas production, upon which the Philippines' electricity output is primarily based (Malampaya supplies a third of the Philippines' total energy needs). Most oil production comes from the Galoc oilfield offshore Palawan, which is expected to continue producing from its two oil wells until 2019 and smaller crude oil production from the Nido and Matinloc fields. Yet there is significant potential in the contested territorial waters in the South China Sea, adjacent to the Northwest Palawan Basin. According to oilfield services company Weatherford, one concession in the contested area near Reed Bank, some 85 nautical miles from the Philippines' coast contains between 2.6 and 8.8 trillion cubic feet of natural gas, roughly triple Malampaya's original reserves. However, drilling has been suspended since December 2014 (Reuters, 2016).

The country struggles with a problematic mining legacy with a high degree of mistrust, strong anti-mining sentiments and a large small, artisanal and illegal mining sector. The Aquino administration enacted Executive Order 79 as one of its first acts upon election in May 2010, seeking to establish a new social contract around mining centred on due process and environmental controls driven by a new cabinet-level Mining Industry Coordinating Council (MICC). A raft of new mining licenses were approved following the 2013 lifting of a two-year suspension on mining license applications, leading to a 60% year-on-year increase in mining investment in 2013 according to MGB. While the newly elected Duterte administration has yet to clarify its vision for the extractive industries, Environment and Natural Resources Secretary Regina Lopez, has launched an extensive audit of 40 large-scale mining companies to check their compliance with environmental and safety standards. Twenty-three companies were suspended since mid-2016, causing a spike in the price of nickel given that they accounted for 96% of the Philippines' nickel exports to China. The government also initiated a review of the Mining Act to examine the provisions allowing foreign participation in mining operations and the proper fiscal regime.

Explanation of the Validation process

The EITI International Board agreed at its 33rd Board meeting in Oslo, Norway that six countries, including the Philippines, will undergo Validations starting 1 January 2017.

1. Validation is an essential feature of the EITI process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. The Validation report will, in addition, address the impact of the EITI in the country being validated, the implementation of activities encouraged by the EITI Standard, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI.

The Validation process is outlined in chapter 4 of the EITI Standard.⁵

2. Validation procedure. In February 2016, the EITI Board approved a revised Validation system. The new system has three phases:

1. Data collection undertaken by the International Secretariat
2. Independent quality assurance by an independent Validator who reports directly the EITI Board
3. Board review.

In May 2016, the Board agreed the [Validation Guide](#), which provides detailed guidance on assessing EITI Requirements, and more detailed [Validation procedures](#), including a standardised procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of reference for the Validator. As previously, there are extensive opportunities for stakeholder participation, as set out below.

The Validation Guide includes a provision that: “Where the MSG wishes that Validation pays particular attention to assessing certain objectives or activities in accordance with the MSG work plan, these should be outlined upon the request of the MSG”. The PH-EITI MSG did not request any issues for particular consideration.

3. Data collection by the International Secretariat. The International Secretariat’s work will be conducted in three phases:

1. Desk Review. Prior to visiting the country, the Secretariat will conduct a detailed desk review of the available documentation relating to the country’s compliance with the EITI Standard, including but not limited to:

- The EITI work plan and other planning documents such as budgets and communication plans;
- The multi-stakeholder group’s Terms of Reference, and minutes from multi-stakeholder group meetings;
- EITI Reports, and supplementary information such as summary reports and scoping studies;
- Communication materials;
- Annual progress reports; and
- Any other information of relevance to Validation.

This work will include initial consultations with stakeholders, who are invited to submit any other documentation they consider relevant. Without prejudice to the ability of the Board to exercise their discretion to consider all available evidence, the Secretariat will not take into account actions undertaken after the commencement of Validation. The desk review was conducted in the

⁵ See also <https://eiti.org/validation>.

January – February 2017 and included documents provided by PH-EITI.

2. Country visit. The country visit took place on 20-28 February 2017. All meetings took place in Manila. The secretariat met with the multi-stakeholder group and its members, the IA and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group.

In addition to meeting with the MSG as a group, the Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders are able to freely express their views and that requests for confidentiality are respected.

The list of stakeholders to consult was prepared by the PH-EITI Secretariat and MSG, with inputs and suggestions from the International Secretariat. It is the International Secretariat's view that the report covers views of the key stakeholders engaged in the EITI process.

3. Reporting on progress against requirements. Based on these consultations, the International Secretariat will prepare a report making an initial assessment of progress against requirements in accordance with the Validation Guide. The initial assessment will not include an overall assessment of compliance. The report is submitted to the Validator (see below). The National Coordinator (NC) receives a copy. Comments on the facts are welcome but NC and the MSG are encouraged to defer any major commentary until they receive the Validator's report.

The International Secretariat's team comprised Dyveke Rogan, Alex Gordy and Sam Bartlett.

4. Independent Validation. The EITI Board will appoint an Independent Validator through an open, competitive tendering process. The Validator will report to the Board via the Validation Committee.

The Validator assesses whether the Secretariat's initial assessment been carried out in accordance with the Validation Guide. This will include: a detailed desk review of the relevant documentation for each requirement and the Secretariat's initial assessment of each requirement, a risk-based approach for spot checks, and further consultations with stakeholders. The Board may request that the Validator undertake spot checks on specific requirements.

The Validator comments on the Secretariat's initial assessment and prepares a Draft Validation Report. The MSG is invited to comment on the Draft Validation Report. Having considered the MSG's comments, the Validator compiles a Final Validation Report. The Validator writes to the MSG to explain how it has considered their comments. The MSG receives a copy of the Final Validation Report.

The Final Validation Report will include the Validator's assessment of compliance with each provision, but not an overall assessment of compliance. The Validator will be invited to present their findings to the Validation Committee.

5. Board Review. The Validation Committee will review the Final Validation Report and the supporting documentation (including the MSG's comments). The Validation Committee will make a recommendation to the EITI Board on the country's compliance with the EITI Requirements and, where applicable, any corrective actions required.

The EITI Board will make the final determination of whether the requirements are met or unmet, and on the country's overall compliance in accordance with provision 8.3.a.ii of the EITI Standard.

The initial assessment, Validation Report and associated MSG comments are considered confidential until the Board has reached a decision.

Part I – MSG Oversight

1. Oversight of the EITI process

1.1 Overview

This section relates to stakeholder engagement and the environment for implementation of EITI in country, the governance and functioning of the multi-stakeholder group (MSG), and the EITI work plan.

1.2 Assessment

Government engagement in the EITI process (#1.1)

Documentation of progress

Public statement: The Government of the Philippines has made repeated public statements of support for the EITI since its initial commitment to implement the EITI in July 2012. On 6 July 2012, then-President Benigno Aquino III issued Executive Order 79, stating that “in order to improve transparency, accountability, and governance in the sector, the government shall support and commit participation in the EITI” (President of the Philippines, 2012). Executive Order 147, signed on 26 November 2013, established the Philippines EITI (PH-EITI) and set the terms of reference for the multi-stakeholder group (MSG) and national secretariat (President of the Philippines, 2013). Senior government officials in the Aquino administration made repeated public statements of support for the EITI, including President Aquino (EITI, 2015) and Secretary of Finance Cesar Purisima (GMA News, 2016) (EITI, 2016).

After the political transition following general elections in May 2016, senior government officials have made public statements of support since December 2016. Most recently, in a foreword to the 2014 PH-EITI Report also published on the PH-EITI homepage, President Rodrigo Roa Duterte stated his “hope that this [EITI] report will ensure that all extractive activities will provide meaningful and impactful opportunities and benefits not just for the economy, but for everyone concerned” (PH-EITI, 2017). The third PH-EITI Report also included commitments to the EITI from Secretary of Finance Carlos Dominguez⁶, Secretary of Energy Alfonso Cusi⁷ and Secretary of Environment and Natural Resources Regina Paz Lopez⁸

⁶ Secretary of Finance Carlos Dominguez stated in his forward to the 2014 PH-EITI Report that EITI implementation “falls into step with the new Administration’s promise of genuine change” and is aligned with “at least” three of the Duterte administration’s ten-point socio-economic agenda, including instituting more effective tax collection, increasing competitiveness and ease of doing business as well as promoting rural and value chain development.

⁷ Secretary of Energy Alfonso Cusi noted in his foreword to the 2014 PH-EITI Report that the EITI was in accord with President Duterte’s “clear directive of institutionalizing transparency and freedom of information in all agencies of government” and called on “the entire nation in working toward the country’s EITI validation and in our continued adherence to the ideals of transparency and accountability in the extractive industries”.

⁸ Secretary of Environment and Natural Resources Regina Paz Lopez noted that the EITI was “in harmony with the four pillars of the Gross National Happiness index,” namely sustainable development, preservation and promotion of cultural values, environmental conservation and the establishment of good governance”. She also reaffirmed the mandate of the Department of Environment and Natural Resources (DENR) under EO79 to ensure operationalisation of the EITI as well as its commitment to support effective implementation.

(PH-EITI, 2016).

The Philippines has participated in the Open Government Partnership (OGP) since 2011. While its 2012-2013 OGP National Action Plan only referred to escalating fiscal transparency (Republic of the Philippines, 2012), its 2013-2015 action plan included a new commitment (number 8) covering transparency in the extractive industries (Republic of the Philippines, 2014). The 2015-2017 action plan included a commitment (number 4) to attain EITI Compliant status (Republic of the Philippines, 2015).

Senior lead: At its first meeting on 25 July 2012, the MICC established a technical working group to prepare for EITI implementation chaired by Secretary Elisea 'Bebet' Gozun, Presidential Assistant II on Climate Change (PH-EITI, 2013). President Aquino signed Secretary Gozun's official designation as Lead Senior Official for PH-EITI on 27 March 2013 and Presidential Spokesperson Secretary Edwin Lacierda publicly announced it during the 4 April 2013 Presidential Statement on EITI (President of the Republic of the Philippines, 2013). The EITI was institutionally housed under the Cabinet Cluster on Good Governance and Anti-Corruption during the Aquino administration.⁹ Following Secretary Gozun's resignation from government in June 2013, the EITI was temporarily moved to the Department of Budget Management (DBM) before moving again to the Department of Finance (DOF) in September 2013. The EITI Champion, Secretary of Finance Cesar Purisima, nominated Assistant Secretary of Finance Teresa Habitan as EITI focal point and lead senior official (PH-EITI, 2013). Following general elections in May 2016, Secretary of Finance Carlos Dominguez became the new EITI Champion. During Assistant Secretary Habitan's leave of absence in May-November 2016, Under-Secretary of Finance Gil Beltran acted as officer-in-charge of PH-EITI, although the chairing of MSG meetings was delegated to various DOF officials. Assistant Secretary Habitan resumed her functions as PH-EITI focal point and MSG Chair in November 2016 and was appointed to the international EITI Board as an alternate for the Asia-Pacific region in January 2017 (EITI, 2017).

Active engagement: The designation memorandum of senior government officials on the MSG were sent to Secretary Gozun in January-March 2013, including representatives (and alternates) from the DOF, Department of Energy (DOE), Department of Interior and Local Government (DILG), the Mines and Geosciences Bureau (MGB) and the Union of Local Authorities of the Philippines (ULAP).

While the transition to the Duterte administration following the May 2016 elections led to a period of slowdown in EITI activities, the MSG continued to meet every 6-8 week throughout the transition period. A memo proposal on the EITI was submitted by the MSG to the new Secretary of Finance Carlos Dominguez in July 2016. Minutes from the 7 October meeting of the MSG note that the Department of Finance was still undergoing transition. It was decided that the PH-EITI Secretariat would write to all government agencies informing them about the EITI. The new government's engagement became more active from November 2016 onwards. The MSG meeting on 9 December 2016 highlights that only the Department of Energy (DoE) had yet to nominate an official representative to the MSG. The Secretary of Finance subsequently sent an omnibus letter to the Secretary of Energy outlining EITI concerns related to the DOE, according to the MSG meeting minutes of 9 December 2016 (PH-EITI, 2016). While engagement

⁹ <http://www.gov.ph/governance/>

of the Duterte administration with the mining industry has been slow (Fortune, 2016), Secretary of Environment and Natural Resources Lopez included compliance with EITI reporting as part of its audit of large-scale mines.

Attendance records and minutes of MSG meetings indicate that government is always represented by a majority of its five members and all members attended sessions of the technical working groups when they met in 2012-2013. While the attendance charts compiled by the PH-EITI Secretariat (in Annex B) identify industry and civil society MSG members by name, they only refer to attendance by government MSG member by name of agency. However, analysis of the full text of MSG meeting minutes indicates that the MGB and DILG always send the same person to meetings (Engr. Romualdo D. Aguilos of MGB and Dir. Anna Liza F. Bonagua of DILG), while the DOF, ULAP and BIR send a rotation of one of the three same representatives, ensuring some level of consistency. There is also evidence of government representatives' participation from reports of dissemination and outreach events.

It appears based on analysis of meeting attendance (in Annex B) that attendance by the DOE representative was the least consistent in the 2013-2016 period. Despite this, the DOE has followed up with non-reporting material coal companies such as Semirara to encourage their participation in EITI implementation, albeit with lacklustre results (PH-EITI, 2015) (PH-EITI, 2015). Assistant Secretary of Energy Dan Ariaso participated in a meeting between MSG Chair Assistant Secretary Habitan and Semirara on 11 March 2014 and the DOE organised several outreach activities aimed at non-reporting companies. While the DOE agreed to explore the possibility of compelling Semirara to report under EITI as part of the DOE's approval of its expansion plans at the MSG's 3 July 2015 meeting, there is no evidence that EITI reporting featured in the government's approval of Semirara's plans (PH-EITI, 2015). In Undersecretary of Energy Donato Marcos' letter to Assistant Secretary Habitan about Semirara's non-participation on 6 October 2015, the DOE's support for the Philippines becoming an EITI Compliant country was expressed. Secretary of Finance Purisima also wrote to Semirara with encouragement to report in August 2014 (PH-EITI, 2014) and Secretary of Finance Dominguez sent an omnibus letter to the DOE on matters concerning EITI implementation, including Semirara's lack of participation (PH-EITI, 2016). CSOs have repeatedly called for more active government follow-up (particularly from DOE) with Semirara to ensure its participation in EITI reporting, emphasising the importance of a company accounting for 10%-12% of extractive industry sales for the country's EITI Validation (PH-EITI, 2015) (PH-EITI, 2016).

Government representatives on the MSG have also actively engaged with relevant stakeholders such as parliamentarians as part of EITI implementation, both on outreach and dissemination as well as on legislative reforms ranging from proposed amendments to the Mining Act to draft legislation institutionalising the EITI. Furthermore, high-level support for the EITI has been sustained through the involvement of the MICC, which was instrumental in issuing directives to the government agencies tasking them with follow up on the recommendations from EITI reports.

Stakeholder views

While there was consensus amongst government and industry representatives consulted that the level of government commitment to the EITI had not diminished under the Duterte administration, civil society

stakeholders considered that it had declined since the Aquino administration given priorities shifting from transparency to crime and environmental issues. However, civil society representatives and secretariat staff confirmed that Secretary of Environment and Natural Resources Lopez had included reference to EITI reporting in mining environmental audits launched in September 2016. While government and industry members were not aware of high-level government statements of support for the EITI since May 2016, several government representatives noted that the EITI was in line with the new government's advocacy and their respective departments' commitments to transparency. One government official expressed satisfaction over the absence of any statements critical of PH-EITI from the new administration. Secretariat staff emphasised the forewords to the 2014 PH-EITI Report as expressions of the government's support for EITI. Whereas an independent mining analyst and several industry stakeholders noted uncertainty surrounding executive orders issued under the Aquino administration, Secretariat staff highlighted that the MICC's two meetings in February 2017 showed that EO 79 was still effective. A media representative considered that the government had not yet understood the value of EITI despite making general statements in favour of transparency.

All stakeholders consulted considered that while the statutory senior government lead on EITI was Secretary of Finance Carlos Dominguez, the effective lead was Assistant Secretary Habitan. Secretariat staff and certain development partners noted that the 2016 political transition had delayed the government's signing of key EITI-related documents such as donor financial assistance documents. However, they noted that the situation had improved with Assistant Secretary Habitan's return to the DOF in October 2016 and considered that such delays were a normal part of any political transition. All stakeholders consulted confirmed that they had confidence in both Secretary of Finance Dominguez and Assistant Secretary Habitan.

Stakeholders expressed divergent views regarding the level of government engagement in EITI implementation. While all stakeholders agreed that government representatives had actively participated in EITI dissemination and outreach activities, only government and industry representatives considered that government participation in MSG meetings was satisfactory. Industry representatives noted that government MSG members' participation in EITI activities had not weakened during the 2016 transition, given that none of the MSG members were political appointments. While one industry representative noted that Assistant Secretary Habitan's six-month leave of absence in 2016 had led to a slowdown in activities, given the strength of her chairing of the MSG, the pace had recovered since late 2016. While these representatives noted that broader relations between the mining industry and government had deteriorated with the launch of mining environmental audits in September 2016, they did not consider that this had materially impacted EITI implementation. All CSOs consulted considered that while EO79 provided broad backing for EITI implementation, the challenge was that key government departments did not send sufficiently senior representatives to MSG meetings, meaning they were not empowered to make decisions and were slow to follow up on MSG decisions. While attendance was very consistent on the part of DOF and DENR/MGB, CSOs noted that the most senior government officials attending MSG meetings were not even director-level, aside from the MSG Chair. CSOs also considered that government engagement had fallen short given the lack of reporting by Semirara, "a substantial number" of Local Government Units (LGUs) and the Autonomous Region of Muslim Mindanao (ARMM). However, the IA noted that government entities' reporting had consistently improved over the three EITI Reports, including on the part of LGUs. CSOs also emphasised the need for consistent and high-level attendance at

MSG meetings by the DOE and DENR, challenges in access to documents due to poor government record-keeping as well as delays in reimbursement of CSOs' advances to attend MSG meetings. Nonetheless CSOs noted that government funding for EITI implementation had increased under the Duterte administration, with an additional PHP 10m allocated by DOF for 2017.

Initial assessment

Despite delays linked to the political transition in 2016, there are regular, public statements of support from the government, a senior individual has been appointed to lead on the implementation of the EITI, and senior government officials are represented on the MSG. Executive Orders 79 and 147 are powerful tools to empower the MSG and resolve bottlenecks as well as secure the continuity of the process. Stakeholders note that although engagement from select government entities has at times been weak, the current representation on the MSG shows that the government is taking the process seriously and government stakeholders were effectively engaged in all aspects of implementation including dissemination and outreach. Despite civil society concerns over government's commitment to ensure comprehensive EITI reporting, there is evidence that the government has actively followed up with non-reporting companies. The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement.

Industry engagement in the EITI process (#1.2)

Documentation of progress

Active engagement: The oil and gas industry is dominated by a handful of international companies including Shell and Chevron, while most of the large-scale metallic mining industry is organised through the COMP, with the exception of companies such as Semirara Mining, which accounts for the majority of the Philippines' coal production. Companies have been largely supportive of EITI implementation from the earliest stages, through press releases from the COMP and international oil and gas companies (Chamber of Mines of the Philippines, 2013) (Shell Philippines, 2015). There is also evidence of many public announcements by the COMP on EITI-related issues, including comments on EITI data (The Manila Times, 2016). Attendance records and minutes of MSG meetings indicate that a majority of industry representatives from both mining and oil and gas consistently participate in meetings of the MSG and the technical working groups. The MSG has assessed each constituency's engagement in EITI implementation on several occasions, including in 2016 when companies were sent self-assessment forms (PH-EITI, 2016).

Industry's role is clearly defined in the MSG's ToR, including to help ensure full participation of extractive companies, disclose payments and relevant data to government, indigenous peoples and other stakeholders as well as communicate with industry members about EITI developments (PH-EITI, 2013) (PH-EITI, 2016). Industry representatives have followed up with non-reporting companies such as Semirara to encourage their participation, both through the COMP and bilaterally. While company participation in EITI reporting has remained consistent at 36 companies in all three PH-EITI Reports, the MSG's inclusion of more companies in the 2014 PH-EITI Report (removing the materiality threshold for selecting reporting companies) meant there were more instances of non-reporting companies (20 in

2014) (PH-EITI, 2016). Mining company participation declined from covering 94% of government mining revenues in the 2012 and 2013 EITI Reports to 88% in the 2014 EITI Report, while oil and gas company participation declined from 98% and 100% of government oil and gas revenues to 97% respectively, according to the 2014 PH-EITI Report.

Enabling environment: The Aquino administration's two executive orders related to EITI, EO 79 and EO 147, created an enabling environment for company participation in the EITI. Faced with the challenge of confidentiality provisions of the tax code¹⁰, industry representatives on the MSG worked with the Bureau of Internal Revenue to draft tax confidentiality waivers and followed up with material companies to sign them. However, the current system of tax confidentiality waivers has faced challenges that have affected the comprehensiveness of EITI reporting. The current waiver has allowed BIR to disclose tax revenues for companies that submit such a waiver. However, late submission or outright refusal to sign the waiver (as in the case of Semirara) has hindered the government's ability to disclose revenues from all material companies in a disaggregated form and allowed companies to hinder government's unilateral EITI reporting.

Private member bills proposing legislation to institutionalise the EITI in the Philippines were introduced during the 17th session of Congress to the House of Representatives and the Senate in October and September 2016 respectively (House of Representatives, 2016) (Senate, 2016). These two bills included provisions permanently waiving the tax code's confidentiality provisions for extractives companies participating in PH-EITI. While industry initially resisted the notion of rendering EITI reporting mandatory (PH-EITI, 2015), industry MSG members participated in the technical working group reviewing the EITI bills (PH-EITI, 2016) and generally agreed to support the bills in October 2016 (PH-EITI, 2016).

Stakeholder views

Oil and gas representatives recalled the PAP's initial hesitation on engaging in EITI in 2012, since they considered they were already strictly regulated by the DOE. On the impetus of global EITI-supporting companies like Chevron and Shell however, the industry had rallied and actively engaged since 2013. Yet these representatives considered participation in EITI as a pure compliance issue, noting that they typically dealt with concerns bilaterally with government agencies rather than through the EITI. For instance, oil and gas companies were lobbying the government directly to re-introduce the cross-cost recovery system that existed until the mid-1990s, allowing producing companies to cost-deduct exploration costs on other blocks (to incentivise exploration), but had not tabled this for discussion at the MSG. Mining companies consulted considered that one of industry's primary functions in the EITI was to ensure that MSG discussions were grounded in fact and not be carried away with excessive unrealistic ambitions. They highlighted the key role of the EITI as a channel for educating stakeholders about the fundamentals of the mining industry. While government and industry representatives considered that company participation at MSG meetings was full, effective and consistent, several CSOs considered that industry MSG members' attendance was inconsistent given their delegation to proxies at times. One senior government official noted that industry participation in PH-EITI had remained very active despite

¹⁰ Section 270 of the National Internal Revenue Code and Article 81 of the Omnibus Investments Code.

the recent mining audits and considered that the recent suspensions made it even more pressing for companies to report their side of the story. The industry had not done a good job in communicating what mining companies had achieved in the past, according to the official.

Oil and gas companies consulted stated that they did not tend to participate in subnational EITI outreach and dissemination activities, given their perception that these activities were more relevant for mining than for oil and gas companies operating offshore. While oil and gas companies organised their own community meetings annually to provide updates on their operations, representatives noted that it would be helpful for DBM representatives to accompany them to address questions always asked about the use of extractives revenues and the causes of relatively high local energy prices, but did not consider EITI outreach activities as a channel for doing so. On the other hand, mining representatives highlighted consistent industry participation in roadshows and outreach activities, noting that the COMP encouraged company participation based on the local of their activities. A mining executive also noted that the MSG had held a meeting at a mine-site in 2015, highlighting industry's proactive approach to educating stakeholders about the economics of the industry.

All company representatives consulted considered EITI reporting to be purely voluntary, thereby reducing the incentives to participate. Several mining executives noted the lack of penalties for not participating in EITI reporting, in contrast to strict penalties for statutory reporting to agencies like the BIR. CSO representatives consulted were highly critical of industry and government statements about the voluntary nature of EITI reporting, considering that this reflected the industry's perspective that transparency and disclosures were not necessary. Thus, CSOs considered the quality and extent of industry EITI participation poor given the perception that reporting was purely voluntary, which was compounded when such statements were echoed by government representatives. Nonetheless, representatives from government, industry and the IA considered that company participation had consistently increased over the three PH-EITI Reports, as companies became increasingly accustomed to the process.

A development partner considered that industry had done everything within its power to follow up with non-reporting companies such as Semirara to encourage participation in EITI reporting, with both the COMP and PAP having participated in meetings with Semirara and DOE for instance. Having worked in several EITI implementing countries, the development partner considered the Philippine industry's genuine commitment to EITI as being above average given its consistent engagement in both MSG activities, reporting, dissemination and outreach. However, several CSOs considered that Semirara's lack of participation in EITI reporting undermined both EITI implementation and the authority of the Philippine Government, given its dominance of the domestic coal industry and its important social and environmental impacts. Oil and gas representatives noted that the few oil and gas companies that had refused to report accounted for a small share (under 5%) of government revenues from the industry. Several companies expressed concerns about the impact of non-reporting companies on the Philippines' prospects of a successful EITI Validation, considering that their constituency had made all possible efforts to encourage all companies to participate. Mining industry representatives consulted highlighted their follow-up with non-reporting companies to encourage participation, but noted that such efforts had not been entirely successful. Representatives noted they consistently encouraged all companies to participate in order to show the real contribution of the mining industry to the national economy. Industry representatives from both sectors also noted questions amongst certain reporting companies about the

value of their participation when certain non-reporting companies failed to do so. Representatives from non-reporting companies considered that the data requested by PH-EITI was already available from companies' audited financial statements and expressed concerns over the perceived open-ended nature of the BIR waiver. Concerns over the potential for misinterpreting company data submitted for EITI purposes were also cited. Beyond concerns about the BIR waiver, industry MSG members also noted that companies were sometimes confused about the nature of EITI given that they already felt "bombarded" by regular audits and the need to comply with over 200 laws. Upon discussion, a representative from a non-reporting company noted that the BIR waiver should be amended to specify the exact data to be disclosed for a specific year to address these concerns.

All stakeholders consulted considered that there was an enabling environment for company participation in the EITI, considering the current tax confidentiality waiver system as an effective workaround. However, these confidentiality waivers had been the most contentious issue for the constituency, according to industry representatives. While the PAP had proposed alternative language to the MSG and BIR, the proposed revisions to the waiver had been rejected. The main concern related to the waiver stemmed from concerns from companies engaged in both extractives and non-extractives activities, given that they did not wish for BIR to disclose tax information related to their non-extractives activities. Despite concerns over the wording of the waiver, the majority of material oil and gas companies had complied in the first three PH-EITI Reports. Mining companies consulted noted initial concerns about the open-ended nature of the waiver, but were satisfied of the revisions placing a clear two-year timeframe on the waiver. Government representatives considered that the current waiver system was working well given that most of the large extractives companies had consistently signed them and that four companies had opted to sign perpetual waivers. They also noted that the BIR had amended its definition of large taxpayers to include all companies included in the scope of EITI reporting, to facilitate their tax payments directly to the BIR head office and streamline the government's EITI reporting.

A representative of the media highlighted the recent enactment of the Freedom of Information (FOI) executive order as an important improvement in terms of access to information, albeit covering only the executive branch of government rather than the legislative and judiciary branches. Several CSOs relayed their impression that companies were likely to argue that the recent mining audits and cancellations of licenses had affected the environment for EITI implementation, they considered this an opportunity for companies to provide credible data on their contributions.

There were divergent views amongst industry representatives about attempts to make EITI reporting mandatory through EITI legislation. None of the oil and gas companies consulted supported the move to make EITI reporting mandatory. While a majority of mining representatives consulted supported efforts to make EITI reporting mandatory, a minority considered such a move to be a further imposition on the industry during a time of difficult relations with the government. CSO representatives consulted noted their impression that industry was opposed to efforts to make EITI reporting mandatory through EITI legislation, despite their engagement in drafting the EITI bills. They considered that industry's mind-set had to change, given that full company participation in EITI reporting was already mandatory for the Philippines to be considered EITI Compliant. Despite initial opposition to such moves amongst industry, there appeared to be broad support for the latest EITI bills submitted to Congress in 2016. Senate and House representatives consulted noted that the language in the current EITI Senate Bill was quite broad

and covered all types of tax confidentiality clauses including those related to banking confidentiality, to allow PH-EITI to examine bank statements of reporting entities.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. Mining, oil and gas companies are actively and effectively engaged in the EITI process, both as providers of information and in the design, implementation, monitoring and evaluation of the EITI process. Despite active industry outreach, the lack of engagement from coal-producing companies is a concern however. The implications of this in terms of ensuring comprehensive reporting are addressed in detail at requirement 4.1. Industry representatives, primarily from the mining sub-constituency, are taking part in outreach and efforts to promote public debate, both at a national level and in regional roadshows. EOs 79 and 147 establishing the EITI have created an enabling legal environment for EITI implementation. Despite constraints imposed by confidentiality provisions of the tax code, the waiver system designed by the BIR has provided a means of facilitating company reporting. If successful, ongoing efforts to enact EITI-specific legislation waiving tax confidentiality provisions and making EITI reporting mandatory would create a more sustainable legal environment for EITI implementation over the long term.

Civil society engagement in the EITI process (#1.3)

Documentation of progress

Civil society in the Philippines is one of the most well-developed and institutionalized amongst emerging economies. There do not appear to be any barriers to freedom of expression, either statutorily or in practice, in relation to mining, oil and gas issues. There is a vibrant and diverse set of actors in the NGO space, from development and justice NGOs to faith-based organisations, staffed by the highest share of NGO members per capita in Asia. According to a survey conducted for the Civil Society Index in the Philippines in 2011, 46% of the surveyed population reported as active members of at least one CSO, 37% were inactive members of a CSO and a mere 17% did not report as belonging to any CSO (Asian Development Bank, 2013). Most CSOs operate through a network of provincial, regional and national networks, federations and coalitions. Outreach related to EITI has covered a broad swathe of these actors, including faith and community organisations, although it is mainly the development and justice NGOs as well as some people's organisations that have actively engaged in EITI implementation.

Expression: There is no evidence to suggest constraints on an enabling legal framework for civil society organisations and companies to participate in EITI. The Philippines has a long history of civil society organisation related to mining, with particular opposition to non-ferrous mining in the form of protests, litigation, administrative proceedings and the implementation of mining moratoriums by local governments (Holden, 2005). The US State Department's Human Rights Country Report in 2011 stated that "the law provides for freedom of assembly and association, and the government generally respected these rights in practice" (US Department of State, 2015).

Freedom of speech and expression is enshrined in the Philippine Constitution (Republic of the Philippines, 1987). There are no restrictive licensing requirements for newspapers or journalists and few legal limitations such as privacy or obscenity laws. External sources report that these rights are upheld in practice (Human Rights Watch, 2016) (US Department of State, 2015). Libel, slander and defamation are criminalised in the Philippines under Articles 353, 355 and 358 of the Revised Penal Code. The 2012 Cybercrime Prevention Act criminalises online libel and imposes harsher sentences than for offline offences, upheld in a February 2014 Supreme Court ruling but whose constitutionality has since been challenged in court by CSOs (CIVICUS, 2016). The extra-judicial killings in connection to the drugs trade under the Duterte administration have caused great concern amongst the international community, although there is only punctual evidence to suggest expression related to mining, oil and gas issues has been curbed (CIVICUS, 2016). There is evidence of killing of anti-mining activists primarily in the southern region of Mindanao, including 25 deaths in 2015 alone (PWYP and CIVICUS, 2016). These included killings by paramilitary forces associated with army battalions protecting mining operations. In October 2016, following his calls for military battalions defending mining projects to withdraw, Jimmy Saypan, secretary general of a local anti-mining group (Kilusang Magbubukid ng Pilipinas), was repeatedly shot, allegedly by members of the Army's 66th Infantry Battalion (PWYP and CIVICUS, 2016).

The Philippines has yet to implement Freedom of Information (Fol) legislation, despite over 30 years of lobbying by CSOs. However, President Duterte signed a Fol executive order on 24 July 2016 covering the executive branch of government (President of the Philippines, 2016) (CIVICUS, 2016). While Article III, Section 7 of the Constitution allows for public access to official records within the limits of the law¹¹ (Republic of the Philippines, 1987), attempts to pass implementing regulations have not yet been successful.

There is ample evidence of civil society freely expressing their views on EITI, both at MSG meetings and in public forums. CSOs published their own analysis of both the 2012 and 2013 EITI Reports, which has tended to be critical but constructive in identifying areas of future work and extracting key data for target groups such as indigenous peoples (Republic of the Philippines, 2015) (PH-EITI, 2016). Civil society appears to have been the most active user of EITI data, from establishing a data portal using EITI and MGB data¹² to drawing on EITI data to support academic research (Magno, 2016) (Magno, 2015).

Operation: Beyond self-regulation, there are only soft incentives for CSOs to formalise. It is not statutorily required for CSOs to register with the government and it was estimated in 2013 that some 40% of the estimated 249,000–497,000 were not registered, mainly people's organisations and small organisations (Asian Development Bank, 2013). However, only those CSOs with a legal status are able to enter into contracts and open bank accounts. Registered CSOs are exempt from income tax on revenues from donations, grants, gifts and other sources, provided that their net income does not benefit an individual. While registered CSOs are required to submit annual reports to their registering entity, in practice resource constraints have meant the four agencies have only investigated CSOs when complaints were

¹¹ "Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law".

¹² <http://bkdataportal.weebly.com/>

filed or news stories broke (Asian Development Bank, 2013).

There is no evidence of any legal, regulatory or administrative obstacles affecting the ability of civil society representatives to participate in the EITI process. On the contrary, civil society has been able to access funds, with Bantay Kita receiving grants from the British Embassy, AusAID (now DFAT), USAID, NRGi and Christian Aid for their EITI-related work. The government has also facilitated their participation in EITI through reimbursements of EITI-related costs since January 2016.

Association: In the absence of a single updated database for CSOs in the Philippines and the prevalence of many unregistered CSOs, it is difficult to estimate the number of active CSOs with accuracy. Estimates of the number of NGOs in the Philippines vary, from a Securities and Exchange Commission estimate in 2004 of nearly 60,000 NGOs (Wurfel, 2004) to a 2013 estimate of 249,000–497,000 (Asian Development Bank, 2013) many of which have never registered with government. The more active CSOs on issues of extractive industries, governance and transparency are people’s organizations, development NGOs and cooperatives (Asian Development Bank, 2013). The CODE-NGO has produced studies mapping the various actors (Caucus of Development NGO Networks (CODE-NGO), 2011) in civil society, mapping the main types of CSO networks. Bantay Kita (“Revenue Watch” in English) is a national NGO established in 2009 focused on transparency and accountability in the extractive industries that has built a strong network nationwide and subnational activities in Mindanao.

There is no evidence to suggest that there are any restrictions or limitations on NGOs in terms of their ability to associate, communicate and cooperate with other national or international NGOs. Bantay Kita’s membership has grown from 56 member NGOs and 60 network partners in 2015 to 81 members and 64 partners in 2016 (Bantay Kita, 2017). There is ample evidence of civil society freely engaging with CSOs not part of the MSG, through regular meetings including Bantay Kita’s annual National Conferences (Bantay Kita, 2016). Representatives from Bantay Kita also sit on the Philippines OGP Steering Committee and on the global PWYP Steering Committee. They have also actively contributed to EITI outreach and capacity building regionally amongst civil society in relation to EITI, participating in workshops in Myanmar in the period 2012-2015 and in Thailand in 2015 (Bantay Kita, 2015). Bantay Kita has also established good communication channels with NGOs throughout the country and there is no evidence of any attempts to interfere in civil society communications.

Engagement: Civil society is actively involved in the design, implementation, monitoring and evaluation of the EITI through its participation in MSG meetings, CSO forums both in the capital Manila and in the regions, dissemination events and other channels. Following the July 2012 Executive Order announcing the Philippines’ intention to apply for EITI Candidature, Bantay Kita was appointed as the facilitator of regional consultations around the EITI Candidature in October-December 2012, which particularly targeted community-based organisations in mining-affected areas. It publicised the events ahead of time through social media and the networks of accountability and advocacy organisations, which drew a total of 80 people from 40 regions (MSI Integrity, 2015). Bantay Kita has also used its annual National Congress as a venue for canvassing stakeholder concerns and feeding back developments on the MSG to the broader constituency (Bantay Kita, 2013) (Bantay Kita, 2015) (Bantay Kita, 2016). Bantay Kita led organisation of subnational CSO conferences in Davao, Cebu, Baguio and Dinagat in 2013 and 2014.

Civil society has agreed a clear agenda and mandate on issues including ensuring disaggregation of reports at the operational level for each company, including political contributions, recommending that the government go beyond minimum compliance in EITI, including reporting on human rights and environmental issues and reviewing companies' compliance with contracts (MSI Integrity, 2015). The minutes from MSG meetings point to active engagement over the years and it is clear that there is capacity amongst wider civil society to engage in questions related to the extractive sector. Analysis of MSG meeting attendance reflects the strong and consistent engagement of civil society, with most members or their alternates participating at all meetings of the MSG and technical working groups.

Access to public decision-making: Civil society has the ability to ensure that the EITI process contributes to public debate and to influence public decision making. A number of reforms entrenching civil society input to public policy-making were enacted under the Aquino administration in 2010-2016, in particular under its Good Governance and Anti-Corruption Plan 2012–2016. The government has worked with CSOs for its Full Disclosure Policy and Seal of Good Housekeeping for LGUs programmes focused on promoting good governance. The DBM issued National Budget Memorandum 109 in 2011 requiring government agencies to work with CSOs in a participatory process for formulating the 2012 national budget. In 2013, National Budget Memorandum No. 112 enacted a bottom-up approach in budgeting, expanding CSO engagement in budget preparation (Asian Development Bank, 2013). The government's procurement procedures allow civil society to attend meetings of bids and awards committees with access to relevant documents, although only around 1% of all projects are thus monitored due to CSOs' capacity constraints, according to CSO reports (Open Government Guide, 2015). The 1991 Local Government Code devolved authority, assets, and personnel of various national government agencies to LGUs and provided for CSO participation in local government planning, policy making and social service delivery (Asian Development Bank, 2013).

There is ample evidence of civil society using the EITI process to promote public debate, including through its active participation in LGU roadshows in 2014, 2015 and 2016 (PH-EITI, 2016) (PH-EITI, 2016) (PH-EITI, 2016) (PH-EITI, 2016) and through its support for subnational pilots of multi-stakeholder councils in South Cotabato, Compostela Valley and Nueva Vizcaya since 2012 (NRGI, 2016). Bantay Kita has also launched a DATA Portal¹³ (short for "Demanding Action, Transparency, and Accountability" Portal) to present data sets and data stories from PH-EITI and other data in July 2016 (PWYP, 2016). The coalition has also actively lobbied Congress on EITI-related issues, including the EITI Bills in both houses of Congress (Bantay Kita, 2016).

Stakeholder views

None of the stakeholders consulted considered that there were any legal, regulatory or practical barriers to civil society's ability to engage in EITI-related public debate, to operate freely, to communicate and cooperate with each other, to fully, actively and effectively engage on EITI-related matters or in relation to the EITI process. All stakeholders also agreed that CSOs are able to speak freely on transparency and natural resource governance issues as well as ensure that the EITI contributes to public debate, and that

¹³ <http://bkdataportal.weebly.com/>

they actively participated in all aspects of EITI implementation. Government and industry representatives consulted considered that the civil society constituency was the most vocal and active, both on the MSG and in the public arena. Several local government representatives considered that CSOs were excessively critical and considered that they operated and expressed themselves with no restrictions. Several Congressional representatives from both houses highlighted the significant and consistent outreach and advocacy by Bantay Kita in particular, around issues related to extractives industries, transparency and accountability. These representatives noted that Bantay Kita had shared a draft of legislation institutionalising the EITI with the Congressmen that submitted the EITI Bills to the House and Senate respectively. All development partners consulted considered that there was a vibrant civil society in the Philippines, which operated without constraints. All stakeholders agreed that civil society space had not changed with the transition to the Duterte administration.

Civil society representatives considered that full freedom of expression was ensured at the national level. Occasional attempts to curb freedom of expression and operation at the local level, mainly in response to anti-mining actions, were resisted by civil society, with support from the national government. While several CSOs noted perceived attempts by companies to curb their freedom of expression on the MSG and to disenfranchise certain CSO MSG members, there was consensus that these attempts had been defeated by civil society. CSOs consulted confirmed that access to funding was normally contingent on legal recognition, depending on the donor, the registration process was straightforward and consistently applied with no reported instances when registration of a NGO focused on extractives, governance or transparency issues had been declined. All CSOs confirmed that there were no barriers to CSOs' ability to freely associate. While CSOs distinguished between influencing public decision-making and participating in decision-making, there was consensus amongst civil society representatives consulted that CSOs were able to ensure that the EITI contributed to public debate.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. There are no suggestions of any legal, regulatory or practical barriers to civil society's ability to engage in EITI-related public debate, to operate freely, to communicate and cooperate with each other, to fully, actively and effectively engage on EITI-related matters or in relation to the EITI process. It appears that CSOs are able to speak freely on transparency and natural resource governance issues as well as to ensure that the EITI contributes to public debate. In addition, civil society is fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process. Stakeholders are taking part in outreach and efforts to promote public debate, especially on regional level.

MSG governance and functioning (#1.4)

The following section provides a succinct summary of the International Secretariat's documentation of progress and stakeholder views. A full review and assessment is provided in Annex E.

Documentation of progress

MSG composition and membership: The PH-EITI MSG was established during the National Workshop on 19 January 2013 and as of January 2017 comprises 15 full members and 14 alternates with equal representation for the three constituencies.¹⁴ The composition of the MSG is set out in Section IV of the January 2013 Terms of Reference (ToR) for the PH-EITI MSG (PH-EITI, 2013) and in Section 2 of EO 147 of 29 November 2013 (President of the Philippines, 2013). Both EO 147 and the MSG's ToR confirm the industry and civil society constituencies' rights to appoint their own representatives. An interim MSG initially met on 22 August 2012, with Bantay Kita representing civil society, the COMP representing industry and the Government of the Philippines. Following formal appointment of MSG members selected by their constituencies at the first PH-EITI National Conference on 19 January 2013, the full MSG held its first meeting on 29 January 2013 (PH-EITI, 2013). MSG representation of industry and civil society was renewed in 2016 (PH-EITI, 2016) (PH-EITI, 2016). The MSG has repeatedly discussed the need to disseminate the results of MSG discussion to broader constituencies and to canvass stakeholder opinions in preparation of MSG meetings (PH-EITI, 2016).

Civil society representation: The selection process for civil society MSG members was broadly consultative and open to all. After the initial regional consultations around EITI Candidature in October-December 2012¹⁵, Bantay Kita facilitated the nominations process for MSG representatives from the civil society constituency. The selection process took place in January 2013, with participation from 65 CSOs from across the country, and ten nominees were appointed to the five full and five alternate MSG seats (MSI Integrity, 2015). Following the end of CSO representatives' MSG tenure, Bantay Kita supported the renewal process in an equally open and consultative manner. The four new CSO representatives¹⁶ on the MSG, including a representative of indigenous peoples, attended their first meeting on 3 June 2016. Bantay Kita also identified two interim indigenous peoples' representatives¹⁷ during an IP conference in Davao City in 2015, who took one full and one alternate MSG position (Bantay Kita, 2016).

Industry representation: While the COMP undertook significant outreach in September-December 2012, outreach to the PAP only filled its full MSG seat and one alternate at its 24 January 2013 meeting (PH-EITI, 2013). The PAP agreed its MSG representative qualification requirements and selection procedures in October 2015, while the COMP's selection procedures (dated January 2013) these do not appear available online (Chamber of Mines of the Philippines, 2013). There have been occasional replacements of individual industry MSG members following changes in corporate positions, including in January 2014 and June 2015 (PH-EITI, 2014). The constituency, excluding the non-COMP member, renewed its MSG representation following the end of original industry MSG members' terms in 2016.

Government representation: The original government MSG members were appointed by the MICC, in line

¹⁴ The full list of MSG members and alternates is available on the PH-EITI website: <http://PH-EITI.org/app/Stakeholders/#/Multi-stakeholder-Group>

¹⁵ The regional consultations were held in five regional centres covering the three major island groupings. Bantay Kita announced the meetings on social media, and invited participants through its networks, as well as the networks of other accountability and advocacy coalitions. In total, over 80 people from approximately 40 different regions or provinces participated in the local consultations in October-December 2012 with Manila-based CSOs and civil society representatives with EITI experience from other countries such as Indonesia and Timor-Leste.

¹⁶ Engr. Maria Rosario Aynon Gonzales of Palawan State University, Atty. Golda Benjamin of Siliman University in Dumaguete City, Buenaventura Maata Jr. of Philippine Grassroots Engagement in Rural Development Foundation, Inc. (PhilGrassroots-ERDF) in Dinagat Islands and Jose Melvin Lamanilao, an Independent Consultant.

¹⁷ Augusto S. Blanco, Jr. of the Mandaya tribe in Compostela Valley and Alfredo Montilla Ubo of the Manobo tribe in Agusan del Sur.

with EOs 79 and 147, drawing representatives from the DOF, DILG, MGB, ULAP and DOE, and formally announced at the January 2013 PH-EITI Conference. The MSG has discussed and clarified government MSG member nominations on several occasions and agreed selection process through a ToR for government representatives on the MSG, finalised in February 2017 (Republic of the Philippines, 2015). Government representation on the MSG has remained constant following the transition to the Duterte administration.

Terms of reference: The ToR of the PH-EITI MSG are clear and public, agreed drawing on input from the first PH-EITI National Conference at its first meeting on 29 January 2013 (PH-EITI, 2013) and revised at its 4 November 2016 meeting, with minor amendments to reflect actual practice (PH-EITI, 2016) (PH-EITI, 2016). The ToR defines PH-EITI objectives in line with national priorities and delineates the MSG's responsibilities in line with Requirement 1.4.b.iv.

Internal governance and decision-making: The MSG's ToR and EO 147 states that stakeholders are treated as partners and confirms that the MSG aims to take decisions by consensus. Section 3 of EO 147 requires the MSG to meet quarterly or as often as necessary, with quorum requiring attendance of a minimum of three members from each constituency (President of the Philippines, 2013). Section IV of the MSG's ToR further clarifies that MSG meetings are to be chaired by a representative from DOF, who is also responsible for organising the PH-EITI Secretariat and is nominated by MICC in line with Section VI (PH-EITI, 2013). The principle of ensuring institutional memory and continuity of representation in the renewal of MSG members was discussed by the MSG at its 2 August 2013 meeting and enshrined in Section VI of the MSG's ToR (PH-EITI, 2013) (PH-EITI, 2013). Section VII of the ToR confirms that decision-making is by consensus and provides for urgent decisions to be taken through email on the same consensus basis (PH-EITI, 2013). There is extensive evidence of the MSG's frequent discussion of its internal governance. The PH-EITI Internal rules, drawn largely from EO 147 and from the MSG's ToR, were discussed in draft form at the MSG's 9 July 2013 meeting and subsequently updated on 4 November 2016 (PH-EITI, 2016) (PH-EITI, 2016). Section 8 of EO 147 establishes the MSG's technical working group composed of government departments, bureaus, offices and agencies, state-owned enterprises and representatives from industry and civil society, mandating full participation from relevant government entities (President of the Philippines, 2013). However, there is evidence of only five meetings of the technical working group in the August 2012 – May 2013 period.¹⁸ While ad hoc technical working groups have met since then, the results of their deliberations is reflected in MSG meeting minutes.

Record-keeping: The MSG's ToR and Internal Rules vest the PH-EITI Secretariat with responsibility for preparing and circulating meeting minutes and sets a one-week time limit for comments on draft minutes, which are approved on a no-objection basis. The MSG has kept minutes of their meetings to date, which are available together with the five technical working group meetings on the PH-EITI website.¹⁹ The MSG adopted the Chatham House rules for its meeting minutes at its 13 June 2013, although there is evidence that subsequent meeting minutes included the affiliation of certain participants, particularly government

¹⁸ See technical working group meeting minutes: <http://PH-EITI.org/app/Stakeholders#/Technical-Working-Group/Meetings>

¹⁹ <http://PH-EITI.org/app/Stakeholders#/Multi-stakeholder-Group/Meetings> and <http://PH-EITI.org/app/Stakeholders#/Technical-Working-Group/Meetings>

entities.

Capacity of the MSG: There appears to be good capacity amongst MSG members to carry out their duties, among all three constituencies. While government and industry representatives have the capacity to engage in technical discussions, four of the six civil society MSG members hold positions in academia on issues related to EITI. Minutes document that the three constituencies have been engaged in technical discussions related to reporting templates as well as participated in other duties such as dissemination and stakeholder outreach. The MSG has also adopted a practice of including regular learning sessions as part of MSG meetings to build understanding and capacity.

Per diems: The MSG does not practice per diems for MSG members attending PH-EITI activities. Civil society MSG members are entitled to reimbursement of minimal transportation costs associated with attending MSG meetings and PH-EITI events, upon presentation of supporting documentation.

Attendance: Section 3 of EO 147 and Section VII of the MSG's ToR require the MSG meet quarterly or as often as necessary, with meetings announced at least a week in advance (President of the Philippines, 2013) (PH-EITI, 2013). At its 23 January 2015 meeting, the MSG agreed to publish meeting attendance of MSG members on the PH-EITI website (PH-EITI, 2015) and these are available in the annexes to the annual progress reports.²⁰ Analysis of MSG meeting attendance (in Annex B) shows that a quorum was reached at all MSG meetings, including "special" ones. There is evidence of strong engagement by all constituencies on the MSG.

National secretariat: Section 6 of EO 147 establishes the PH-EITI Secretariat, overseen by the MSG and whose composition of technical and administrative staff is to be defined by the Secretary of Finance in consultation with the MSG. The PH-EITI Secretariat counts 10 staff as of January 2017.²¹ During the PH-EITI Secretariat's planning workshop on 31 March-1 April 2016, the secretariat reviewed its own organisational structure, refined individual roles and rationalised processes (PH-EITI, 2016). The national secretariat remains an independent special unit within the DOF, rather than a permanent organic office of the DOF, causing challenges during the change in government from July 2016 (PH-EITI, 2016).

Stakeholder views

See Annex E for a full account of stakeholder views on specific aspects of Requirement 1.4.

While there was broad consensus amongst stakeholders from all constituencies that the key aspects of Requirement 1.4 had been met, there were diverging views about the consistency of attendance at MSG meetings. While industry and government MSG members considered that attendance at MSG meetings by representatives of their constituencies was consistent, despite the delegation of attendance to proxies at times, all CSOs consulted were highly critical of the level of government and industry attendance. Civil society representatives noted that, aside from the MSG Chair, the highest rank of government

²⁰ <http://www.PH-EITI.org/app/Documents/#/Activity-Report>

²¹ <http://PH-EITI.org/app/Secretariat>

representatives at MSG meetings was below Director-level, hindering their ability to make decisions and constraining follow-up on MSG discussions. One senior government official noted that higher-level attendance by government representatives would be welcome, although did not consider this to impact the effectiveness of the MSG. The official highlighted that a key strength of PH-EITI was that most senior technical-level government officials consistently attended MSG meetings. However, industry members considered that government representation was sufficiently senior to ensure adequate oversight of EITI implementation. Another government representative noted that the DOE had recently appointed an EITI focal person who had started consistently attending MSG meetings. One industry representative noted that it had been “business as usual” on the MSG during the transition, given that government MSG representatives were civil servants and not political appointments. A senior government official noted that while there had been some delays with the political transition, the MSG had continued meeting monthly, followed the work plan despite funding constraints and succeeded in finalising the third PH-EITI Report by the December 2016 deadline. There was consensus amongst all MSG members consulted that CSO MSG members consistently attended meetings.

Initial assessment

The International Secretariat’s initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. The MSG has been formed and includes self-appointed representatives from each stakeholder group with no suggestion of interference or coercion. The mechanism for civil society nominations on the MSG was open to the public, both in the initial nominations ahead of the Philippines’ EITI application and in 2016, and CSO members of the MSG are operationally and in policy terms independent from government and companies. Information on nominations procedures is publicly available.

The Standard provides for recognition of efforts to go beyond the EITI Requirements (Requirement 8.3.a.iii) where; (1) multi-stakeholder groups address ‘encouraged’ or ‘recommended’ aspects of the EITI Standard or (2) the multi-stakeholder group successfully implements work plan objectives that fall outside the scope of the EITI Standard, but that have been identified by the multi-stakeholder group to be necessary objectives for the EITI to address national priorities for the extractive sector. In the Secretariat’s view, the MSG has made efforts to go beyond the minimum requirement in ensuring broad consultations both ahead of MSG member nominations and on an ongoing basis, including in relation to monitoring and evaluation. Stakeholders consider their representation on the MSG as adequate and MSG members appear to have sufficient capacity to carry out their duties. Decision-making is inclusive and treats all stakeholder groups as a partner.

The ToR for the MSG addresses the requirements of the EITI Standard and stakeholders have not highlighted any significant deviations from the slightly revised ToR agreed in November 2016 in practice. Meetings are convened with sufficient advance warning and, despite instances of late circulation of documents in 2016 due to secretariat capacity constraints, MSG members generally appear to have sufficient time to review documents ahead of meetings. Attendance of the large majority of MSG members is consistent, even if attendance by some government members has been delegated to proxies at times.

To further strengthen implementation, each constituency is encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow the MSG to take decisions and follow up on agreed matters.

Work plan (#1.5)

Documentation of progress

The interim MSG drafted the first PH-EITI work plan covering 2012-2014 and, following extensive stakeholder consultations, a 2013-2014 work plan was endorsed by the permanent MSG at its 1 March 2013 meeting (PH-EITI, 2014) (PH-EITI, 2013). The MSG has consistently followed this consultation process in developing its annual work plan, which it launches following the annual EITI Conference in February. Thus the MSG approved its 2015 work plan at its 27 February 2015 meeting (PH-EITI, 2015) (PH-EITI, 2015) and its 2016 work plan at its 8 April 2016 meeting (PH-EITI, 2016) (PH-EITI, 2016) (PH-EITI, 2016). The PH-EITI Secretariat held a planning workshop on 31 March-1 April 2016 to discuss the 2016 work plan and prepare a Gantt Chart of activities for the year (PH-EITI, 2016) (PH-EITI, 2016). At the time of writing, a work plan for 2017 had not yet been developed.

The 2016 work plan is publicly accessible on the PH-EITI²² website and actively disseminated at CSO constituency meetings and EITI Report presentations (PH-EITI, 2016). There is extensive evidence of consultations with MSG members in the drafting of the 2016 work plan, including at the MSG's 15 January, 9 February 2016 and 8 April meetings (PH-EITI, 2016) (PH-EITI, 2016) (PH-EITI, 2016).

Objective for implementation: The 2016 work plan listed five objectives that have remained relatively constant since the 2013-2014 work plan: show direct and indirect contribution of extractives to the economy through EITI process; improve public understanding of the management of natural resources and availability of data; strengthen natural resource management / strengthen government systems; create opportunities for dialogue and constructive engagement in natural resource management in order to build trust and reduce conflict among stakeholders; and pursue and strengthen the extractive sector's contribution to sustainable development. The MSG agreed to revise the fifth objective of PH-EITI's implementation from "strengthen business environment and increase investment" to "pursue and strengthen the extractive sector's contribution to sustainable development" at its 11 March 2016 meeting (PH-EITI, 2016). Each of the five PH-EITI objectives explained the rationale behind it and listed the governance related challenges to meet the objectives. Activities were listed under each challenge to ensure clear alignment of activities with objectives.

Measurable, time-bound activities: The 2016 work plan included a timeline for completion of each activity is listed, with all activities listed due for completion by end-2016

Activities addressing capacity constraints: The 2016 work plan identified governance-related challenges in

²² <http://www.PH-EITI.org/app/Documents/#/EITI-Creation/sub/Work-Plan/doc/2016-Work-Plan>

a clear format under each objective, alongside a list of activities for each challenge.

Activities related to the scope of EITI reporting: The 2016 work plan listed activities related to the scope of EITI reporting, in particular technical aspects of EITI Reporting, as well as opportunities for expanding EITI Reporting. Objective 1 noted that there was currently no mechanism to record social expenditures beyond what the law required, posing challenges of social and environmental monitoring. It is suggested that improved EITI reporting could influence policies related to the appropriate fiscal regime. Objective 1 also highlights the importance of producing a “credible and comprehensive EITI Report that is used by all stakeholders in policy formulation and decision making”, and includes activities aimed at agreeing the materiality and level of disaggregation of the report. Objective 2 listed activities related to revenue management and expenditure in order to improve the public understanding, as well as activities related to the contracts portal. Objective 3 encourages a standard monitoring process for public monitoring of companies’ compliance with the law and provisions of their contracts. Objective 5, under which several activities aim at creating a mechanism for transparency and accountability on national and subnational levels, by developing and reporting sound data in assessing social, economic and environmental contributions and impacts of the extractive industries; focus-group discussions; knowledge sharing on the results of the “improved national policies on ensuring equitable sharing of national wealth to local governments” and “assessment of the impact of SDMPs of Large Scale mining companies in selected host communities in PH” studies.

However, the 2016 work plan did not include activities related to beneficial ownership disclosure, given its approval predated the introduction of new beneficial ownership requirements in the EITI Standard in late February 2016. While there is no reference to transportation payments, the EITI requirement related to transportation revenue is not applicable in the Philippines.

Activities addressing legal or regulatory obstacles: Every objective in the 2016 work plan called for the need to achieve national reform objectives through legislative change. Objective 3 focused on the issue in more detail, with all activities linked to legislative reform, suggesting that the MSG propose legislative amendments based on recommendations from the second EITI Report. Objective 3 also includes the drafting of an EITI law to address legal barriers to implementation.

Plans for implementing EITI recommendations: The 2016 work plan indirectly outline plans for following up on recommendations of past EITI Reports under activities 1, 3 and 10 of Objective 3. The work plan also included two activities to prepare for Validation through orientation and other related Validation meetings.

Costs and funding: The 2016 work plan outlines the costs and sources of funding. Annual budget preparations typically start in April of the prior year, with the DOF providing counter-party funding to the World Bank’s Extractives Global Programmatic Support (EGPS), the replacement to the EITI-specific Multi-Donor Trust Fund (MDTF). The World Bank, through EGPS, was responsible for roughly 67% of the PHP 52.23m work plan costs in 2016, with the Government of the Philippines covering the remainder (PHP 17m).

According to the MSG's 15 January 2016 meeting, only four of the 2015 work plan's 43 activities had not been initiated, primarily due to delays in funding from USAID, and that several activities planned for 2015 were still ongoing. The majority of the budget had been devoted to consultants (IA, website, scoping studies, translations, facilitators, etc.), 36% on outreach and training and 15% on staff salary (PH-EITI, 2016). The MSG took stock of implementation of the 2016 work plan at its 7 October 2016 meeting, noting that key activities had not been implemented due to funding constraints. These included establishing an online EITI reporting tool, dissemination of the 2014 PH-EITI Report, formulation of recommendations to address LGU concerns about EITI reporting, focus group discussions and assessment of extractives investment since the start of EITI implementation. However, core PH-EITI activities such as production of the third PH-EITI Report, LGU roadshows, the PH-EITI National Conference and a number of capacity building workshops were undertaken nonetheless, drawing on alternative funding from the DOF and USAID (PH-EITI, 2016).

Stakeholder views

All stakeholders consulted expressed satisfaction at the objectives of the PH-EITI work plans. While oil and gas representatives did not recognise their sector's priorities in the PH-EITI work plans, they considered this normal given their impression that the EITI was more relevant for the mining sector given its more significant challenges in managing relations with host communities than the oil and gas industry, which operated primarily offshore. Oil and gas companies focused more on coastal communities that could be affected by an oil spill. One industry MSG member noted industry's proposal to include an EITI objective related to ensuring an enabling environment for investment, which had been withdrawn following CSO proposals to broaden the objective to strengthening natural resource governance.

Secretariat staff explained that the DOF normally asked the PH-EITI Secretariat to submit budget proposals in March for the following year. Public hearings on the annual budget started in August and the DOF received an approved budget in the final quarter of the year, providing PH-EITI with the following year's budget in time for the development of the PH-EITI work plan. All MSG members consulted confirmed they had consistently undertaken consultations in developing the annual PH-EITI work plan. MSG members explained that the secretariat circulated a draft work plan, on which members commented and suggested additional activities and amendments. Several CSOs highlighted the comprehensive consultations process that led to the development of the work plan as a key strength of the PH-EITI process. However, these representatives called for an even more extensive consultations process involving every level of communities and government, structured through a more systematic way of collecting input and feedback. Oil and gas representatives noted that, while they had circulated the draft work plan to their constituents for comments, they had not proposed any changes to the draft 2016 work plan given that they agreed with both the objectives and activities. Development partners consulted also noted they had provided input to the development of the 2016 work plan. Several government representatives noted that the MSG had updated the work plan on an annual basis, providing input based on consultations with government agencies and LGUs. A DILG representative highlighted the importance of the PH-EITI work plan in showing LGUs what activities the national government was undertaking to improve the transparency of fiscal management for LGUs.

While industry and government MSG members considered that the work plan was well structured, CSO

representatives considered that the work plan was activity-driven rather than results-based. While the annual progress report provided a mechanism for monitoring work plan implementation, CSOs noted that they had called for the establishment of a robust monitoring and evaluation framework as well as sufficient budgeting for each activity at the MSG's January 2017 meeting. Several CSOs and LGUs considered that the LGU roadshows had thus far been very limited and called for more such activities – and more capacity building – to be included in future work plans.

Several CSOs noted that while a comprehensive work plan had been agreed for 2016, significant funding constraints due to the delayed World Bank funding had forced the MSG to review and downsize it in the second part of the year. CSOs also highlighted the delayed reimbursement of their expenses due to these funding constraints. Secretariat staff and CSO MSG members noted that the DOF had significantly increased its budgetary allocations to PH-EITI, rising from PHP 27m in 2016 to PHP 37m in 2017. Secretariat staff noted that this presented both an opportunity and a challenge for PH-EITI, given that the secretariat, like other budget-funded items, was assessed according to its disbursement rate.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. The 2016 PH-EITI work plan is publicly accessible, produced in a timely manner and updated annually, with objectives aligned with national priorities. The work plan also includes specific activities to follow up on recommendations from EITI reporting. The three constituencies have consulted their broader stakeholder groups in preparing annual work plans since 2013. Indeed, the Philippines has made efforts to go beyond the basic requirements through the extent of consultations and the MSG's regular (almost monthly) assessment of work plan implementation, which has improved the quality, credibility and accountability of the work plan process. Delays in work plan implementation appear reasonable given funding constraints and the political transition following general elections.

To further strengthen implementation, the MSG could consider further entrenching EITI funding in government budgeting and work with the DOF to streamline approval of required technical and financial assistance.

Table 1 – Summary initial assessment table: MSG oversight

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Government oversight of the EITI process (#1.1)	There are regular, public statements of support from the government, a senior individual has been appointed to lead on the implementation of the EITI, and senior government officials are represented on the MSG.	Satisfactory progress
Company engagement (#1.2)	Mining, oil and gas companies are actively and effectively engaged in the	Satisfactory progress

	EITI process, both as providers of information and in the design, implementation, monitoring and evaluation of the EITI process.	
Civil society engagement (#1.3)	There are no suggestions of any legal, regulatory or practical barriers to civil society's ability to engage in EITI-related public debate, to operate freely, to communicate and cooperate with each other, to fully, actively and effectively engage on EITI-related matters or in relation to the EITI process. Civil society is fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process.	Satisfactory progress
MSG governance and functioning (#1.4)	The MSG has been formed and includes self-appointed representatives from each stakeholder group with no suggestion of interference or coercion. Information on nominations procedures is publicly available. The MSG has also made efforts to go beyond the minimum requirement in ensuring broad consultations on an ongoing basis. Stakeholders consider their representation on the MSG as adequate and MSG members appear to have sufficient capacity to carry out their duties. Decision-making is inclusive and treats all stakeholder groups as a partner. The ToR for the MSG addresses the requirements of the EITI Standard and stakeholders have not highlighted any significant deviations from the ToR in practice.	Beyond
Work plan (#1.5)	The 2016 PH-EITI work plan is in line with provisions of Requirement 1.5. The Philippines has made efforts to go beyond the minimum requirements through extensive consultations and regular assessments of work plan implementation. Delays in implementation appear reasonable in line with the political transition and funding constraints.	Beyond
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> To further strengthen implementation, each constituency is encouraged to ensure that their representatives' attendance at MSG meetings is consistent and of sufficiently high level to allow the MSG to take decisions and follow up on agreed matters. To further strengthen implementation, the MSG could consider further entrenching EITI funding in government budgeting and work with the DOF to streamline approval of required technical and financial assistance. 		

Part II – EITI Disclosures

Award of contracts and licenses

2.1 Overview

This section provides details on the implementation of the EITI requirements related to the legal framework for the extractive sector, licensing activities, contracts, beneficial ownership and state participation.

2.2 Assessment

Legal framework (#2.1)

Documentation of progress

The 2014 PH-EITI Report provides an overview of laws and regulations and the fiscal regime, with reference to the 1st and 2nd PH-EITI Reports for more in-depth information (2014 PH-EITI Report, pp.5-6). The fiscal devolution is explained, with reference to further details in Annex E and in the 2013 PH-EITI Report (2014 PH-EITI Report, p.5). The role and responsibilities of government agencies are covered, with reference to further explanations in the 1st PH-EITI Report (2014 PH-EITI Report, p.7). Similar to previous reports, the 2014 PH-EITI Report gives a comprehensive explanation of ongoing and proposed reforms (2014 PH-EITI Report, pp.7-12).

Stakeholder views

A company representative commented that there are more than 200 laws governing the extractive sector in the Philippines, and that it was difficult to navigate the legal framework. CSO representatives consulted considered the coverage of the legal and fiscal framework in the 2014 PH-EITI Report to be comprehensive although they would have liked to see more detailed discussion of reforms such as proposals for a federal structure of government. Civil society MSG members noted they had provided input on these sections of the report and called for more detailed analysis of the legal and fiscal environment, rather than the descriptions, in future PH-EITI Reports. In particular, these representatives noted they would like explanations of the government's rationale for specific laws and regulations.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. In accordance with Requirement 2.1.a, PH-EITI has disclosed the required information related to the fiscal regime and level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies. In

the Secretariat's view, the Philippines has also gone beyond the minimum requirements by providing a detailed account of reform efforts as encouraged by the EITI Standard.

License allocations (#2.2)

Documentation of progress

Mining:

The 2014 PH-EITI Report makes reference to the 2013 PH-EITI Report for the detailed narrative and flowchart of the mining license approval process, noting that there were no significant changes to the license awarding and transferring procedures from what was described in the 2013 PH-EITI report (pp.15-16). The technical and financial criteria used for evaluating applications for the various types of mining licenses and agreements are explained in brief, with further reference to details provided in the 2012 and 2013 PH-EITI Report (2014 PH-EITI Report, p.15). The 2013 PH-EITI Report described the process for awarding and transferring licenses, technical and financial criteria used for assessing bids, bidding process and efficiency of the license allocation system (pp.55-63). It also provided the detailed requirements for license allocations in mining (2013 PH-EITI Report, pp.283-290).

The 2014 PH-EITI Report lists the following awards and transfers of mining licenses and agreements in 2014:

- Three new Exploration Permits (EPs) were awarded (p.16). There were no transfers of EPs in 2014 (2014 PH-EITI Report, pp.16-17).
- Three Mineral Production Sharing Agreements (MPSAs) were transferred in 2014. In addition, the report lists 13 MPSAs that were amended in 2014. These amendments related to the expansion of the mining area (2014 PH-EITI Report, pp.17-19). There were no new MPSAs awarded in 2014 (2014 PH-EITI Report, p.19).

No Financial or Technical Assistance Agreements (FTAAs) were awarded or transferred in 2014 (2014 PH-EITI Report, p.19). The report also confirms that there were no identified deviations with respect to the regulatory requirements that applicants need to comply with in terms of license applications or granting of awards (p.17). None of the EPs or MPSAs awarded in 2014 were awarded through competitive bidding (PH-EITI Report, p.20).

The 2014 PH-EITI Report also includes commentary on the efficiency and effectiveness of the mining licensing process recommending an increase in manpower to ensure that applications for mining permits/licenses are processed on time (p.21).

It should be noted that in 2005 and 2007, the state-owned company PMDC was given a mandate to appoint operators for 65 cancelled mining tenements. According to the IA, 23 of the 65 tenements were awarded as of 2014. Some of these tenements were consolidated and formed part of the 15 existing PMDC projects (see requirement 2.6 below). In addition, five tenements had already been cancelled

following judicial decision. The remaining tenements are still not awarded and remain with PMDC. The last bidding round took place in 2012.

Oil and gas:

The procedure for awarding of oil and gas service contracts is described in the 2014 PH-EITI Report with reference to further details provided in the 2013 PH-EITI Report (p.38). With regards to the technical and financial criteria, the report states that “qualifications, work programme and technical documentation required for service contract application is detailed in the first and second PH-EITI Reports. There were no significant changes noted for this third PH-EITI report” (p.26). The procedure for transferring service contracts is explained (2014 PH-EITI Report, p.26). The 2013 PH-EITI Report described the process for awarding and transferring service contracts, technical and financial criteria used for assessing bids, bidding process and efficiency of the license allocation system (2013 PH-EITI Report, pp.55-63). It also provided the detailed requirements for service contract allocations (2013 PH-EITI Report, pp.291-302).

The 2014 PH-EITI Report confirms that there were no service contracts transferred or awarded in 2014 (p.26). However, the report mentions the Philippine Energy Contracting Round (PECR) 5, which was launched in May 2014. The report lists the 6 applicants for service contracts as part of PECR 5 (p.27) and the criteria that these applications will be assessed against (p.38). However, the awarding of the contracts was delayed and did not take place in 2014 (p.27).

The 2014 PH-EITI Report comments on the efficiency and effectiveness of the process for awarding service contracts noting that the DOE is developing an online application and monitoring tool to further enhance the process (p.27).

Coal:

The procedure for awarding of coal operating service contracts (COCs) is described in the 2014 PH-EITI Report, with reference to further details provided in the 2012 PHETI Report (p.39). With regards to the technical and financial criteria, the report states that “qualifications, work programme and technical documentation required for coal operating service contract application is detailed in the first PH-EITI Reports. There were no significant changes noted for this third PH-EITI report” (p.29). The procedure for transferring COCs is explained on p.30. The 2013 PH-EITI Report provides the detailed requirements for COCs allocations (2013 PH-EITI Report, pp.303-313). The 2012 PH-EITI Report provides the required details on pp.72-73.

The 2014 PH-EITI Report lists 7 coal operating service contracts awarded in 2014 through the PECR 5 (p.31). The report notes that “five companies submitted a total of nine applications for seven coal areas. On 18 Dec 2014, all seven coal operating service contracts were awarded to the companies who have satisfactorily complied with the technical, legal and financial requirements of the DOE” (p.30). The report lists the name of the 3 winning companies (p.31) and the criteria that these applications were assessed against (p.39). The list of applicants is available on the DOE website²³. The report confirms that there were no identified deviations with respect to the regulatory requirements that applicants need to comply with

²³ <https://www.doe.gov.ph/doe-opens-bids-pecr-5-%E2%80%93-coal>

in terms of coal operating service contract awards (p.30). No coal operating service contracts were transferred in 2014 (2014 PH-EITI Report, p.30).

The report comments on the efficiency and effectiveness of the process for awarding coal operating service contracts noting that the DOE is developing an online application and monitoring tool to further enhance the process (p.31).

Stakeholder views

With regards to the award of CoCs in PECR 5, the IA explained that the two applicants that were not successful in their bids were TQGT Minerals Coalblack Mining Corp. and Boston Mingerals Mining Corp. According to the IA, the list of applicants is publicly available from the DOE.

Several CSOs argued that while the procedures for awarding and transferring extractives licenses was clear and well described in the 2014 PH-EITI Report, there were deviations in practice with regards to coal, and oil and gas licenses. In addition, the process for consulting local communities was not considered clear. Citing rumours of favouritism in license applications, they considered that consultations sometimes consisted of simply informing communities rather than seeking their consent. However, none of the stakeholders consulted cited any specific instances of deviations from the statutory license award and transfer process.

An analyst lamented that the licensing and permitting process were generally slow, both at the national and regional level. Therefore, some companies would tend to start working without all the necessary approvals, causing conflicts and uncertainties. There was a need for a clearer and more time-bound approval system.

With regards to PMDC's role in awarding tenements, PMDC confirmed that, as of end 2014, 23 tenements had been awarded. The awarding of the tenements was subject to public bidding following the national procurement law. PMDC had issued an online bidding announcement that included 13 specific bid criteria similar to those used for other licenses. A tender committee evaluated the bids and the winners were announced. It is not known whether all companies that bid were named. The last bidding round for such tenements had taken place in 2012, and there had been a total of 3 or 4 bidding rounds since PMDC assumed this role.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with requirement 2.2, PH-EITI has ensured disclosure of the process for award and transfer of licenses and contracts pertaining to companies in the scope of the 2014 PH-EITI Report as well as companies outside the scope. Also, the bid criteria and names of winning bidders and list of applicants are disclosed for PECR 5. In the Secretariat's view, the Philippines has gone beyond the minimum requirements by providing commentary on the efficiency and effectiveness of systems and procedures for contract and license awards as encouraged by the EITI Standard.

License registers (#2.3)

Documentation of progress

Mining:

The 2014 PH-EITI Report states (p.20):

MGB maintains a list of all approved mining permits/contracts in its website²⁴ which includes the following information: 1. Permittee/Contractor; 2. Contact information; 3. License reference number; 4. Location; 5. Area; 6. Commodity; 7. Date of approval; and 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 includes this 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 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. (...) As of date, the MGB is populating 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 input into the system on a concurrent basis.

The date of application are, for the meantime, obtained from the MGB Regional Offices and are listed in Annex I. Also, coordinates of the licensed areas were lifted from the signed contracts and are presented in Annex J."

Oil and gas:

The 2014 PH-EITI Report states that there are 22 active petroleum service contracts, and these are listed in the report (pp.27-29). It appears from the list that there are 9 SCs in the production stage²⁵. The report further states (p.26):

The DOE maintains a list of SCs that includes 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; and 6. Area (in hectares).

However, we have noted that the list that can be found on the DOE website is 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 noted in the second PH-EITI report, we recommend DOE to 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 in DOE's website. As a response, the DOE is currently developing the Energy Data Center of the Philippines online inquiry site. Details on the same are in the section below on publicly available registers and cadaster systems. In the meantime, the coordinates of the license areas of the service contracts are lifted from the signed service contracts and are presented in Annex K.

²⁴ <http://mgb.gov.ph/2015-05-13-01-44-56/2015-05-13-01-46-18/2015-06-03-03-42-49>

²⁵ SC6A, SC6B, SC14, SC14A, SC14B, SC14C, SC37, SC38 and SC40.

Accordingly, while reforms are in the pipeline, the dates of application for the SCs appear to not have been disclosed neither for the 9 SCs covered in the scope of the 2014 PH-EITI Report, nor for the SCs pertaining to companies outside the scope of the EITI Report. However, it should be noted that according to the report, all of the SCs in the scope of the report were awarded through direct negotiations in the period 1975-1994. The 2013 PH-EITI Report states that in lieu of application dates, the companies were asked to provide information that signifies commencement of formal negotiation with the DOE. For example, for SC 38 covering the Malampaya Project, the company provided a copy of a letter from Occidental Philippines Inc. to the Office of Energy Affairs dated 30 October 30 1987 covering certain arrangement option for the Northwest Palawan Deepwater Area. It does not appear that other SC holders provided similar information.

Coal:

The 2014 PH-EITI Report states that there are 78 active COCs, and these are listed in the report (pp.31-34). It appears from this list that there are 31 COCs at the development and exploration stage. The report further states (p.30):

The DOE maintains a list of COCs that includes the following information: 1. Coal Operating Contract No.; 2. Name of company; 3. Award date; 4. Expiration date, including stage/sub-phase of exploration; 5. Location of contract area; 6. Stage/sub-phase of exploration; and 7. Contact person and address of the contractor.

However, we have noted that the list that can be found on the DOE website is not updated and had to be obtained directly from the DOE. Thus, the list of COCs still lacks information on the coordinates of the license area and date of application. Similar to the observation on DOE's information on oil and gas service contracts, we recommend DOE to 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 in DOE's website. As a response, the DOE is currently developing the Energy Data Center of the Philippines online inquiry site. Details on the same are in the section below on publicly available registers and cadaster systems. In the meantime, the coordinates of the license areas of the coal operating contracts are lifted from the signed coal operating contracts and are presented in Annex X.

Accordingly, while reforms are in the pipeline, the dates of application for the SCs appear to not have been disclosed neither for the 1 SC covered in the scope of the EITI Report – COC 5 held by Semirara - nor for the SCs pertaining to companies outside the scope of the EITI Report. However, it should be noted that according to the report, the SC pertaining to the company in the scope of the 2014 PH-EITI Report was awarded through direct negotiations in the 1970s.

Stakeholder views

With regards to the oil and gas contract register, the IA confirmed that the dates of application for oil and gas service contracts and coal contracts are not available. According to the IA this is because license application through public bidding was only implemented with the promulgation of Department Circular 2003-05-005 in May 2003. Prior to 2003, the DOE granted SCs only through direct negotiations on a "first-come, first-served basis", precluding identification of official application dates. SCs pertaining to Malampaya and Nido, the two participating OG consortiums in the 2014 PH-EITI Report, were approved based on the previous process; hence, application dates are unavailable.

The IA further explained that from 2003 to date, bids are not filed online and will only be once the Energy Data Centre becomes online. Moreover, the DOE only keeps records for 10 years, meaning that even if they would browse their archive to find the coordinates, records would only exist for SCs awarded after 2006. According to some oil and gas companies, the date of application was no longer relevant since the introduction of bidding rounds as the date of application would be equal to the deadline for bidding.

DOE explained that although there were no existing plans to create an online cadastre, they would now proceed with the online publication of the license details, including coordinates and relevant dates, as this was not sensitive information.

CSO MSG members consulted considered that the lack of dates of application for coal, oil and gas licenses in the 2014 PH-EITI Report reflected the DOE's weak participation in EITI implementation. While they were not aware of any reforms related to disclosing these details, they highlighted the importance of securing dates of application for all licenses to track the efficiency of the allocation process for individual licenses.

In terms of disclosure of the commodity being produced, the IA confirmed that the DOE does not distinguish between oil and gas when awarding licenses, as there are no differences between the SCs awarded, and therefore all SCs are applicable to both oil and gas.

With regards to the mining cadastre, the government confirmed that a reformed cadastre will go online in mid-2017. This would include an online tenement map. It was thought that this reform would reduce the time needed to process license applications, which was currently about 6 months.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with Requirement 2.3, information about license holders including coordinates of the license, the award and expiry date of the license and the commodity being produced is available for all active oil and gas, mining and coal licenses and contracts.

Dates of application for the licenses and contracts are only available for the mining companies covered in the scope of the EITI Report. A public online cadastre containing this information for all mining license holders will be available by mid-2017. For oil, gas and coal, no dates of application have been disclosed. The reason for this is that the contracts pertaining to the oil, gas and mining companies in the scope of the 2014 PH-EITI Report were all awarded in the period 1975- 1994 through direct negotiations and records for when the first negotiations begun are thus not available from all companies nor the DOE. However, reforms are underway in terms of making this information publicly available by the DOE.

Given the explanation of the constraints in disclosing the dates of application for oil, gas and coal contracts, the efforts undertaken to compile the missing data, and the reforms underway, the International Secretariat considers that the wider objective of the requirement has been fulfilled. The 2014 PH-EITI Report is also transparent about the gaps related to the dates of application, and provides

recommendations and timeframes for how and when the gaps should be addressed.

To strengthen implementation, the PH-EITI should continue to work with the MGB and DOE on the reforms underway with regards to online cadastres, and verify that these cadastres include the date of application for any licenses and contracts that are issued in the future.

Contract disclosures (#2.4)

Documentation of progress

The 2014 PH-EITI Report refers to the 2012 PH-EITI Report for an in-depth discussion of the government's policy on contract transparency (2014 PH-EITI Report, p.40). The 2012 PH-EITI Report listed the information that could be deemed confidential in contracts by mutual agreement in mining (2012 PH-EITI Report, p.50) and routinely in oil and gas (2012 PH-EITI Report, p.53), while including a description of contract types (2012 PH-EITI Report, p.68) and reference to where published contracts could be accessed (2012 PH-EITI Report, p.v). The 2014 PH-EITI Report also includes the full text of standard contracts in annex L-N.

In terms of actual practice, the 2014 PH-EITI Report explains that in 2015 PH-EITI launched an open database where the contracts of most companies participating in the EITI reporting process are disclosed. The contracts portal contained 45 mining, oil and gas contracts as of February 2016. The link to the website is provided in the 2014 PH-EITI Report. In achieving contract transparency, there were delays in disclosing Semirara's operating contract (PH-EITI, 2014). At its 7 May 2015 meeting, the DOE told the MSG that it was consulting its legal department and asking for Semirara's consent before disclosing the contract (PH-EITI, 2015). As of February 2017, the contract was not yet publicly available.

All contracts uploaded in the portal have associated metadata that cover both mineral and hydrocarbon resources. In addition, the contracts have annotations which will provide technical summaries of significant contractual stipulations including those that are related to EITI requirements. Utilizing the open source ResourceContracts platform of NRGI, the Philippines became the first EITI implementing country to utilize the Open Contracting Data Standard for contract publication. The site gathered a total of 7,770 page views since it was launched in October 26, 2015 at the Open Government Partnership (OGP) Summit in Mexico. (PH-EITI, 2016)

Furthermore, companies operating within ancestral domains in the Philippines are required to enter into a Memorandum of Agreement (MoA) with the Indigenous Peoples (IPs). The MoA outlines the royalty to be paid to the IPs and other benefits. The 2014 PH-EITI Report discloses the list of companies that have entered into MoAs with IPs (p.119) and the MoAs have also been made available to the MSG although they have not yet been published on the PH-EITI website.

Stakeholder views

The representatives of oil and gas companies said that they had no concerns about the disclosure of

service contracts and that this was a decision for DOE. Oil and gas service contracts were anyway based on the standard contracts, and only the details related to the work programme were negotiable. There were no confidentiality concerns related to the work programme. Although the service contracts entered into prior to 2003 were not based on standard contracts, the oil and gas companies consulted were not aware of any industry concerns related to contract transparency. Similarly, the mining companies did not have any concerns given that these contracts were available from DNR anyway. However, they pointed out that the publication of contracts had not had an impact. They had not seen anyone using the contracts for analysis, nor had they received any questions from anyone about their contracts.

A government representative highlighted that the impact of contract transparency was that LGUs were now able to see the concessions and negotiations that the national government had completed on their behalf and know the obligations of the company and the government. This could help counter the claims that LGUs are not consulted in the development of any contracts that are entered into on their jurisdictions. The law provides for such consultation and before any contracts are issued LGUs need to give a number of authorisations, permits and approvals. Even if they go through this process, there is a tendency to argue that they have not been consulted. Another government representative said that they had not received any questions or comments subsequent to the publication of contracts. It was also noted that it would be easier to maintain contract transparency in the energy sector if backed by law.

A government representative commented on the disclosure of MoAs, noting that the MoAs were pretty standard but could differ on the royalty amounts, the benefits to be provided and the environmental provisions. While the MoAs had not been published on the PH-EITI website, NCIP had provided copies of them to the MSG. Given that these were notarized and contained nothing sensitive, there should not be any problem in publicly disclosing them. Secretariat staff explained that the MSG's intention was to publish the MoAs on the PH-EITI contracts portal.

Several CSOs highlighted the importance of contract disclosure to allow civil society to effectively monitor the implementation of specific contract clauses, although none of the stakeholders consulted cited any instance where CSOs had identified violations of the terms of a contract. However, one civil society representative did not consider these contracts useful, particularly given the complex legal terms involved. A civil society MSG member highlighted ongoing efforts to translate the 44 mining contracts initially disclosed into Filipino, due for completion in 2017, although CSOs had not yet considered publishing simplified versions of contracts to ensure broader accessibility. Another CSO highlighted concerns that certain contracts may not have been published in their entirety, such as the Malampaya contract, although no specific evidence was offered of sections that may have been omitted.

In terms of reforms underway, oil and gas companies said that they had held discussions with DOE on revisions to the contracts in light of the low oil price. They wanted to change the cost recovery provisions to be able to get some exploration costs covered as was the case in the mid-90s when the law provided for that in order to encourage exploration activity.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In the Secretariat's view, the Philippines has also gone beyond the minimum requirements by making contracts public as encouraged by the EITI Standard.

In order to strengthen implementation, PH-EITI could consider publishing the remaining contracts pertaining to oil and gas, mining and coal companies operating in the country, as well as MOAs with IPs. The MSG could also summarise the key terms of the contracts to promote greater public awareness.

Beneficial ownership disclosure (#2.5)

Documentation of progress

The 2014 PH-EITI Report provides a description of the existing legal requirement for beneficial ownership disclosure under the Securities Regulation Code of the Philippines, applicable to publicly listed companies in the Philippines, and how this information can be accessed in practice. It also comments on potential legal obstacles to comprehensive beneficial ownership disclosure related to the Data Privacy Act (pp.41-42).

In terms of reforms underway, the report refers to the beneficial ownership roadmap, which is annexed to the report (2014 PH-EITI Report, p. 42). The roadmap addresses requirement 2.5.b.ii in terms of roadmap content, and envisages making beneficial ownership disclosure mandatory by law through the EITI bills that are currently pending in Congress. The roadmap also foresees developing an online system for companies to file their beneficial ownership data. It notes that the data should be accessible to the public, but does not confirm that this will be done through a public register.

The 2014 PH-EITI Report contains information on the legal owners of the companies participating in the EITI reporting process, and their share of ownership as part of annexe AH.

Prior to 2016, the MSG has had some discussions of beneficial ownership. While declining the invitation to participate in the EITI's beneficial ownership in 2014 due to the existing burden of preparing for the country's first EITI Report (MSG meeting minutes, 4 April 2014), the MSG decided to source information on publicly-listed companies from the SEC. The MSG also asked for non-listed companies to voluntarily disclose their beneficial ownership information. Minutes from MSG meetings on 2 May and 5 June 2014 document the MSG's discussion about follow up on one company's beneficial ownership disclosures, CTP Construction and Mining Corp. The IA noted at the MSG's 5 September 2014 meeting that only the first tier of legal ownership would be disclosed in the 2012 PH-EITI Report drawing on SEC disclosures. The MSG also had beneficial ownership discussions related to the 2013 EITI Report, including discussing reporting templates (MSG meeting minutes, 3 July 2015) and potential links between beneficial ownership transparency and MGB's assessment of license applications (MSG meeting minutes, 13 November 2015). The MSG held a beneficial ownership workshop on 23 September 2016, during which they produced the first draft of the three-year beneficial ownership roadmap, which the MSG agreed to circulate for comments at its 7 October 2016 meeting (PH-EITI, 2016). At the same meeting, the MSG agreed to start working with the SEC to make beneficial ownership data collected by the commission

freely accessible and to work with MGB on evaluating administrative orders to mining companies on beneficial ownership (PH-EITI, 2016). The MSG finalised and approved the beneficial ownership roadmap at its 9 December 2016 meeting (PH-EITI, 2016).

Stakeholder views

The oil and gas companies consulted noted that disclosing beneficial ownership for publicly listed companies would be challenging given the frequent changes in ownership. These companies were anyway required to annually publish the names of the top 20 shareholders. Some oil and gas companies in the exploration phase were not listed. DOE could potentially engage them on this topic during the vetting process for applications as well as during farm ins and farm outs. The mining companies had more concerns about beneficial ownership disclosure. Some expressed concerns about revealing the name of family members holding ownership stakes, mainly for security reasons. Others did not understand the objective of such transparency, arguing that those who wanted to hide would always find other means of hiding, being through nominees etc.

Several civil society representatives highlighted that the SEC collected only information on legal rather than beneficial ownership and did not perform due diligence on companies' reporting of owners. They referred generally to instances when a company registered with the SEC but did not report subsequent changes in ownership. This had led to discrepancies in information on legal ownership collected by different government agencies like the SEC and the Department of Trade and Industry. These representatives also questioned the reliability of asset disclosures by politically exposed persons, noting recent instances when politicians appeared to own certain mining companies although they had not disclosed such shareholdings in their asset disclosures. CSOs highlighted that the most pressing item in the PH-EITI beneficial ownership roadmap was for the government to agree a clear and consistent definition of beneficial ownership. While noting their optimism about the roadmap's implementation, they considered that implementation would be challenging, particularly for privately-owned (unlisted) companies.

The IA commented that disclosure of ultimate beneficial ownership could be difficult given that many companies had been structured in a way that would purposely hide the real owners. The licensing requirements for 40% foreign equity ownership and 60% national equity ownership, which was religiously enforced, could also play a factor. No specific evidence or examples were cited.

A representative from government commented that the SEC and the MGB collect information on shareholding from all mining companies. Furthermore, elected and appointed politicians, government official and government staff were required to file statements of assets and liabilities either with the President's office or with the civil service commission. According to Senate representatives, the concept of beneficial ownership was not new in the Philippines but public disclosure of beneficial ownership could be contentious given that many politicians were connected to mining operations.

Another government representative explained that according to the definition of beneficial ownership in the SRC, a beneficial owner could both be a natural and legal person. As such, although listed companies

were required to file beneficial ownership declarations this was often limited to shareholding. Once challenge in terms of data reliability was that companies were not necessarily required to submit proof of their ownership, and the SEC had limited manpower to conduct due diligence. The law however provided for sanctions for on non-reporting, late reporting or misrepresentation of information. It was also clarified that a Data Privacy Law was passed in 2012 could limit the publication of certain sensitive information related to beneficial ownership.

Initial assessment

Implementing countries are not yet required to address beneficial ownership and progress with this requirement does not yet have any implications for a country's EITI status.

In order to strengthen implementation and prepare for full disclosure of beneficial ownership by 2020, it is recommended that PH-EITI considers piloting beneficial ownership reporting in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. PH-EITI may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory.

State participation (#2.6)

Documentation of progress

The 2014 PH-EITI Report explains that there are two state-owned enterprises (SOEs) in the extractive sector, notably the Philippines National Oil Company (PNOC) and the Philippines Mining Development Council (PMDC). The report does not specifically state whether state-participation gives rise to material revenue. However, the report shows that the contribution of the two SOEs to gov't revenue amounted to 2 % in 2014 (p. 42). This does not appear to include the dividends remitted by PNOC-EC in 2014.

With regards to the financial relationship between the government and these SOEs, the 2014 PH-EITI Report explains that other than dividend payments and loans, there are no other fund arrangements with the government or any third party (p.42). PNOC's sources of revenue are the Malampaya project and other service contracts, while PMDC's revenue come from commitment fees and royalty fees (p.43). Both companies are required to remit 50% of their annual net earnings in dividends to the government whereas other earnings are used for day to day operations. In 2014, PNOC remitted a total of 1.5 bn in dividends whereas PMDC did not remit any in 2014 given that it was capital deficient (p.43).

The 2014 PH-EITI Report notes that there were no changes in ownership of PNOC and PMDC in 2014, both of which are respectively majority and wholly-owned by the Government of the Philippines. A list showing PNOC's ownership in eight oil and gas projects, including the ownership interest, is disclosed in the 2014 PH-EITI Report (p. 44-45). PNOC also holds 100% interest in six COCs (p.45). The report indirectly confirms that there was a change in ownership in SC 59 by referring to the BHP withdrawal in 2013. The IA has subsequently confirmed that PNOC's ownership in SC 59 increased from 25 to 100% in 2014. The 2014

PH-EITI Report does not comment on the terms of the transactions associated with this ownership change. In terms of PNOC's equity stake in oil, gas and coal projects, the 2014 PH-EITI Report explains in general terms that PNOC either covers expenses up to the extent of their equity share/interest in the service contracts, or in some cases partners may cover all expenses up to a certain phase of operations depending on the agreement (p.43). The 2014 PH-EITI Report does not specify the arrangement that applies for each of the projects where PNOC holds an ownership interest, however this is provided in the PNOC annual report²⁶ and has subsequently been summarised by the IA in the below table.

Figure 1 – Overview of PNOC responsibility to cover expenses

SC / COC No.	Description / Location	Coverage of Expenses	Remarks
SC 37	Cagayan Basin / Cagayan	purely PNOC EC	
SC 38	Malampaya Deepwater Gas-to-Power Project / Offshore Palawan	to the extent of equity interest	
SC 47	Offshore Mindoro	to the extent of equity interest	
SC 57	Calamian Block / Offshore Palawan	to the extent of equity interest	no change
SC 58	West Calamian / Offshore Palawan	to the extent of equity interest	
SC 59	West Balabac / Offshore Palawan	in 2013 free-carry up to 1 exploration well by BHP; in 2014 purely PNOC EC	change in ownership interest due to withdrawal of BHP in the latter part of 2013
SC 63	East Sabina / Offshore Palawan	to the extent of equity interest	
SC 75	Northwest Palawan	to the extent of equity interest	
COC 41	Malangas, Zamboanga Sibugay	purely PNOC EC	
COC 122	Isabela Coal Mine-mouth Project	purely PNOC EC	
COC 141	Isabela Coal Project (New Areas)	purely PNOC EC	
COC 184	Agusan del Sur – Surigao del Sur	purely PNOC EC	relinquished in 2015
COC 185	Buug – Malangas	purely PNOC EC	
COC 186	Diplahan – Imelda	purely PNOC EC	

Source: Independent Administrator

As for PMDC, the report lists 28 project in which PMDC is involved (p.27-29), without specifying the ownership stake. The report confirms that PMDC did not acquire any new projects in 2014 (p. 47), but does not comment on any changes in ownership held by PMDC during 2014. The report explains that in terms of PMDC's responsibility to cover expenses, all expenses are carried by the companies carrying out

²⁶ PNOC 2014 annual report, <http://www.pnoc.com.ph/images/2014%20Annual%20Report.pdf>

the mining activities.

In terms of loan and loan guarantees, the report confirms that PNOC did not take any loans from the government in 2014 (p.43). With regards to PMDC, the report confirms that although PMDC is financially independent from government, receiving neither guarantees nor concessions since its inception, it has an existing loan from the government-owned National Development Corporation (p.46). The balance of the loan amounted to PHP 89.4 m in December 2014 (p.46). The report provides further details on the history of the loan, the 2013 restructuring of the loan, and repayment schedule (p.46-47). The report confirms that neither PNOC nor PMDC made any loans to any oil, gas or mining companies in 2014 (p.43).

There is evidence of outreach by the PH-EITI MSG to both companies. For example, PNOC held a presentation to the MSG on its projects, structure and financial relations to government, at the MSG's 4 April 2014 meeting (PH-EITI, 2014). PMDC did the same at the MSG's 2 May 2014 meeting (PH-EITI, 2014).

Stakeholder views

With regards to PNOC, industry representatives confirmed the ownership change related to SC 59 in 2014. It was noted that this contract had initially been held by PNOC until 2007 when BHP took a 75% participating interest and became the operator of the contract. In 2014, BHP decided to withdraw from the project and the 75% was handed back to PNOC. It was explained that in doing so, the only financial transaction associated with the transfer of this share was a payment by BHP to PNOC of USD 3 m to support PNOC to drill the remaining exploration well as indicated in the work commitments. It was also confirmed that beyond dividends, there were no other ad hoc or regulated financial transactions between PNOC and the government.

With regards to PMDC, PMDC confirmed that it has 100% ownership of the tenements that it is overseeing, even in the cases where PMDC has awarded the operation of these tenements to contractors. There were no changes in this ownership in 2014.

Civil society representatives consulted did not consider SOEs to be a contentious issue in the Philippines, given that they had no direct impact on communities and only paid a small annual dividend to government. Unaware of activities such as PNOC's commercialisation of artisanal-mined coal on certain tenements, these representatives questioned the value of SOEs such as PMDC and PNOC that did not maximise revenues for government or undertake socially-relevant activities. They questioned the need for SOEs that operated like commercial entities, given that the state could more efficiently hold stakes in extractives projects without the need for a separate legal entity.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. In accordance with Requirement 2.6, the report discloses the prevailing rules and practices regarding the financial relationship between the government and SOEs. Information about the level of ownership held by SOEs in oil, gas and mining projects, including changes in ownership has

been disclosed. The report has some minor deficiencies in that it did not fully explain the ownership change and associated financial transactions related to SC59 in 2014. Similarly, although the report includes an overview of PMDC projects it could have been more specific about the level of ownership held by PMDC. Finally, the report could also have referenced the PNOC annual report that specified PNOC's responsibility for covering expenses in each project. However, given that state-participation arguably does not give rise to significant revenues in the Philippines, the International Secretariat considers that these deficiencies have not affected the overall objective of the requirement.

In order to strengthen implementation in the future, PH-EITI could consider studying the efficiency of operations of state-owned companies, particularly in relation to the management of SOEs' stakes in extractives projects.

Table 2 - Summary initial assessment table: Award of contracts and licenses

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Legal framework (#2.1)	The 2014 PH-EITI Report contains the required disclosures. the Philippines has also gone beyond the minimum requirements by providing a detailed account of reform efforts as encouraged by the EITI Standard.	Beyond
License allocations (#2.2)	The 2014 PH-EITI Report contains the required disclosures. In addition, the Philippines has gone beyond the minimum requirements by commenting on the efficiency and effectiveness of licensing systems.	Beyond
License registers (#2.3)	The 2014 PH-EITI Report has some minor deficiencies in that the date of application for oil, gas and coal contracts are not disclosed. Given the explanation of the constraints in disclosing this data, the efforts undertaken to compile the missing data, and the reforms underway, the International Secretariat considers that the wider objective of the requirement has been fulfilled. The 2014 PH-EITI Report is also transparent about the gaps related to the dates of application, and provides recommendations and timeframes for how and when the gaps should be addressed.	Satisfactory progress
Contract disclosures (#2.4)	The 2014 PH-EITI Report contains the required disclosures. In addition, the Philippines has gone beyond the	Beyond

	minimum requirements by making contracts public as encouraged by the EITI Standard.	
Beneficial ownership disclosure (#2.5)	PH-EITI has produced a beneficial ownership roadmap and provided contextual information about beneficial ownership reporting requirements in the Philippines.	
State-participation (#2.6)	The 2014 PH-EITI Report has some minor deficiencies in that it does not fully explain the ownership change and associated financial transactions related to SC59 in 2014. The report could have been more specific about the level of ownership held by PMDC, and could have referenced the PNOC annual report that specified PNOC's responsibility for covering expenses in each project. However, given that state-participation arguably does not give rise to material revenues in the Philippines, the International Secretariat considers that these deficiencies have not affected the overall objective of the requirement.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. PH-EITI should continue to work with the MGB and DOE on the reforms underway with regards to online cadastres, and verify that these cadastres include the date of application for any licenses and contracts that are issued in the future. 2. Building on the work related to contract transparency so far, PH-EITI could consider publishing the remaining contracts pertaining to oil and gas, mining and coal companies operating in the country, and MoAs with IPs. The MSG could also summarise the key terms of the contracts for better public consumption. 3. It is recommended that PH-EITI considers piloting beneficial ownership reporting in the forthcoming EITI Report in order to increase awareness of beneficial ownership transparency and pilot beneficial ownership definitions and thresholds. PH-EITI may also wish to conduct broader outreach to the companies on the objectives of beneficial ownership transparency, as well as hold conversations with government agencies on how to make such disclosures mandatory. 4. PH-EITI could consider studying the efficiency of operations of state-owned companies, particularly in relation to the management of SOEs' stakes in extractives projects. 		

3. Monitoring and production

3.1 Overview

This section provides details on the implementation of the EITI requirements related to exploration, production and exports.

3.2 Assessment

Overview of the extractive sector, including exploration activities (#3.1)

Documentation of progress

The 2014 PH-EITI Report highlights the potential of the minerals sector, noting that “The MGB estimates that the Philippines’ untapped mineral wealth could reach USD 840bn, the largest chunk of which would be in the production of the said metals. Among all of the extractive industries, it is the metal extraction that is expected to have the largest potential impact on the Philippine economy because of world demand and the size of its potential reserve” (p.51).

With regards to exploration projects, a map of potential resource deposits are provided for metals (p. 55), petroleum (p.63) and coal (p.64). Statistics and an overview of mining exploration permits is available on p. 21. An overview of oil and gas SCs in the exploration phase is provided on pp. 27-29. The report also accounts for the moratorium on oil and gas exploration activities in SC72 and SC75 due to the ongoing dispute between China and the Philippines (p.15). An overview of COCs in the exploration phase is available on pp.31-34. Finally, the 2014 PH-EITI Report contains a flowchart presenting the various phases of the extractive industry value chain, including an overview of the exploration process, and taxes and procedures applicable to exploration is available for oil and gas, mining and (pp.110-114).

Stakeholder views

Civil society representatives consulted considered that the 2014 PH-EITI Report provided a comprehensive overview of significant exploration activities in the mining, coal, oil and gas sectors. While noting the importance of tracking exploration activities in mining and coal, they noted the lack of civil society attention on oil and gas activities aside from the environmental impacts of oil and gas projects.

Initial assessment

The International Secretariat’s initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with Requirement 3.1, the report discloses an overview of the extractive sector, including any significant exploration activities.

Production data (#3.2)

Documentation of progress

The 2014 PH-EITI Report provides the following information related to production:

- Production volumes and values for metals are disclosed in table 21, disaggregated by commodity and region (p.53).
- Production volumes for oil and gas are disclosed in table 31, disaggregated by commodity and

region (p.61). Production values per project is disclosed in table 34. This table implicitly differentiates between oil and gas in that figures under Philodrill, Galoc and Nido pertain to oil production while figures under Malampaya and Libertad pertain to gas production (p.65).

- Production volumes for coal are disclosed on p.61. The value of coal production is provided for FY 2007-2012, but not for FY 2014. However, Semirara has publically reported that the composite average FOB price per ton of coal was PHP 2127 in 2014²⁷. The production data that is disclosed is not disaggregated by region, but the report explains that 92% of all coal production is from Semirara Island (p.61).

In addition, the report provides comprehensive analysis of production trends over time, illustrated by graphs and charts. The report explains that the data is mainly sourced from the Philippines Statistics Committee and MGB (p.51). There is ample evidence of the MSG's detailed discussions of the reliability of production data, including in the mining sector at its 3 July 2015 meeting (PH-EITI, 2015).

Stakeholder views

An independent analyst covering the mining sector stated that certain regions, particularly in Mindanao, did not publish any mineral production data. Many regions publish shipping data, which is available on the MGB website, but it is difficult to collate and they do not have confidence in the reliability of this data. Indeed, many mines continue to ship mineral after they cease producing given their inventories. The analyst said he had compared company and government production data and found errors. One of the challenges is that some companies disclose production data by wet tonnage while MGB only publishes dry tonnage. The analyst explained that the MGB produced nice data series over time, they had no confidence in the quality of data.

A government official explained that companies submitted quarterly and annual production reports for validation. MGB visits the companies and checks their books and production records. In case of irregularities, penalties are be imposed. Another government representative highlighted the usefulness of EITI reports including production volumes per region given the difficulties of the LGUs in terms of understanding how much is being extracted in their jurisdictions and consequently how much revenue they should be receiving. Even if they could obtain this data from the central government, there was sometimes a lack of trust in that data. An analyst agreed that production data for large scale mining was generally reliable and subjects to verification both by regional MGB officers and before exports. While there were few incentives to underdeclare production in large scale mining, in particular for other minerals than goal, it was more an issue for small-scale mining.

With regards to the lack of available data on coal, the IA explained that there is currently no readily available information on production value for the entire coal sector, and the DOE was only able to provide the production volume for the coal sector as reported in the Contextual Information. According to the IA,

²⁷ Semirara Mining and Power corporation integrated annual report 2015, p. 24: <http://www.semiraramining.com/uploads/files/SEC%2017%20-%20A/2015%20Integrated%20Annual%20Report-Glossy.pdf>

efforts have been exerted to obtain information by, among others, coordinating with the DOE and Philippine Statistics Authority (PSA), but due to the current state of monitoring for the coal industry, no production value data can be presented in the Report. The mining companies consulted were surprised that data on coal was not included in the report, and could not understand that there would be any challenges with sourcing this data from DOE. They had not had any difficulties in providing the production data for minerals and metals as this was reported to MGB anyway.

According to a government official, production values were available and had been reported to the IA.

None of the CSO representatives consulted had confidence in production data disclosed by MGB and DOE, noting concerns over inaccurate information on ore grades and production volumes. Highlighting the lack of monitoring by either national or local government agencies, they considered that companies tended to under-report production volumes to minimise their tax liabilities. While the MSG had discussed the reliability of production data on several occasions, the government continued to rely on companies' self-reporting without strengthening oversight. CSO members of the MSG did not recall the MSG discussing options for calculating the value of coal production themselves and considered that the lack of coal production values reflected the DOE's weak oversight systems.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with Requirement 3.2, the 2014 PH-EITI Report discloses production volumes and values disaggregated by commodity and region for oil, gas, and minerals. With regards to coal, there is a minor deficiency in the report in that values of coal production are only available up until year 2012. However, it is possible to obtain information on applicable coal prices in the Philippines in 2014 and estimate the value of production. In addition to this data, the report discloses statistics and analysis of production trends over the last five years. Despite concerns from civil society stakeholders over the reliability of official production figures and the potential impact on tax liability calculations, the report provides data from official sources in line with the EITI Standard's requirement to provide official statistics with sources rather than developing new reporting procedures for production figures.

In order to strengthen implementation, PH-EITI should work with DOE to ensure that up to date production values for coal are disclosed. It may also wish to explore opportunities to improve the reporting and monitoring of production data.

Export data (#3.3)

Documentation of progress

The 2014 PH-EITI Report provides the following information related to production:

- 2014 export volumes and values for metals are disclosed in table 14 in the 2013 PH-EITI Report

(p.32). The data is disaggregated by region and commodity.

- Export volumes and values for oil and gas are disclosed in table 35 (p.66). This data is not disaggregated by region apart from gas from Malampaya.
- 2014 export volumes and values for coal are disclosed in the 2013 PH-EITI Report (p.39) While this data only includes Semirara's exports and is not disaggregated by region, the data is not disaggregated by region, the report notes that 92 % of all coal produced is originating from Semirara Island (2014, p.61).

Stakeholder views

A government representative said that the main challenge related to exports was to calculate the right pricing of the minerals. The government monitors and verifies every shipment, and if the price would not seem correct the export permit would not be issued. An analyst commented on discrepancies of export data noting that e.g. Hong Kong would report gold exports from the Philippines at a value four times as high as recorded in the Philippines.

Two civil society representatives questioned the comprehensiveness of official mineral and coal export figures, noting instances where companies operated their own ports with no government supervision of shipment loadings.

With regards to disaggregation of oil and gas exports per region, the IA has clarified that all exports of oil and gas are concentrated from region IV (Northwest Palawan).

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. In accordance with Requirement 3.3, the 2013 and 2014 EITI Reports together provide the required information regarding export volumes and values for financial year 2014. The data is disaggregated by commodity and region. Despite concerns from civil society stakeholders over the reliability and comprehensiveness of official export figures, the reports provide data from official sources in line with the EITI Standard's requirement to provide official statistics with sources rather than developing new reporting procedures for export figures.

In order to strengthen implementation, PH-EITI may wish to explore opportunities to improve the reporting and monitoring of export data.

Table 3 – Summary initial assessment table: Monitoring and production

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Overview of the extractive sector, including exploration activities (#3.1)	The 2014 PH-EITI Report provides a comprehensive overview of the extractive sector.	Satisfactory progress
Production data (#3.2)	The 2014 PH-EITI Report discloses production volumes and values disaggregated by commodity and region. There is a minor deficiency in that the coal production values pertain to 2012.	Satisfactory progress
Export data (#3.3)	The 2013 and 2014 PH-EITI Reports together provide the required information regarding export volumes and values for financial year 2014. The data is disaggregated by commodity and region.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. PH-EITI should work with DOE to ensure that up to date production values for coal are disclosed. 2. PH-EITI should continue to work with MGB on ensuring that the recommendations related to monitoring and accuracy of production data are considered and followed up. 3. PH-EITI may wish to explore opportunities to improve the reporting and monitoring of export data. 		

4. Revenue collection

4.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue transparency, including the comprehensiveness, quality and level of detail disclosed. It also considers compliance with the EITI Requirements related to procedures for producing EITI Reports.

4.2 Assessment

Materiality (#4.1)

Documentation of progress

Materiality and revenue streams:

The 2014 PH-EITI Report explains that in agreeing which revenue streams should be considered material the MSG mainly considered the monetary value of each revenue stream applicable to the extractive sector. The report states (p.260):

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 on the proposed regulatory threshold to be imposed by the Philippine Securities and

Exchange Commission 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.

Thus, the MSG decided that any revenue stream representing more than 2% of the total revenues in the scope of the 2013 PH-EITI Report - including revenues from non-material companies in 2013 and excluding funds which were assessed separately - was considered material. In addition, the MSG decided that three revenue streams were considered of particular importance to local communities and should be included regardless of their size. These are real property taxes, mandatory expenditures and social funds, and customs duties (2014 PH-EITI Report, p.260). The MSG agreed the materiality thresholds and associated revenue streams at its 5 August 2016 meeting (PH-EITI, 2016).

According to the IA²⁸, taxes and payments related to exploration were also excluded, as agreed with the MSG. For mining exploration, business and property tax payments to LGUs are applicable, but immaterial as established in requirement 4.6 below. Furthermore, given the moratorium on mining licenses until March 2014, there were no material license and permit fees paid to MGB for the three exploration permits issued in 2014. With regards to oil and gas, application fees, processing fees and signature bonuses are applicable. For the latter two, DOE reported no such receipts in 2014 as no new oil and gas contracts were entered into. The application fee for the applications related to PECR 5 would only amount to PHP 600k.

These considerations resulted in a total of 22 revenue streams to be included in the scope of the 2014 PH-EITI Report (p.260)²⁹. All revenue streams are described in the report (2014 PH-EITI Report, p.256-259). The options related to materiality considered by the MSG, including a list of the revenue streams that did not meet the 2% threshold are also explained in the report (2014 PH-EITI Report, p.261). None of the revenue streams listed in requirement 4.1.b seem to have been omitted even if some were deemed immaterial (e.g. signature bonuses, license application fees). The materials and presentations forming the basis for the MSG's decision, including detailed minutes of the MSG's discussion are available from the 5 August MSG meeting minutes.

Reporting companies:

²⁸ Email from IA dated 28 February 2017.

²⁹ It should be noted that while page 260 lists 22 revenue streams in the scope of report, pp. 154-155 only lists 21 revenue streams in the scope. The IA has explained that withholding tax on profit remittance to principal (for oil and gas) was erroneously omitted from the list on pp.154-155. appears on the list of p.260. Moreover, the lists are not entirely consistent as they name slightly different revenue streams. The IA has explained that this is because the list on p.260 details the composition of the reporting item 'Mandatory expenditures and funds' which includes Social Development and Management (host and neighbouring communities), Mining Technology and Geosciences Advancement, and Information, Education, and Communication. Despite these inconsistencies, the report does not appear to exclude any revenues listed in requirement 4.1.b.

The 2014 PH-EITI Report explains that unlike previous reports, no reporting threshold was established to define the scope of reporting companies. The report states (p.253):

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 2014. The targeted scope was confirmed during the MSG meeting held in November 2016. For this year, however, the MSG has decided that the scope of the reporting companies should not be limited to material entities (i.e. those with at least PHP1bn reported sales) but should encompass all companies as identified by MGB and DOE.

According to the IA³⁰, the MSG decided that with regards to coal only one company, Semirara, would be targeted. This because Semirara represents 99.4% of total revenues collected by DOE (government's share of production). Based on the DOE data³¹ showing that Semirara accounted for 92% of coal production in the Philippines, the MSG had considered that payments to other government entities, like corporate income tax to the BIR, would be minor according to the IA.

The report further explains that the targeted companies were the ones operating large-scale metallic mining, oil and gas, and coal industries (2014 PH-EITI Report, p.144). With regards to mining, the report explains that "small scale metallic and large scale non-metallic mining such as limestone, marble and cement, are still yet to be included in this Report, but where subject of separate scoping studies to determine readiness for inclusion in the Report in terms of accessibility of data on tax collections and receipts, and extent of economic contributions" (2014 PH-EITI Report, p.114).

Minutes from MSG meetings show that the MSG has discussed the feasibility of extending EITI reporting to small-scale mining, including in its discussion of the scope of the 2014 PH-EITI Report at its 9 February 2016 meeting where it agreed to only cover artisanal mining in a separate study rather than as part of the reconciliation of payments (PH-EITI, 2016). The 2013 PH-EITI Report also covers a separate study on large-scale non-metallic mining. It is noted in the 2014 PH-EITI Report that this sector contributed PHP 14bn (pp.120-123).

Based on these considerations, the 2014 PH-EITI Report states that a total of 58 companies - 46 large-scale metallic mining, 11 oil and gas, and one coal company – made payments against the revenue streams considered material and were thus to be targeted for reporting (2014 PH-EITI Report, p.157).

The names of the targeted companies indicating which companies reported and which ones did not report are disclosed in the 2014 PH-EITI Report (pp.147-149)³². The list shows that 23 of the targeted

³⁰ Ibid.

³¹ <https://www.doe.gov.ph/coal-1>

³² It should be noted that this list contains 59 companies, not 58 as previously stated in the report. The IA has explained that this is due to that one of the mining companies, TVI Resource Development Philippines, is one legal entity that has two extractive projects, Agata and Canatuan, which were separately included on the list given their difference in status (Agata had no extractive revenues in 2014).

companies failed to report, including 16 large scale mining companies, six oil and gas companies and one coal company³³. The report provides limited detail on the reason for non-participation of these companies. However, it explains that for four of the companies the reporting exercise was deemed not applicable as the companies had either ceased operations or had not yet reached production meaning that they did not make any payments against the material revenue streams in 2014³⁴. Government disclosures confirm the lack of revenues from these four companies, with Annex E confirming that LGUs did not receive any direct subnational payments from the four companies.

Since the outset of EITI implementation, the MSG has struggled with getting the main coal company, Semirara, to report. Semirara has referred to World Trade Organisation (WTO) commitments as a reason for not publicly disclosing its tax incentives. At the MSG's 5 September 2014 meeting, Secretary Gozun explained the reasons for not participating provided by Semirara at their recent bilateral meeting. Semirara representatives had highlighted their tax incentives (10% compared to Indonesia's 17%) and expressed concern that the WTO would impose counter-vailing measures if their incentives were disclosed. They also emphasised the lower grade of Philippine coal compared to Indonesia's, but considered that all information required by EITI was available from government (PH-EITI, 2014). Semirara was asked to provide a written explanation for their refusal to participate in EITI reporting (PH-EITI, 2014).

The MSG agreed to refer the issue of counter-vailing measures that could be imposed by WTO to the DOF's International Finance Group at its 3 July 2015 meeting (PH-EITI, 2015). The MSG Chair questioned why the public should be denied information on Semirara's tax incentives at the MSG's 25 January 2015 meeting (PH-EITI, 2015). While the BOI secured Semirara's non-objection to public disclosure of the company's tax incentives, as the MSG noted at its 13 November 2015 meeting (PH-EITI, 2015), the company has never submitted a tax confidentiality waiver to the BIR. Semirara agreed to participate in the 2013 PH-EITI Report but refused to sign the BIR waiver in line with the template, as the MSG noted at its 4 July 2014, 4 September and 2 October 2015 meetings (PH-EITI, 2014) (PH-EITI, 2015) (PH-EITI, 2015). For the 2014 PH-EITI Report, MSG meeting minutes document regular stocktakes of efforts to make Semirara report include identifying plan B such as sourcing information from the financial statement.

In terms of other actions undertaken by the MSG to ensure that companies would submit data for the 2014 PH-EITI Report, MSG meeting minutes from 4 November 2016 document discussion of the actions to be taken. This included suggestions such as writing to the MGB to issue an Administrative Order requiring companies to participate in the EITI, a letter from the IA to DoE, etc.

Materiality of omitted company payments:

³³ In addition, two companies – Adnama and SR Metals – submitted reporting templates, but too late for the IA to perform reconciliation. The disclosures are nonetheless included in the annexes and summary tables.

³⁴ The four companies are: Rapu-Rapu Minerals Inc., TVI Resources Development Philippines Inc. (Agata), Nido Petroleum Philippines Pty Ltd., and Trans-Asia Oil and Energy Development Corporation.

The government has unilaterally reported the revenues received from all the companies that failed to participate, apart from S.R. Languyan Mining Corporation for which the government has no records given that its operations pertain to ARMM (2014 PH-EITI Report, pp.213-226)³⁵. A more detailed account of reporting in ARMM is provided in section 4.7, below. These disclosures are disaggregated by company and by government agency for all revenue streams apart from the taxes collected by BIR³⁶. Aggregated total revenues collected by BIR, including both participating and non-participating companies, are disclosed on p. 83. Revenues collected by BIR from non-participating companies constitute 3.66% of total government revenue.

The lack of disaggregated data by BIR makes it difficult to assess the materiality of omitted company payments per each individual company. However, based on the figures in the report it can be calculated that the 23 non-participating companies collectively represent 7.82% of total government revenue from the extractive sector³⁷. One company, Semirara, represent 3.17% of this with the remaining 22 companies collectively representing 4.65 % of total government revenue. It can be assumed that five of the remaining 22 non-participating companies represent a relatively large share of this 4.65% given that they are producing companies and thus pay royalty, production share and likely also corporate income tax³⁸.

In terms of the companies that reported, the assessment of companies' audit and assurance procedures and the IA's overall assessment of the comprehensiveness and reliability of the EITI Report, discussed under Requirement 4.9, suggests that none of the reporting companies failed to comprehensively reports on all payments (*see Requirement 4.9*).

Reporting government entities:

The 2014 PH-EITI Report indicates that six national government agencies and 73 LGUs were targeted for reporting³⁹. The national government agencies were selected based on their mandate and responsibility to collect the material revenue streams in the scope of the report. It is the International Secretariat's understanding that LGUs were selected based on documents from MGB indicating which LGUs were hosting extractive industry projects.

All national government agencies submitted reporting templates. Ten LGUs did not report (2014 PH-EITI Report, p.267). The 2014 PH-EITI Report does not explain why, other than that there was no response from these LGUs. The EITI Report does not assess the materiality of the omission of these LGUs.

³⁵ For some non-participating companies, the fields are blank because there were no payments to government in 2014.

³⁶ Unilateral disclosure of disaggregated revenue per company collected by BIR is not available for most companies given that they did not participate and therefore not sign the waiver. There are a few exceptions, e.g. CTP construction and Eramen, that signed the waiver but didn't report for other reason. For these companies, disaggregated data is available also from BIR.

³⁷ For the detailed calculations, please see Annex C. These figures exclude revenues from exploration, for which there were no material payments.

³⁸ These are four mining companies – Century Peak, CTP Construction, Oriental and Wellex – and one oil and gas company, Philodrill. Given that CTO Construction and Oriental signed the BIR waiver, it is possible to establish the exact materiality of their payments, which represent 0.61% and 0.05% of total government revenue respectively.

³⁹ The national government agencies include Bureau of Customs, Bureau of Internal Revenue, Department of Energy, Mineral and Geosciences Bureau and National Commission of Indigenous Peoples. The list of LGUs are available on p.154 and p.267 of the 2014 PH-EITI Report.

However, the report states that “for 2014, PHP 320.8m of the PHP52.7bn was directly remitted to LGUs as hosts of the mining projects” (2014 PH-EITI Report, p.171). This means that the overall revenue collected by the 63 reporting LGUs only represented 0.6% of total government revenue.

In terms of the government agencies that participated, the assessment of government entities’ audit and assurance procedures and the IA’s overall assessment of the comprehensiveness and reliability of the EITI Report, discussed under Requirement 4.9, suggests that none of the reporting government entities failed to comprehensively reports on all revenues. Initial discrepancies of PHP 143.9k in mining rose to PHP 579.9k post-reconciliation, due primarily to MGB’s lower reporting of royalties on mining reservations (2014 PH-EITI Report, pp.269-281). The initial PHP 584.4m discrepancies in oil and gas were entirely resolved through reconciliation (2014 PH-EITI Report, pp.269-281). The reasons for discrepancies are detailed on pp.269-281 of the 2014 PH-EITI Report. It should be noted that NCIP is tasked only to monitor royalties for IPs, not to collect royalties on their behalf. As such, this is not a government revenue stream but rather a private to private transaction. As companies are not required to submit evidence of royalty payments to NCIP, the figures reported by NCIP are only for those companies that voluntarily involve NCIP in monitoring of royalties. This is why there is a high discrepancy – 38.6%- between the amount that the companies report to have paid in royalties directly to IPs and the payments that NCIP reports to have received evidence of being effectuated (2014 PH-EITI Report, p.279).

Requirement 4.1.d of the EITI Standard states that “Unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds” (2014 PH-EITI Report, p.24). As noted above, the MSG adopted a zero materiality threshold for reporting entities, i.e. all extractive companies making payments against the revenue streams in the scope of the EITI report were asked to participate in the EITI reporting process. The government has unilaterally disclosed the revenues from the non-participating entities. Thus, full government disclosure is provided. In addition, the report includes the list of extractive industry revenue streams that fell below the 2% threshold for revenue streams to be included in the scope of the report. This list indicates the amounts paid against each of the non-material revenue streams (p.261).

Assessment of comprehensiveness:

The 2014 Report discloses PHP 59.6bn in total government revenues from the oil and gas, large-scale metallic mining and coal sectors. Thirty-five companies participated, allowing for a reconciliation of 92.18% of payments. The non-participation of 23 companies accounts for 7.82% of total government revenues. One company, Semirara, accounts for 3.17% of this with the remaining 22 companies collectively representing 4.65 % of total government revenue.

The IA has included an assessment of the comprehensiveness of the 2014 PH-EITI Report, stating that: “...reporting templates of all participating companies and government agencies were ascertained to comply with the above procedures; hence deemed reliable and comprehensive with no exceptions identified other than those gaps included as part of recommendations under *Section V, Variance analysis: A change-point tool*, of this chapter...” (p.285). The IA also states that “It is noteworthy to emphasize that

participating companies and government agencies provided quality assurances by certifying the following, as duly stated in the last section of the reporting templates: (...) ‘All information disclosed and documents submitted in satisfaction of the EITI initiative are considered authentic and complete, and all statements and information provided therein are true and correct’. There were no identified exceptions or instances of non-compliance on the above” (p.285).

Stakeholder views

According to the IA, the report provides a comprehensive account of all extractive industry revenues in 2014. The only revenue streams that were excluded were those that were immaterial. Although the materiality assessment was done on the basis of 2013 government revenue data, the IA explained that it constituted a good basis for assessment given that there were no changes in the fiscal regime for the mining sector from 2013 to 2014. In addition, there was no significant change in companies given that the moratorium on licensing was only lifted in March 2014. Only three new exploration permits were awarded in 2014. The IA notes that exploration companies were excluded from the scope of the report because the only payments pertaining to exploration were license fees and local taxes which were deemed immaterial. Companies engaged in exploration were therefore typically not included in the report unless they were also engaged in production activities. It was the MSG that had asked for a zero reporting threshold for companies as a means of signalling to all companies that EITI reporting is applicable to all.

Stakeholders said that there was a variety of reasons why some companies refused to participate. Some argued that it was because the EITI was not mandated by law. Some companies did not have the manpower to prioritise this work. Others had said that the information was already available in the financial statements and didn’t see a need for double reporting. Others again were afraid of a comparison with other industry players. Some commented that there might be tax disputes.

Civil society admitted that it had been difficult to understand and agree on the concepts of materiality. Their position had always been that all companies should be considered material regardless of income or revenue. In the first two PH-EITI Reports, they had agreed to a threshold of PHP 1bn. For the third PH-EITI Report, they had argued for all companies to be included. The companies agreed to disclose all payments and remove the threshold as they wanted to show everything and apply the same rules to all. Civil society considered all revenue streams to be disclosed in the report. It was noted that it could be good to include the expenditures on DOE training support in the future. It was also noted that surface rights payments were not disclosed. These were payments by companies to landowners for right to use land for mining activity. Civil society had not yet asked for this to be included in the scope.

Government representatives said that they had fully reported all revenues. A government representative said that in order to facilitate tax reporting, the criteria for being considered a large tax payer had been amended to include “engagement with companies for EITI purposes”, regardless of the size of their tax payments or turnover. As such, all mining companies were now considered large tax payers and this meant that they could file their tax returns online, which was quicker and easier.

Initial assessment

The International Secretariat's assessment is that while not all aspects of the requirement have been met, the broader objective of comprehensive disclosure of taxes and revenues has clearly been achieved. Accordingly, the International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement.

In accordance with Requirement 4.1, the MSG has considered and agreed an approach to materiality and ensured that all material revenue streams are included in the scope of the 2014 PH-EITI Report. The approach to materiality thresholds and the sectors to be included in the report could have been better explained, with clear references to total government revenues received for exploration. The report includes a reconciliation of 92.18% of government revenues and company payments, including payments to and from state owned enterprises, in accordance with the agreed scope. The government has also disclosed the amount of total revenues received from each of the benefit streams agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds. This data is disaggregated by company and by revenue stream for all revenues with the exception of corporate income tax given confidentiality provisions. Due to tax confidentiality provisions, the government was only able to disclose disaggregated corporate income tax revenues for 38 of the 58 material companies, although the revenues presented in aggregate form represent only 3.6% of total government revenues from the oil and gas, large-scale metallic mining and coal sectors.

PH-EITI has not been successful in ensuring that all companies in the scope of the 2014 PH-EITI Report submitted reporting templates disclosing their payments. Significant efforts have taken place over the year by the government, companies and civil society to encourage all companies to participate. This is evidenced through the numerous letters and other follow-up vis-à-vis non-reporting companies as well as in measures to facilitate reporting such as the ones adopted by BIR related to the large tax payer classification and the development of the EITI bills, currently pending in both houses of Congress.

The PH-EITI Report is transparent about the gaps and weaknesses related to company participation. To remedy the lack of full company disclosure, the government has taken steps to unilaterally disclose the data for the companies that failed to participate. These disclosures have improved over the years and in 2014 also included data on Semirara, the most significant company that has yet to participate. As such, it is possible to assess the materiality of the omitted company disclosures by reviewing the government data. Although the non-participating companies collectively represent 7.82% of total government revenues from companies engaged in development and production, the non-participation of companies should be considered alongside the full government disclosure of the revenues received. The International Secretariat therefore concludes that the Philippines wider objective of comprehensive disclosure of taxes and revenues has been achieved.

In order to strengthen implementation, PH-EITI should continue its active efforts to encourage and facilitate company participation, including through mainstreaming. Future PH-EITI Reports could also contain a clearer calculation of total government revenue as well as the materiality of any non-participating companies, as this information is currently scattered throughout the report. The IA is also

advised to ensure that future calculations of % company participation is done with reference to total government revenues to avoid misunderstandings about the coverage of reconciliation.

In-kind revenues (#4.2)

Documentation of progress

The 2014 PH-EITI Report states that “In 2014 and 2013, there were no revenues collected in kind” (2014 PH-EITI Report, p.283). The 2013 PH-EITI Report confirmed that PNOC did not receive in-kind revenues from their share in oil, gas or coal projects (2013 PH-EITI Report, p.43, Vol.1), and that any in-kind infrastructure provisions were covered under social development programmes and thus were social expenditures (2013 PH-EITI Report, p.81, Vol.1).

The 2014 PH-EITI Report comments on PNOC’s role in oil and coal trading (2014 PH-EITI Report, p.45):

As part of its coal business, the company also trades coal from other sources through its four (4) coal terminals located in Manila, Malangas (in Zamboanga Sibugay), Batangas and Cebu. Total coal production from COC 41 in 2014 amounted to 63.16 thousand metric tons, coming directly from the production of small-scale coal miners, while the related direct sales volume was registered at 199.16 thousand metric tons. (...) Aside from the coal business, PNOC EC is also into international oil trading, supplying petroleum products to other countries. In 2014, PNOC EC delivered a total of 545.81 thousand metric tons of petroleum products to Bangladesh Petroleum Corporation and PT Pertamina Energy Services in Indonesia.

This trade is unrelated to the government’s share of production from oil and coal.

Stakeholder views

The IA explained that the mode of payment is not explicitly dealt with in the legal framework governing the oil and gas and mining sector. However, based on the contract provisions cash is the only accepted payment.

PMDC confirmed that PMDC never collects any of its two revenue streams – royalty fee or commitment fee – in kind.

With regards to PNOC EC’s coal trading, the IA explained that PNOC EC buys its coal for trading from third party sources. The majority of the coal traded are sourced from small scale coal miners (SSCMs) in Zamboanga Sibugay that operates within COC 41. Such private-to-private transactions are not covered in the scope of EITI reporting (*see Requirement 4.1*). SSCMs are former illegal coal miners that were legalized and given permits by the Department of Energy (DOE). Their operations are both supervised and monitored by the DOE and PNOC EC on the condition that all coal mined will be sold to PNOC EC. PNOC EC confirmed this arrangement and that the coal sold by PNOC EC was unrelated to the government’s share of PNOC’s production, which was paid in cash. In any event, PNOC EC has not had any coal production since 2013.

With regards to PNOC's hydrocarbon activities, PNOC explained that, as the operator, Shell sell's PNOC's share and pays the government's share in cash on behalf of all participants.

Initial assessment

The International Secretariat's initial assessment is that this requirement is not applicable in the Philippines.

Barter and infrastructure transactions (#4.3)

Documentation of progress

The 2014 PH-EITI Report states (p.283):

In the Philippine setting, agreements based on in-kind payments are unconventional. In-kind payments are normally through infrastructure provisions and barter arrangements. Infrastructure provisions are generally covered in the social development programs of the mining companies and are not contingent upon any sale or purchase of a commodity. Barter arrangement is also atypical in the local setting. This is evident in the current provisions of existing contracts and agreements of the extractive industry sector players.

At the MSG's 13 November 2015 meeting, the IA confirmed that there were no barter arrangements in force in 2013, based on their discussions with PMDC and PNOC (PH-EITI, 2015). The minutes from MSG meetings in 2016 do not record a similar discussion for the purpose of the scope of the 2014 PH-EITI Report.

Stakeholder views

Civil society representatives agreed with the IA that there were no barter or infrastructure arrangements.

Initial assessment

The International Secretariat's initial assessment is that this requirement is not applicable in the Philippines.

Transport revenues (#4.4)

Documentation of progress

The 2012 and 2013 PH-EITI Reports disclosed wharfage fees, which are a tariff imposed for the use of wharf paid to the Philippines Port Authorities. The tariff varies based on whether the import/ export cargo is domestic or international and is calculated using cargo quantity, weight or measure received and/ or discharged by a vessel. The 2014 PH-EITI Report noted that the wharfage fee was excluded from the

scope of the reconciliation due to immateriality. Unilateral disclosures from the PPA formed the basis for the assessment of the materiality (p.261). Nonetheless, the report recaptures a recommendation from the MSG to the Philippines Port Authority that the agency should “Provide update on the recommendation to issue a directive requiring companies to disclose the names of the subcontractors who transport their commodities to enable tracking of transportation fees” (p.292).

Stakeholder views

According to the IA, PNOEC is not involved in any transactions for transporting oil, gas or minerals. PMDC also has no revenues from transportation of oil, gas and minerals. This was confirmed by PMDC and PNOEC.

An independent analyst covering the mining sector said he was not aware of any transportation revenues linked to mining received by government. His understanding was that all barges transporting minerals were either owned directly by the mining company itself, or by the transport company contracted by the mining company.

A government representative reported on the challenges with disclosing wharfage fees given that it was the service companies contracted by the mining companies that were making the wharfage payments on behalf of the mining companies. From the PPA’s perspective, the payer that was liable for the fee would be the service providers and it was impossible for the PPA to identify which mining companies the various service providers were contracted by.

Civil society said that the Malampaya gas pipeline bringing gas onshore was privately owned. However, a fee was charged by the provincial government for right of way.

Initial assessment

The International Secretariat’s initial assessment is that this requirement is not applicable in the Philippines. Government agencies and SOEs collect no revenues from the transportation of oil, gas and minerals. It has also been established that the fees collected by the PPA for shipments of commodities are immaterial. The fee associated with the Malampaya pipeline is unlikely to be material.

Transactions between SOEs and government (#4.5)

Documentation of progress

The 2014 PH-EITI Report explains that there are two state-owned enterprises in the extractive sector, notably the Philippines National Oil Corporation (PNOEC) and the Philippines Mining Development Council (PMDC). The report does not specifically state whether state-participation gives rise to material revenues. However, as noted in section 2.6 above, the 2014 PH-EITI Report shows that the contribution of the two SOEs to total government revenue amounted was 2 % in 2014 (2014 PH-EITI Report, p. 42) (*see Requirement 2.6*). This does not appear to include the dividends remitted by PNOEC in 2014.

In terms of transactions between government and the two SOEs, the 2014 PH-EITI Report states that both companies are required to remit 50% of their annual net earnings in dividends to the government whereas other earnings are used for day to day operations. In 2014 PNOEC remitted a total of PHP 1.5 bn (USD 33m) in dividends whereas PMDC did not remit any in 2014 due to capital deficiency (p.43). The report also notes a PHP 3bn dividend payments pertaining to 2013 earnings which was paid in 2014. The PNOEC reporting template for 2014 does not appear to include the dividends remitted in 2014, and although unilaterally disclosed by PNOEC (p. 43), this figure is not reconciled with the recipient agency. In addition to dividends, the International Secretariat understands that PNOEC and PMDC pay taxes and other payments to the government along the same lines as other companies. The 2014 PH-EITI Report shows that the contribution of the two SOEs to government revenue from the companies targeted for the EITI Report amounted to 2 % in 2014, with PNOEC's payments totalling PHP 1,179,711,316 (USD 26m) and PMDC's payments amounting to PHP 27,985,893 (USD 600k) (2014 PH-EITI Report, p.42). Disaggregated reporting templates for PNOEC are available on pp.1072-1076, and disaggregated PMDC templates on pp.1036-1041.

In order to assess the level of disclosures of transactions between the two SOEs and other oil, gas and mining companies, it is necessary to first understand the existing flows between the SOEs and the companies involved in their projects.

PMDC primarily undertakes development, promotion and management of various mining projects classified into Mineral Reservations, Privatization Management Office (PMO) Assets, and Cancelled Tenements (2013 PH-EITI Report, p.43). It has been awarded 28 mining projects, of which two are in production, 24 are in exploration, and two are under litigation (2014 PH-EITI Report, p.45). These projects are governed by Joint Operating Agreements with other companies appointed by PMDC following public bidding (2012 PH-EITI Report, p.128). PMDC collects and retains royalty fees and commitment fees from the PMDC-appointed operators, however operators pay other taxes and payments directly to the government agencies as any other private contractor (2012 PH-EITI Report, p.128). The royalty fees and commitment fees paid by PMDC operators to PMDC in 2014 amounted to PHP 135m (USD 3m) (2014 PH-EITI Report, p.46). Royalty fees and commitment fees are not listed as included in the scope of the 2014 PH-EITI Report nor do they appear on the list of revenue streams excluded from the scope (2014 PH-EITI Report, p. 260). The 2014 PH-EITI Report does not seem to include reconciliation of these fees. Rather, the disclosures are limited to disclosure of revenues received by PMDC for each type of fee disaggregated by paying company (2014 PH-EITI Report, p. 46; PMDC reporting templates).

PNOEC-EC is a majority owned (99.79%) subsidiary of PNOEC, responsible for exploration, development, utilization and marketing of oil and gas and other viable energy resources (2012 PH-EITI Report, p.129). It has a participating interest in eight oil and gas projects and six coal projects (2014 PH-EITI Report, p.44-45). These projects are governed by oil and gas service contracts, and coal operating service contracts (COCs). As noted above, PNOEC-EC is required to share its net proceeds with the government for all contracts that it is involved in. The government's share comprises of income taxes and royalty fees. In addition, PNOEC-EC pay other taxes and fees to the government as any other contractors (2012 PH-EITI Report, p.131). PNOEC-EC does not collect any payments from its JV partners on behalf of the government. The source of PNOEC-EC is derived from the company's equity share in the oil, gas and mining projects.

Stakeholder views

The IA explained that the 2014 PH-EITI Report had not included a reconciliation of payments from private companies to PMDC as these were considered immaterial, amounting to only 0.24 of total revenues collected from the targeted companies. PMDC confirmed the arrangements described above, and also noted that there were no ad hoc transfers or payments between PMDC and other levels of government. Civil society commented that it would be valuable to include the reconciliation of payments by PMDC operators with receipts from PMDC.

With regards to PNOEC, the IA also explained that in addition to the PHP 1.5bn dividend disclosed in the 2014 EITI Report, cash dividends of a total of PHP 3bn from 2013 earnings were declared and paid on 17 February 2014 and 5 March 2014, respectively. Given that these dividends pertained to the 2013 financial year, they were disclosed in the 2013 PH-EITI Report rather than the 2014 report. According to PNOEC, the reporting template for 2014 didn't include dividends and therefore it had not been disclosed until the IA requested it later on. PNOEC also reported that in 2014 there had been one transfer of a payment of USD 3 m from BHP to PNOEC related to the farm out of BHP in order to support PNOEC's drilling costs as per the work obligations.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. Despite not giving rise to material revenues, the PH-EITI Report has disclosed information about relevant mandatory transactions between the government, SOEs and private companies, notably dividends, and royalty fees and commitment fees in accordance with Requirement 4.5. Furthermore, although dividends are not reconciled, there is evidence of their immateriality. The broader objective of transparency in transactions between SOEs and government is achieved given that the government has unilaterally disclosed all payments, which are confirmed in their audited financial statements.

In order to strengthen implementation, it is recommended that the reporting templates are updated to include dividends as well as any ad hoc payments.

Subnational direct payments (#4.6)

Documentation of progress

The 2014 PH-EITI Report states that payments amounting to PHP 320.8m (USD 7m) were directly remitted by companies to Local Government Units (LGUs) as hosts of the mining projects (p.171). This represents 0.6% of total revenues from the companies targeted for reporting and comprises three revenue streams: local business tax, real property tax (basic) and real property tax (special education fund).

Tables 99-101 of the 2014 PH-EITI Report summarizes the direct subnational revenues disaggregated by region, province and municipality (2014 PH-EITI Report, pp.227-228). Total payments of each company

per region are summarised in table 102 (2014 PH-EITI Report, pp.228-229). Detailed disaggregated data by company and revenue stream is provided in Annex AH, however this data is not always reconciled due to the absence of a detailed schedule supporting the reporting template provided by the LGU.

With regards to the Autonomous Region of Muslim Mindanao (ARMM), the 2014 PH-EITI Report includes a scoping study on the extractive industries in ARMM. It contains the background and legal framework for extractive industry governance as well as a description and profile of the extractive sector therein. It also presents four case studies, followed by analysis and commentary regarding the issues, challenges, contributions, and prospects of extractives in the ARMM. The 2014 PH-EITI Report also outlines the fiscal regime applicable to ARMM (2014 PH-EITI Report, pp.294-29). According to the scoping study, as of present there were only two active mining companies holding MPSAs, notably S.R. Languyan Mining Corporation and Chan C Mining (2014 PH-EITI Report, p.825). S.R. Languyan Mining Corporation was included in the scope of the 2014 PH-EITI Report. Although the company did not respond to the request to submit the reporting template, the IA included details on the total value of sales of the company (2014 PH-EITI Report, p.149). With regards to oil and gas, two SCs had been awarded pertaining to exploration within ARMM's jurisdiction, however according to the scoping study these were both halted in late 2012 pending further progress on a revenue sharing mechanism (2014 PH-EITI Report, pp.826-827). With regards to coal, the scoping study explains that as of May 2014 there were four active COCs for exploration and three active COCs for development and production, but no coal mining activity was being conducted (2014 PH-EITI Report, p.827).

Stakeholder views

According to the IA, the ten non-reporting LGUs had not actively refused to report, they had simply not responded to the IA's request despite multiple attempts to follow-up via email. Record-keeping by LGUs was one of the challenges with ensuring comprehensive reporting and ability to reconcile LGU data with company data. Many LGUs were still operating with manual record keeping systems, making it time consuming and challenging to identify the company payments. Although sub-national direct flows were immaterial compared to revenues collected at the national level, they were important to disclose for local reasons as well as for consistency, given that they had been included in the 2013 PH-EITI Report as well. The roadshows had been helpful in raising awareness among LGUs and the number of reporting LGUs had increased from 2013 to 2014.

The companies consulted said that it shouldn't be too difficult to reconcile the data. Companies make payments to LGUs minimum once and maximum four times per year for the three taxes mentioned above. The companies get official receipts upon execution of the payment. Some considered that the challenge could be the record keeping systems of LGUs. Several stakeholders highlighted the use of disclosing payments to LGUs in clarifying what companies already contributed (*see Requirement 7.1*).

A government representative explained that a new tool (ENRDMT) was being implemented that would change the way taxes are recorded at the local level and help ensure that the LGUs could provide the necessary tax reports (see requirement 7.4 for further details). In the meantime, the central government had tried to assist the LGUs with filling in the templates. One government representative claimed that

there were no record-keeping challenges among the LGUs, at least not for large-scale mining.

Civil society representatives said that the 2014 PH-EITI Report was less comprehensive in terms of subnational payments given that some of the immaterial revenue streams collected at local level had been excluded from the report. The 2013 PH-EITI Report better reflected the different ordinances and tax regimes across various LGUs. However, for the 2014 PH-EITI Report the companies had lobbied for not including all these local taxes because it could encourage other local governments to raise or impose new taxes. This underscored the importance of stronger LGU representation on the MSG. It was noted that one of the challenges with LGU reporting was that there was no standardised template for treasurers to record their revenues at LGU level. Civil society representatives didn't recall any attempts by the MSG to follow up on missing LGU reporting in the 2014 PH-EITI Report. However, they had worked on raising awareness among LGUs by supporting capacity building and training. Some thought that some LGUs did not report because it could be perceived as pro-mining.

With regards to ARMM, the IA said that a reporting template had not been distributed to ARMM, even if the one company with commercial operations, SR Languyan Mining Corp, had been requested to participate. According to the IA, the payments by this company to ARMM were not necessarily significant given that their contribution to the sector in terms of value of sales amounted to only 0.49% of the value of total sales from the mining sector. Civil society said that the inclusion of ARMM had been discussed by the MSG and hence the scoping study that was attached to the 2014 EITI Report. As far as civil society representatives were aware, there was one material and three non-material companies operating in ARMM. DENR had sales records showing this. However, there were no production or revenue records available. Any revenues would be paid to ARMM directly. The jurisdiction over licensing was currently contested. ARMM had so far issued the licenses, but the Ministry of Justice had contested their competence to do so. Civil society would continue their strategic engagement towards ARMM. An interim multi-stakeholder group had been established, but no companies had showed up. However, one company had now invited them to visit the mining site. DENR confirmed that they did not have the production or revenue data, but that they had collaboration with ARMM and that the data could be provided. DOF also confirmed that revenue collection was not within their jurisdiction and that they did not have records on ARMM. A company representative also confirmed that there had been focus group discussions related to ARMM, but that ARMM remained reluctant to join.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with requirement 4.6, data from companies and LGUs is disclosed and also reconciled by individual revenue stream where possible. In some cases, reconciliation has been hampered by lack of LGU records. Although arguably immaterial representing only 0.6% of total government revenues, the data is reported to be useful to stakeholders at local level.

In order to strengthen implementation, PH-EITI is encouraged to work with government agencies on the reforms related to LGU tax records. Given the low level of materiality, PH-EITI could reconsider the costs and benefits of reconciling subnational flows although it is noted that reconciliation is as much a means of

building capacity and outreach to LGUs. PH-EITI is also encouraged to continue its strategic engagement with ARMM with a view to include them in future reports.

Level of disaggregation (#4.7)

Documentation of progress

The 2014 PH-EITI Report presented reconciled data disaggregated by individual company, government entity and revenue stream (Annex AH). However, the BIR's disclosure of corporate income tax revenues from non-reporting companies is provided disaggregated by company for only three of the 23 non-reporting companies, given confidentiality provisions of the Tax Code (*see Requirement 4.1*). Corporate income tax accounted for 28% of oil and gas revenues (2014 PH-EITI Report, p.170) and 48% of large-scale metallic mining revenues (2014 PH-EITI Report, p.168). In total, the BIR was able to disclose 91.4% of revenues it collected disaggregated by company (2014 PH-EITI Report, pp.67, 83, 217)⁴⁰, while disclosure of the 8.6% of corporate income tax revenues from 21 non-reporting companies that paid such tax were reported only in aggregate form. This represents 3.6 % of total government revenue from the sector.

While most data from oil, gas and mining data is so far provided on an entity level, some of it is explicitly reported by project given that the companies in the scope of the EITI Report are only engaged in one site. At the MSG's 27 March 2015 meeting, the DOE representative noted that in line with PD 87, statutory reporting from DOE to the Bureau of the Treasury was done at the level of each service contract, explaining that project-level reporting per service contract would be easier than on a consolidated company basis, although the PH-EITI Secretariat's recommendation was to undertake reporting on a company-basis (PH-EITI, 2015).

Stakeholder views

The mining companies consulted said that their reporting to the government is already done on a project-level basis. Tax and payment liabilities are levied per project apart from general taxes such as Income Tax which is levied per entity. Some thought that project-level reporting could result in more paperwork whereas others thought that it could be helpful in terms of showing the benefits of each mine. A company representative said that project level reporting was important and that it was difficult to understand why the report was not already disaggregated by project. It was argued that there were no technical or commercial reasons for why data could not be reported by project.

The IA said that project level reporting should not be difficult for companies. For government entities, DOE and MGB were already recording the receipts per project. However, BIR would only be able to

⁴⁰ In addition to the PHP 22,822,370,002 reported by BIR for the 35 reporting companies (2014 PH-EITI Report, p.83), the 2014 PH-EITI Report also shows that BIR collected PHP 20,603,652 from CTP Construction (2014 PH-EITI Report, p.217) and did not collect corporate income tax from Semirara (2014 PH-EITI Report, p.226) or from Oriental Synergy Mining Corporation (2014 PH-EITI Report, p.220). This means that BIR disclosed a total of PHP 3.6 disaggregated by company, which represents 91.4% of the PHP 25,005,359,507 in revenues collected by BIR.

disclose total income tax per company.

Civil society welcomed that the report was already disaggregated by mining site for some companies. For example, Nickel Asia was operating several mines in the country, and the report was disaggregated by mine.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. In accordance with Requirement 4.7, the data is disaggregated by individual company, revenue stream and government entity for all revenue streams aside from corporate income tax. Due to tax confidentiality provisions, the government was only able to disclose disaggregated corporate income tax revenues for 38 of the 58 material companies, although the revenues presented in aggregate form represent only 3.6% of total government revenues from the oil and gas, large-scale metallic mining and coal sectors.

All stakeholders seem to support a move to project level reporting, and PH-EITI is encouraged to consider this for its next EITI Report.

Data timeliness (#4.8)

Documentation of progress

The 2014 PH-EITI Report was approved by the MSG and published on the PH-EITI website on 31 December 2016. The 2013 and 2012 EITI Reports were also published at the end of December 2015 and 2014 respectively. For the 2014 EITI Report, the MSG filed an extension request which was subsequently withdrawn as the MSG managed to finalise the report on time.

Stakeholder views

The companies consulted said that they prepare and audit their various financial reports within 105 days of the end of the calendar/fiscal year. Most of the data requested by the EITI was data already filed with the government agencies. Streamlining these disclosures could help improve the timeliness of reporting. Some companies said that the time period May-Dec was always busy and completing the EITI templates could be crowded out by other work. Others said that some companies were simply too slow with submitting their templates. A company representative said that it would be possible to release the data 3-6 months after the end of the financial year.

The IA welcomed the effort to produce two years of data in one EITI Report. The IA also noted that it should be possible to make better use of existing company and government filings.

Civil society commented that the main reason why the 2014 PH-EITI Report was not timelier was the

lengthy procurement process, transition and funding constraints.

Several stakeholders commented that the lack of up to date information in EITI Reports limited its use.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with Requirement 4.8, PH-EITI has published EITI Reports on an annual basis and the data has not been older than the second to the last complete accounting period.

In order to strengthen implementation, it is recommended that PH-EITI strengthens its efforts to publish more up-to-date EITI Reports in order to ensure that the data is more relevant and useful to the public.

Data quality (#4.9)

Documentation of progress

Terms of Reference for the Independent Administrator (IA):

The MSG discussed the ToR for the 2014 PH-EITI Report at its 15 January 2016 meeting, agreeing to exclude contextual information from the scope of the IA's work and discussing the scope of reconciliation (PH-EITI, 2016). Two ToRs were subsequently prepared; one for the contextual information and one for the reconciliation work. The MSG approved both ToRs in principle at its 11 March meeting and finally at its 8 April 2016 meeting following some further revisions (PH-EITI, 2016).

The ToR for the 2014 PH-EITI Report is generally consistent with the Standard ToR agreed by the EITI Board (as of March 2016), although as noted above the tasks related to preparing the non-financial information were extracted into a separate TOR. This chapter would later be reviewed and incorporated in the PH-EITI Report by the IA (Department of Finance (DOF), 2016). The annexes of the ToR for the reconciliation outlining the MSG's initial scoping decisions on materiality were left largely blank with only general revenue streams and no material companies listed. This was because the MSG considered it the IA's responsibility to make proposals related to materiality (PH-EITI, 2016). The ToR confirms the need for the MSG and IA to agree materiality thresholds for selecting companies and revenue streams during the inception phase.

Appointment of the Independent Administrator (IA):

Subsequent to MSG approval of the TORs in principle on 7 March, PH-EITI launched the bidding process on 7 April 2016 for two contracts, one to prepare the contextual information and one to prepare the reconciliation. However, during the MSG meeting on 8 April further changes were made to the TORs which resulted in the cancellation of the bidding round. A second bidding round was launched on 19 April but was subsequently cancelled as no bids were received within the allotted timeframe due to the low budget for the assignment. A third bidding round was launched on 13 May, but this was also cancelled

due to lack of bids. A fourth bidding round was launched on 8 June. Although this round was successful in attracting bids, administrative delays caused by the transition meant that it was only on 5 October 2016 that the Bids and Awards Committee of the DOF was able to review the financial proposal of the winning bidder.

Preparations for the report nonetheless went ahead. At the 1 July MSG meeting, the MSG was informed that there was only one bidder for the two assignments and this bidder was the former IA. To mitigate delays, the MSG asked this firm to provide guidance on developing reporting templates and materiality. The former IA also supported initial data collection before the contract was finally awarded to them in October 2016. This contract covered both TORs, but the IA hired a technical writer to support the preparation of the contextual information.

Figure 2 – Procurement process for the IA for the third PH-EITI Report

Step/Process	Date	Remarks
Date Published	April 7, 2016	Cancelled due to change in TOR and approved budget cost
Shortlisting	April 14, 2016	
Date Published	April 19, 2016	Cancelled; no bids received
Shortlisting	April 26, 2016	
Date Published	May 13, 2016	Cancelled; no bids received
Shortlisting	May 20, 2016	
Date Published	June 8, 2016	Administrative delays due to government transition
Shortlisting	June 15, 2016	
Issuance and Availability of Documents	September 8, 2016	
Pre-bid Conference	September 13, 2016	
Request for Clarification	Until September 16, 2016 (by email)	
Bid Submission Deadline	September 26, 2016 9:45 AM	
Opening of Technical Proposal	September 28, 2016 11:30 AM	
Opening of Financial Proposal	October 5, 2016 9:00 AM	
Evaluation and SBAC Resolutions	Done	
Notice of Award and Notice to Proceed and Contract	Pending "Certificate of Availability of Fund" or fund source	

Source: Reporting deadline extension request submitted by the MSG in December 2016

Agreement on the reporting templates:

While the IA did not prepare a standalone inception report for the 2014 PH-EITI Report, it presented scoping options to the MSG at its 5 August 2016 meeting (PH-EITI, 2016). The MSG discussed the reporting templates for the 2014 PH-EITI Report at its 1 July 2016 meeting (PH-EITI, 2016) (PH-EITI, 2016). Further discussion took place at the MSG meeting on 5 August 2016, where the MSG approved the reporting templates for the 2014 PH-EITI Report with minor stylistic revisions on previous templates

including additional guidance for LGU reporting (PH-EITI, 2016). The MSG had also received feedback from the IA on the templates prior and during this meeting.

To facilitate reporting in the future, the MSG agreed at its 15 January 2016 meeting to develop an online reporting tool for companies for future PH-EITI Reports (PH-EITI, 2016). PH-EITI approached donors including USAID and Development Alternatives Inc. in early 2016 to fund the online reporting tool, although no funding was secured as of January 2017 (PH-EITI, 2016) (PH-EITI, 2016).

Confidentiality:

The 2014 PH-EITI Report does not comment on the procedures, if any, agreed with the IA for safeguarding confidential information. The IA explained that the contract includes a confidentiality provision, but that the duration of the confidentiality is not explicitly stated.

Review of audit practices:

The 2014 PH-EITI Report includes a review of prevailing audit and assurance procedures. For companies, it notes that (p.284):

As required by the SEC, entities prepare annual financial statements that are required to be audited by an external auditor and submitted on or before 15th of the fourth month following annual period end. External audit involves obtaining sufficient and appropriate audit evidence about the amounts and disclosures in the financial statements and are conducted in accordance with Philippine Standards on Auditing, adopted from International Standards on Auditing.

With regards to government data, the report notes that (p.284):

Government agencies prepare periodic reports in accordance with Philippine Public Sector Accounting Standards. Audit is performed by COA in accordance with the Government Auditing and Accounting Manual (GAAM) and is conducted in 2 phases:

1. Annual financial audit performed in accordance with PD 1445 obtaining evidence on each government agency's revenues and expenditures.
2. Monthly review of collections and disbursements performed by resident auditors of each government agency.

COA's audit procedures over revenues are focused on agreeing collections with remittances to the national treasury.

The report does not appear to comment on whether these procedures are implemented in practice. The MSG noted at its 15 January 2016 meeting that extractives revenues data was not audited by the COA, which only audits operational expenses and procedures (expenditures) (PH-EITI, 2016).

Assurance methodology and data reliability assessment:

The MSG has considered international audit procedures for both companies and government on several occasions. At its 8 April 2016 meeting, the MSG Chair noted that the SEC required all companies to submit

figures audited to international standards and rejected the idea of a MoU between PH-EITI and the SEC covering quality assurance procedures for companies' reporting. The MSG also noted the existence of an Administrative Order from COA requiring all accounting procedures be consistent with international accounting standards (PH-EITI, 2016).

The 2014 PH-EITI Report confirms the approach adopted for assuring the data in the 2014 PH-EITI Report. Senior company and government officials were required to sign-off on the completed reporting template, confirming that the data provided in the templates were actual and valid transactions obtained from company and government records (2014 PH-EITI Report, pp.284-285). The IA was also tasked to check the figures in the report against the financial statements audited by third parties and COA for the companies and government entities respectively.

In terms of compliance with the procedure and the assessment of reliability by the IA, the report states that (2014 PH-EITI Report, p.285):

Reporting templates of all participating companies and government agencies were ascertained to comply with the above procedures; hence deemed reliable and comprehensive with no exceptions identified other than those gaps included as part of recommendations under Section V, *Variance analysis: A change-point tool*, of this chapter. Recommendations noted in the Report were limited to areas covering administrative functions of each of the government agency that would not impact the reported revenues.

It is noteworthy to emphasize that participating companies and government agencies provided quality assurances by certifying the following, as duly stated in the last section of the reporting templates:

1. The signatory is the duly authorized and designated representative of either the company or government agency; and
2. All information disclosed and documents submitted in satisfaction of the EITI initiative are considered authentic and complete, and all statements and information provided therein are true and correct.

There were no identified exceptions or instances of non-compliance on the above.

The report also notes that audited financial statements are available from COA and SEC, but does not provide links to access these reports.

Reconciliation methodology and application of international standards:

The 2014 PH-EITI Report notes that companies use:

“Philippine Financial Reporting Standards (PFRS) or PFRS for Small and Medium-sized Entities as the accounting framework in recording transactions, which is the major source of information for the reporting templates. These standards are adopted from the International Financial Reporting Standards issued by the International Accounting Standards Board” (p.284). With regards to the government, the report explains that “Government agencies prepare periodic reports in accordance with Philippine Public Sector Accounting Standards (...) Reporting templates submitted by each government agency are signed off by the head of the agency (assistant secretary or higher position) to signify that amounts reported are the actual collections as recorded in their accounting system” (p.284-285).

The methodology used by the IA is explained on pp.263-265. The report notes that:

“the objectives of the reconciliation process do not extend to an audit and review of the disclosures which 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” (p.264).

Sourcing of information:

In general, the 2014 PH-EITI Report is sourced throughout. It also indicates authorship beyond the IA, such as for example the opening statements (2014 PH-EITI Report, pp.i-ix) or the recommendations developed by the MSG (2014 PH-EITI Report, p.288).

Summary data:

All three PH-EITI Reports have been published in machine-readable format on the PH-EITI website⁴¹ and on the EITI website.⁴² The MSG has also included in the ToR for the IA a requirement to produce a dataset for all PH-EITI data, beyond the GFS-coded tables already produced (PH-EITI, 2016), which is available from the PH-EITI Secretariat upon request.

Findings:

In line with the MSG’s agreed ToR for the 2014 PH-EITI Report, the report provides an assessment from the IA on the comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided (2014 PH-EITI Report, pp.284-285). The report also indicates the coverage of the reconciliation exercise, based on the government's disclosure of total revenues as per Requirement 4.1(d) (2014 PH-EITI Report, pp.145-146). Finally, the 2014 PH-EITI Report includes an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information, highlighting gaps and weaknesses in reporting, naming entities that did not comply with agreed procedures (2014 PH-EITI Report, pp. 213-226) and an assessment of the impact on the comprehensiveness and reliability of the report (2014 PH-EITI Report, pp.284-285) (*See Requirement 4.1*).

Recommendations:

In accordance with the TOR for IAs, the IA comments on the progress with implementing recommendations from the first and second PH-EITI report, highlighting that:

“The MSG identified key findings from the first and second PH-EITI report that should be immediately addressed to improve current government systems and EITI implementation. The recommendations formulated by the body underscore the need for more capacity building activities, reforms in existing reporting mechanisms to promote more transparency through enhancement of data quality, and amendments to legislations and existing regulations” (2014 PH-EITI Report, p.287).

⁴¹ <http://PH-EITI.org/Country-Reports/#/>

⁴² https://eiti.org/implementing_country/2#revenue-collection

The IA also recommends that:

“a formal process to document the review activities of MSG and the government agencies of the recommendations be implemented such as inclusion in the agenda of monthly MSG meetings. Also, review activities can be further re-enforced through adoption of a more structured accountability and reporting lines, as well as fixed timetable for implementation. Also, key messages to be derived and delivered from required additional information in the reporting templates should be well defined during the preparation and finalization of reporting templates. Stakeholders, particularly the industry sectors, will then be clear about the objectives and the benefits arising from said disclosures” (p.287).

In accordance with the TOR, the IA also presents recommendations resulting from the 2014 PH-EITI Report on pp.286-297.

Stakeholder views

The IA said that the procurement and production of the third report had been somewhat challenging compared to previous procurements. The process had only been finalised in October due to the government transition and financing issues. Although the IA had signalled its intention to bid in early 2016, a new bidding commission was assessing the bids. The IA had not submitted all the required documents and was therefore disqualified. Due to lack of other bids, a second bidding round was launched and the contract was signed in October. This gave the IA only a bit more than two months to compile the data and draw up the report.

With regards to the TOR, the IA found it fairly standard and easy to use. The MSG had decided to include additional data for the IA to collect. It had been easier for the IA to produce both the contextual chapter and the reconciliation chapter as done in the 2013 and 2014 reports, compared to the 2012 PH-EITI report where the contextual chapter was prepared by others. For the 2014 report, the IA had hired a technical writer to help with the contextual chapter. Confidentiality provisions were specified in the contract, but the length of the confidentiality was not detailed.

Civil society representatives argued that it was not efficient to have one firm produce both the contextual and the reconciliation report. That was why they had asked the IA to hire another consultant to produce the contextual part of the 2014 PH-EITI Report. Civil society also lamented that for the 2014 PH-EITI Report there was only one firm that bid and it had therefore not been possible to consider the potential of other firms performing the tasks of the IA. To avoid conflict of interest, the MSG had adopted a policy that the team of the firm bidding for the IA contract could not have parallel assignments for mining companies. However, it was unlikely that this was a determining factor explaining the low interest in bidding for the assignment.

The companies consulted had no issues with working with the IA, who they considered to do a good job. The templates were easy to follow and companies had an opportunity to comment on the template prior to data collection.

Government agencies also expressed satisfaction with the work of the IA, and that it was easy to fill in the

template and work with the IA on the follow-up of any discrepancies. It was noted that there were less discrepancies since the shift to accrual reporting in the second and third EITI Report. It had also made the reporting process faster. One government stakeholder commented that the MSG is giving the IA a hard time because the IA is asked to include more and more data within a strict timeframe. Government representatives had also observed how the reporting process had become easier as the IA became more familiar with the reporting process.

Civil society said that it was the MSG that produced the template, and that the IA would review it before distributing it to the reporting entities. Some expressed frustration that the IA sometimes seemed to not prioritise collection of data that the MSG had asked them to include, such as for example data on social payments and employment data disaggregated by gender. This despite these data points being included in the template and in the TOR for the IA. The MSG had tried to better monitor the work of the IA by asking for regular updates on progress with such data collection.

In terms of auditing, the IA commented that when receiving the reporting templates from the reporting entities, they would always check the data against the audited financial statements. Stakeholders also confirmed that there was annual interaction between the IA and the COA, to share updates on auditing standards, auditing procedures etc.

A government representative confirmed that all national government agencies are audited by the COA before 15 May every year. As for LGUs, roaming COA auditors would visit them and audit a sample of the transactions. The auditors would use a risk based approach, identifying the weak points of controls and focusing the audit on those areas. If it is a financial audit, the COA would look at the fairness of the account presented. All LGUs, except barangays, were required to complete the audit by 30 June every year. All audit reports would be made publicly available on the COA website.

Companies considered the data in the report to be fairly accurate, reliable and comprehensive.

Although civil society had confidence in the assurance procedures performed by the IA, they had concerns in terms of the accuracy of the government data. This was more about the ability of government to monitor production and correctly calculate and record the dues. Undertaking a process audit of how the government collects, computes and records its data could be useful.

No stakeholders expressed any concerns about the recommendations proposed by the IA.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with Requirement 4.9, the reconciliation of payments and revenues has been undertaken by an IA, appointed by the MSG, and applying international professional standards. The IA and the MSG agreed TORs for the production of the PH-EITI Report consistent with the standard TOR and agreed upon procedures issued by the EITI Board, and applied this TOR and procedures in practice. The final report provides a clear statement from the Independent

Administrator on the comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided. While the report indicates a coverage of the reconciliation exercise, based on the government's disclosure of total revenues as per Requirement 4.1(d), which omit a share of government revenues from the sector, it is possible to calculate the actual reconciliation coverage (*see Requirement 4.1*).

Table 4 - Summary initial assessment table: Revenue collection

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Comprehensiveness (#4.1)	Although several material companies failed to submit reporting templates for the 2014 PH-EITI Report, affecting the coverage of the reconciliation, these omissions should be considered alongside the government's full disclosure of all revenues received, including from non-participating companies. The report is also transparent about the gaps in company reporting and the remedies. The International Secretariat's view is that the objective of comprehensive disclosure of taxes and revenues has been achieved.	Satisfactory progress
In-kind revenues (#4.2)	The PH-EITI Report and stakeholder views have confirmed that no company make payments of royalty, the government's share of production or other payments in-kind. The contractual framework only allows cash payments.	Not applicable
Barter and infrastructure transactions (#4.3)	The PH-EITI Report has confirmed that there are no barter and infrastructure transactions in the Philippines.	Not applicable
Transport revenues (#4.4)	The PH-EITI Report and stakeholder views have confirmed that no government agency or SOE collect material revenues for the transportation of oil, gas and minerals.	Not applicable

Transactions between SOEs and government (#4.5)	Despite not giving rise to material revenues, the EITI Report has disclosed information about relevant mandatory transactions between the government, SOEs and private companies, notably dividends, and royalty fees and commitment fees.	Satisfactory progress
Subnational direct payments (#4.6).	The 2014 PH-EITI Report discloses payments by companies and receipts by LGUs. Where possible, these flows are also reconciled. In some cases, reconciliation has been hampered by lack of LGU records. The non-reporting by 10 LGUs is not considered material given that the revenues collected by the 63 participating LGUs represent only 0.6% of total government revenues.	Satisfactory progress
Level of disaggregation (#4.7)	The data is reported by individual company, revenue stream and recipient government entity.	Satisfactory progress
Data timeliness (#4.8)	Data covering financial year 2014 was published by the end of 2016, in accordance with the EITI's timeliness requirements.	Satisfactory progress
Data quality (#4.9)	The reconciliation of payments and revenues has been undertaken by an IA, appointed by the MSG, and applying international professional standards. The IA and the MSG agreed TORs for the production of the PH-EITI Report consistent with the standard TOR and agreed upon procedures issued by the EITI Board, and applied this TOR and procedures in practice.	Satisfactory progress
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. In order to strengthen implementation, PH-EITI should continue its active efforts to encourage and facilitate company participation, including through mainstreaming. Future EITI Reports could also contain a clearer calculation of total government revenue as well as the materiality of any non-participating companies, as this information is currently scattered throughout the report. The IA is also advised to ensure that future calculations of % company participation is done with reference to total government revenues to avoid misunderstandings about the coverage of reconciliation. 2. It is recommended that the reporting templates are updated to include dividends as well as any ad hoc payments. 3. PH-EITI is encouraged to work with government agencies on the reforms related to LGU tax records. Given the low level of materiality, PH-EITI could reconsider the costs and benefits of reconciling subnational flows although it is noted that reconciliation is as much a means of building capacity and outreach to LGUs. PH-EITI is also encouraged to continue its strategic engagement with ARMM with a view to include them in future reports. 4. In light of the stakeholder support for project level reporting, PH-EITI is encouraged to consider disaggregating future data by project. 5. In order to strengthen implementation, it is recommended that PH-EITI strengthens its efforts to publish 		

more up to date EITI reports in order to ensure that the data is more relevant and useful to the public.

5. Revenue management and distribution

5.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue management and distribution.

5.2 Assessment

Distribution of revenues (#5.1)

Documentation of progress

The 2014 PH-EITI Report states that “All revenues from the extractive industry sector other than those directly collected by LGUs including business and real property taxes, and IP royalty payments which are received directly by IPs, are recorded in the national budget. The details of these tax and non-tax revenues can be found in DBM website” (2014 PH-EITI Report, p.84).⁴³

With regards to IP royalty payments, the 2014 PH-EITI Report explains that mining contractors and permit holders must agree on a royalty payment with the concerned indigenous cultural community(ies) which may not be less than 1% of the gross output. Expenses for community development may be charged against the royalty. The royalty is paid directly to the concerned indigenous cultural community(ies) and monitored by NCIP (2014 PH-EITI Report, p.111). The legal and regulatory framework governing extractive operations in ancestral domains, the Free Prior and Informed Consent (FPIC) process and Memorandum of Agreements (MoA) between the companies and the IPs are explained in further detail in the 2012 PH-EITI Report.

The 2014 PH-EITI Report also explains the rules regarding spending of the royalties (p.116):

The ICCs/IP receiving royalties and similar fees must formulate a development plan for the management and use of the same to be known as the CRDP. The CRDP serves as the roadmap for the allocation and spending of the royalties received, as required by NCIP Administrative Order No. 3 2012 (...) 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, that while the NCIP may exercise their visitorial power to evaluate, audit and examine accounting books, records, and other financial documents, NCIP is not responsible for monitoring the implementation of the CRDP. ICCs have the autonomy to manage royalties received, in accordance to their

⁴³ <http://www.dbm.gov.ph/wp-content/uploads/2012/03/PGB-B5.pdf>

own community rules and policies.

The 2014 PH-EITI Report includes some disclosures of royalties paid to IPs, which are paid annually. A summary is provided in table 88, p.165. As noted in the assessment of Requirement 4.1, NCIP is tasked only to monitor royalties for IPs, not to collect royalties on their behalf. As such, this is not a government revenue stream but rather a private to private transaction. As companies are not required to submit evidence of royalty payments to NCIP, the figures reported by NCIP are only for those companies that voluntarily involve NCIP in monitoring of royalties. This is why there is a high discrepancy – 38.6%– between the amount that the companies report to have paid in royalties directly to IPs and the payments that NCIP reports to have received evidence of being effectuated (2014 EITI Report, p.279).

PH-EITI Reports also take stock of special funds such as the Malapaya Fund which is generated from government shares and collections from Service Contract 38/ Malampaya Natural Gas Project. The Malampaya Fund was created for the purpose of financing energy resource exploration, development and exploitation programs and projects of the government as prescribed under PD No. 910 issued on March 22, 1976. The said collections have been constituted as a Special Account in the General Fund - Fund 151 (SAGF-151) of the DOE (2012 PH-EITI Report, p.46). Remittances to the Malampaya Fund in 2014 are disclosed in the 2013 PH-EITI Report, p.180.

Each revenue stream covered in the report is referenced to a corresponding Government Finance Statistics Code. An overview of the codes for each revenue stream is provided in the report (p.88) and the disclosures are classified according to these codes.

Stakeholder views

Most of the stakeholder comments on this requirement referred to the disclosure of royalty payments to IPs. A government representative explained that MoAs contain monitoring provisions which state that the IPs may approach NCIP to help monitor the execution of the contract. In such case, a tripartite monitoring mechanism would be established comprising NCIP, the company and the IPs. It was not often that this mechanism was invoked and it mainly happened when there were disagreements between groups over who had the rights to the land.

Another responsibility of NCIP was to map ancestral domains, determine which areas would be considered mining affected and which IPs would be concerned. NCIP would also advise the FPIC team and IPs on how to negotiate the royalty, benefits etc. With regards to EITI disclosures, it was MGB that kept track of mining royalties and IPs should be able to approach local MGB offices to get information on how much royalties a company had paid and how much should be deposited into the IPs accounts. NCIP did not have any direct role in monitoring royalty payments, but companies sometimes submitted copies of effectuated payments. NCIP would also get access to such records in cases where the tripartite monitoring mechanism was invoked. Since 2012, it had been required by law that IPs prepare a plan for how to use the royalty funds in order to ensure spending on community development. NCIP would help monitor the preparation and implementation of such plans, although to date only 10 plans had been issued.

Civil society stressed the need for more disclosures and tracking of royalty payments. At a minimum, there should be full company disclosure of how much they paid in IP royalty, and to whom. NCIP should also track and disclose whether the amounts were in accordance with the contracts and that the transfers were executed to the right recipients.

A government official said that disclosure of agreements with IPs had also helped improve the role of NCIP in monitoring the contracts and amounts transferred to IPs. Before, there was a lack of monitoring and acceptance of this role. Representatives from both government and congress lamented that there was not better governance over the use of the Malampaya fund. Decision on the use of the fund was at the discretion of the President.

Industry commented that the NCIP maps were not available and that it would be helpful if these were disclosed.

A representative from the international community commented that royalty payments were controversial and that it was therefore important to increase transparency.

A government stakeholder confirmed that there was both a national and local revenue classification system.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. In accordance with Requirement 5.1, the PH-EITI Report explains how revenues are recorded in the national budget, as well as allocation of revenues recorded elsewhere such as subnational budgets and IP accounts. In the Secretariat's view, the Philippines has also gone beyond the minimum requirements by classifying EITI disclosures according to national classification systems, as encouraged by the EITI Standard, and disclosing details related to royalty flows to IPs.

In order to strengthen implementation, PH-EITI could consider continuing to work on transparency related to IP royalties, including disclosure of all royalty transfers and other benefits to IPs, disclosure of community development plans for use of royalties, and tracking of the implementation of such plans.

Sub-national transfers (#5.2)

Documentation of progress

The 2014 PH-EITI Report explains that LGUs have a 40% share from the three types of national wealth, notably (i) energy resources production; (ii) excise tax on minerals; and (iii) royalty on mineral reservations. However, with regards to the latter 10% of royalty on mineral reservations are appropriated by the MGB prior to sharing the remaining 90% between the national government and LGUs (p.84). Energy resources production and royalty on minerals reservations should be transferred annually, whereas excise tax on minerals are transferred quarterly (p.84). It is the Department of Budget

Management (DBM) that is responsible for executing the transfers, based on certifications provided by the relevant tax collecting agencies, notably BIR, DOE and MGB as well as certifications by the Bureau of Treasury. It is the tax collecting agency that is responsible for calculating the amount to be transferred based on the revenue sharing formula, and the DBM has no role in verifying these amounts. The certification show how the calculations are computed.

The 2014 PH-EITI report discloses the actual transfers of mining taxes and royalties on mineral reservation by DBM to LGUs as reported by DBM and LGUs (2014 PH-EITI Report, pp.231-238). Although figures and variances are provided, the report states that “Similar to the prior year report, these figures were not reconciled in view of the fact that reconciliation would require separate disclosures from MGB and BIR on a per LGU and per company basis, which, however, is not feasible given the current level of data disaggregation. Therefore, such data was not included in the scope of this reconciliation exercise.” (2014 PH-EITI Report, p.231). It thus appears that the figures disclosed in the EITI report are based on DBM and LGU reports, but these figures are not reconciled.

The 2014 PH-EITI Report does not appear to disclose any transfers of “energy resources production” to LGUs. This revenue stream is not listed as included in the scope of the EITI Report nor does it appear on the list of revenue streams excluded from the scope (2014 PH-EITI Report, p.260).

The 2014 PH-EITI Report does not disclose the calculated transfers and discrepancies between calculated and actual transfers. However, as of February 2017, these calculations are available from the PH-EITI website⁴⁴.

Stakeholder views

Representatives of local governments expressed great frustration with the current revenue sharing system. They claimed that they do not know how and on what basis the central government calculates their share, making it difficult to verify whether they were receiving what they were entitled to. It was admitted that even if they had access to this information, lack of capacity of local government staff would make it difficult to monitor and verify the amounts received. Transfers were also irregular, making budgeting difficult and use of funds unsustainable. One representative said that he had stopped including the national share in the budget because the transfer was so unreliable. Another issue affecting the transfer was the inability to always determine a LGU’s jurisdiction over a certain deposit, in particular where such deposits were transboundary. When such disputes occurred, the national government would simply retain the LGU’s share in national wealth and there were few mechanisms to try to resolve such disputes.

A government representative explained that it was common to hear from LGUs that they have not received the amounts transferred, or that they have received the inaccurate amounts. Sometimes this was a communication problem within the LGU in that not everyone might be informed of the release. It

⁴⁴ <http://PH-EITI.org/Country-Reports/#/Third-Country-Report/Computation-of-LGU-shares-in-national-wealth>

could also be due to the time lag in the release of the funds. It was noted that even if the calculated transfer is correct, there would always be a discrepancy in the LGUs expectations towards the transfer and a lot could be done in terms of communicating the likely transfer amount well in advance. This could also help LGU planning and budgeting.

Another government representative said that since 2002 each LGU had been required to maintain a special account within the general account to which the share of national wealth is remitted. Since 2015, this special account also constitutes a separate reporting line in the LGU's financial statement. The financial statement also includes a line showing utilisation of the funds accruing to the special accounts. As such, it is possible to see both the share of national wealth remitted to the LGU and the amounts utilised. It was also explained that in 2014, DBM committed to make the releases to LGUs more transparent. Revenue collecting agencies were now required to indicate the companies that paid the taxes, including the type of national wealth and the name of the company. The certifications with the computations would also be released. As such, LGUs would now have a document to check whether the companies operating within its jurisdiction pay the collect amount of taxes. The ENRDMT tool would also help LGU reporting on revenues and spending.

Civil society agreed that the key challenges with the revenue sharing mechanism was that all the revenues were lumped into what was called "share of national wealth". Although there may well be a special account in each LGU, it is still not possible to disaggregate what share comes from mining, forestry etc., nor which companies the transfers pertain to. The lag in transfer was also a major concern.

Several local and central government representatives expressed support for direct remittances from companies to LGUs, even if there could be some challenges in terms of the capacity of the LGU to monitor and record that the funds had been accurately received. Companies consulted confirmed that it would be easier to remit the LGU's share directly to LGUs. They supported the bill suggesting such reform that had for long been pending in Congress.

The IA explained some of the challenges with reconciling the transfers between central government and LGUs. Given the time lag of the transfers it was difficult to for LGUs to identify which transfers pertain to the fiscal year covered by the EITI Report. The IA nonetheless included a table comparing the central government and LGU figures in order to show that total revenue reported by the LGUs is higher as compared to the data submitted by DBM. According to the IA, this indicates a need for LGUs to specifically monitor sources of fund and a corresponding recommendation for the limitation on reporting by LGUs related to share in national wealth has been included in the report (2014 EITI Report, p. 252).

With regards to the lack of disclosure in the EITI report of the calculations determining the shares to be transferred, the IA explained that although they had completed a recalculation of the shares to be transferred and compared that with data given to them by DBM, the calculation was not presented in the 2014 PH-EITI Report because the IA had not found any significant variances. Civil society said that they would sometimes attempt to do their own computation of whether the right transfers had been made. Although it had not yet been discussed in the MSG, they would welcome the disclosure of how the revenue collecting agencies were calculating the transfer amounts.

With regards to the lack of disclosure of energy resources production, a government representative explained that the problem was that DOE was not able to determine who was the beneficiary. Several municipalities claimed to have ownership over the source of the oil and gas. This was confirmed by another government representative noting that Palawan's claim to jurisdiction over the offshore resources had not yet been settled and that stakeholders were now awaiting the judgement of the supreme court. The IA clarified that this revenue stream is not applicable to Malampaya and Nido and thus there are no disclosures in the EITI Report.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with Requirement 5.2, the 2014 PH-EITI Report explains and discloses the revenue sharing formula, and the actual amount that was transferred between the central government and each relevant subnational entity. The 2014 PH-EITI Report does not disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred, and it does not appear that the MSG has discussed this issue in any detail. However, the calculations were available and considered by the IA in preparing the 2014 PH-EITI Report, and are also published on the PH-EITI website.

In order to strengthen implementation, it is recommended that PH-EITI works with DBM on making the calculations of the revenue share publicly accessible.

Additional information on revenue management and expenditures (#5.3)

Documentation of progress

The 2014 PH-EITI Report explains that, according to the local government code, the share of revenues allocated to LGUs from excise tax on minerals and royalties on mineral reservations must be spent on financing local development and livelihood projects. Moreover, in the case of energy resources, 80% of the LGU's share must be spent on lowering electricity costs in the LGU where the energy source is located (p. 85). The report takes stock of some of the challenges related to enforcing these appropriation rules and reforms that are underway to address this issue (p.85).

The 2014 PH-EITI Report provides a brief description of the local government budgeting process with reference to the 2013 PH-EITI Report for further information (2014 PH-EITI Report, pp.84-85). The report also explains the COA audit process, and gives a reference for how to access audit reports issued by the COA.

The 2014 PH-EITI Report explains that "The 1987 Philippine Constitution and various issuances by the President lay down the framework for budget processes and revenue management in the Philippines. A detailed discussion on the national budget process and revenue management is found in the first PH-EITI Report" (2014 PH-EITI Report, p.88). Finally, the report provides a brief description of ongoing reforms related to public fiscal management (2014 PH-EITI Report, p.89).

Stakeholder views

A government representative explained that there were several challenges in making sure that the earmarked extractive industry revenue was spent as intended. A key challenge was that the transfers to LGUs was lumped together with other funds within the general fund of the LGU. This made it difficult to know what to spend on earmarked projects in accordance with the law. A proposal was underway suggesting a separate account or ledger within the general account so that it would be easier to track how LGUs actually spend the money coming from the extractive sector. At the moment, it was considered impossible to track the expenditures and there was no system now for actual monitoring, but there was widespread support for more transparency in spending.

Another government representative presented a different view, noting that since 2002 all LGUs had a special account in the general account to which the share of national wealth was transferred. Since 2015, utilisation of the funds in the special account was presented as a separate line item in the financial statement of LGUs. In auditing LGUs, the COA would look at the spending and whether it was compliant with the requirements of the law. While it was possible to track spending, there were nonetheless issues with compliance. In particular, lower-income LGUs had a tendency of using the funds on other purposes than those envisaged by the law.

Representatives of LGUs said that utilisation of the funds was not an issue. LGUs would always find something that will fit in the category of livelihood development. The issue was that the transfers were small and unreliable.

Civil society said that it was impossible to track utilisation in accordance with the law. This was both due to that not all LGUs had a single account for the share of the national wealth, and low capacity and awareness among government officials in terms of knowing how the money should be spent. Local budgets and plans were subject to frequent changes. One CSO representative cited an example of how the budget of a LGU had been revised 23 times during a year.

Some companies did not consider the EITI to have a role in tracking expenditures of extractive industry revenue earmarked for specific purposes. While citizens might have an interest in demanding such transparency, it was not for industry to tell the government how to spend the money. Other companies said that the government should use the EITI to explain how the government is using the money, including the Malampaya fund or the LGU shares. While it wasn't for industry to ask such questions, industry was affected when local communities were complaining that they didn't receive their share.

Initial assessment

Reporting on revenue management and expenditures is encouraged but not required by the EITI Standard and progress with this requirement will not have any implications for a country's EITI status. In the International Secretariat's view, the Philippines has gone beyond the minimum requirements by providing additional information on revenue management and expenditures as encouraged by the EITI Standard.

In order to strengthen implementation, PH-EITI could consider looking into tracking the spending of extractive industry revenue earmarked for specific purposes.

Table 5 - Summary initial assessment table: Revenue management and distribution

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Distribution of revenues (#5.1)	The 2014 PH-EITI Report explains how revenues are recorded in the national budget, as well as allocation of revenues recorded elsewhere such as subnational budgets and IP accounts. In the Secretariat's view, the Philippines has also gone beyond the minimum requirements by classifying EITI disclosures according to national classification systems as encouraged by the EITI Standard and disclosing details related to royalty flows to IPs.	Beyond
Sub-national transfers (#5.2)	The 2014 PH-EITI report explains and discloses the revenue sharing formula, and the actual amount that was transferred between the central government and each relevant subnational entity. However, the report does not disclose any discrepancies between the transfer amount calculated in accordance with the relevant revenue sharing formula and the actual amount that was transferred, despite such calculations being available with DBM and the IA. It does not appear that the MSG has discussed this issue.	Satisfactory progress
Information on revenue management and expenditures (#5.3)	PH-EITI has gone beyond the minimum requirements by providing additional information on revenue management and expenditures as encouraged by the EITI Standard.	
<p>Initial conclusions and recommendations:</p> <ol style="list-style-type: none"> PH-EITI could consider continuing to work on transparency related to IP royalties, including disclosure of all royalty transfers and other benefits to IPs, disclosure of community development plans for use of royalties, and tracking of the implementation of such plans. In order to strengthen implementation, it is recommended that PH-EITI works with DBM on making the calculations of the revenue share publicly accessible. In order to strengthen implementation, PH-EITI could consider looking into tracking the spending of extractive 		

industry revenue earmarked for specific purposes.

6. Social and economic spending

6.1 Overview

This section provides details on the implementation of the EITI requirements related to social and economic spending (SOE quasi-fiscal expenditures, social expenditures and contribution of the extractive sector to the economy).

6.2 Assessment

Social expenditures (#6.1)

Documentation of progress

Mandatory social expenditures:

According to the 2014 PH-EITI Report, mandatory social expenditures include Environmental Protection and Enhancement Programs (EPEP), Social Development Management Programs (SDMP), Annual Safety and Health Programs, and Monitoring Trust Fund expenditures (2014 PH-EITI Report, p.172). The value of the total mandatory social expenditures paid by participating companies in the 2014 PH-EITI Report amounted to PHP 3.4 bn (USD 75m). These social expenditures are not remitted to government agencies and are therefore not considered government revenue. Rather, the payments are made in-kind to third-party recipients (2014 PH-EITI Report, p.90).

- SDMP is aimed at enhancing the development of communities that are directly or indirectly affected by the mining project. The expenditure amounts to 1.5% of the prior year's operating expense of the company, of which 75% should be spent on social development and management, 10% on mining technology and geosciences advancement, and 15% on information, education and communication. A summary of the expenditures by company and category is provided in the report alongside the operating cost, enabling calculation of the amount that ought to be spent versus what was actually spent (2014 PH-EITI Report, p.91). More detailed company-by-company disclosure of the nature of each expenditure, the value and the beneficiary is provided in Annex T. The expenditures that are indicated on p.91 are cumulative costs to date, which included 2014 data. Cumulative information on planned expenditures is presented in annex W, while results of reconciliation of actual expenditures are summarised on p. 172 and further detailed in annex AH."
- EPEP expenditures covers the amount of environmental related expenses for the entire life of the extractive project. Annual EPEP cost shall approximate 3-5 % of direct mining and drilling costs (2014

PH-EITI Report, p.92). 2014 EPEP expenditures by company are disclosed on p.92-97, detailing the nature of the expenditure and the actual expenditure amount⁴⁵.

- Safety and Health Programme. The report explains that this program includes “standard operating procedures for mining and milling operations, management and employee training, housekeeping, environmental risk management including emergency response program and occupational health and safety management (2014 PH-EITI Report, p.258). Total Safety and Health Programme expenditures are summarized by agency and company (2014 PH-EITI Report, p.175) with detailed company-by-company figures provided in Annex AH.
- Monitoring Trust Fund Monitoring is a deposit of an amount to be determined by the MRF Committee which shall not be less than PHP150,000 cash (2014 PH-EITI Report, p.259). Total Monitoring Trust Fund expenditures are summarized by agency and company (2014 PH-EITI Report, p.175) with detailed company-by-company figures provided in Annex AH.

Discretionary social expenditures:

The 2014 PH-EITI Report explains that in addition to mandatory social expenditures, some companies also carry out discretionary CSR activities. Details about companies’ CSR expenditures are disclosed in the 2014 PH-EITI Report (2014 PH-EITI Report, p.97) with further details in annex U. PNOC and PMDC’s CSR expenditures are disclosed on p.44 and p.46 respectively.

Stakeholder views

A government representative highlighted the role of the EITI in contributing to highlight the need for revisions of the SDMP policy. The 2013 PH-EITI Report had revealed that although companies have to spend 1.5 % of their operational expenses for activities to support local communities affected by the operations, it was not possible to determine when the five-year period for SDMP programmes had started and how much had been spend every year. This had triggered reforms in terms of how expenditures should be reported, how planning of activities should be undertaken etc. It was now proposed that the coverage of the implementation of SDMP should not only be confined to the exact location of the mining operation, but could include a larger area. It was also proposed that there should be a pre-determined menu of project activities to be funded by the SDNP because many of the current projects were not considered sustainable.

Another government representative said that there were no problems with monitoring of SDMP from the government’s side. Monitoring was carried out both at the local and national level regularly.

Representatives of local government said that SDMP programmes needed to be better aligned with the priorities of local governments. Too often, the list of projects on which SDMP could be spent did not fit with local development plans.

⁴⁵ 6 of the 30 companies on the list do not appear to have disclosed the actual amounts. This includes PMDC and 5 oil companies, and the reason for non-disclosure is that SDMP and EPEP is only applicable to mining.

The companies consulted did not express support for a revision of the SDMP policy, although they admitted that they had not yet seen any detailed drafts. There were concerns about the expansion of the area to be covered by SDMP which could lead to funds being more thinly disbursed and reduce the quality of projects, affecting the overall impact of the SDMP. With regards to programme planning, the companies did not recognise the concern that it was not possible to track the starting date of the SDMP expenditures and annual expenditures. According to them, programmes were carefully planned for a 3-5-year period in close consultation with local communities. Companies also reported to MGB on their annual SDMP expenditures. With regards to the disclosures, companies were actually spending more on SDMP than budgeted.

Civil society did not consider the disclosures adequate. They lamented that CSR payments were not disclosed in the PH-EITI Report. With regards to SDMP, there was a need to disclose and reconcile how much SDMP funds are spent every year and how much is carried over to the next year, where and on what it is spent, and who the beneficiaries are. They also commented that some companies had a tendency to deduct the 1% of royalty for IP from their SDMP expenses. There was a need for more transparency on how much was deducted and the basis for the deduction.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with Requirement 6.1, the 2014 PH-EITI Report discloses the nature and value of mandatory social expenditures, including identifying the beneficiaries. In the Secretariat's view, the Philippines has gone beyond the minimum requirements by providing additional information on discretionary social expenditures as encouraged by the EITI Standard.

SOE quasi fiscal expenditures (#6.2)

Documentation of progress

The 2014 PH-EITI Report states that:

“Quasi-fiscal expenditures pertain to arrangements whereby SOEs undertake public social expenditure such as payments for social services, public infrastructure, fuel subsidies and national debt servicing, among others, outside of the national budgetary process. The multi-stakeholder group is required to develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include SOE subsidiaries and joint ventures. As discussed in the section on state participation in the extractive industries, PNOC EC and PMDC undertake CSR and social expenditures, but as of 2014, have no quasi-fiscal expenditures or activities” (2014 PH-EITI Report, p.109).

At the MSG's 13 November 2015 meeting, the IA confirmed that there were no quasi-fiscal expenditures undertaken by either of the two SOEs, based on their discussions with PMDC and PNOC (PH-EITI, 2015).

Stakeholder views

PMDC confirmed that they do not perform any quasi-fiscal expenditures. Even if they were fully owned by the government, they were operating as any other commercial company and their social spending was purely CSR related.

Initial assessment

The PH-EITI Report and stakeholder consultations have confirmed that quasi-fiscal expenditures do not occur in the extractive sector in the Philippines. The International Secretariat's initial assessment is therefore that this requirement is not applicable in the Philippines in 2014.

Contribution of the extractive sector to the economy (#6.3)

Documentation of progress

The PH-EITI Reports include a section on the impact of the extractive sector on the economy. In terms of requirement 6.3, the reports capture the following data:

- i. The contribution of metal sector to GDP in absolute terms and as a % of GDP (2014 PH-EITI Report, p.69). The contribution of oil and gas and coal sector to GDP in absolute terms and as a % of GDP is disclosed on p.66.
- ii. Total government revenues from the extractive industries in 2014 in absolute terms and as % of total revenues is available for oil, gas and mining, but not for coal (2013 PH-EITI Report, p.29).
- iii. In summary, the report notes that "The overall contribution of the extractive industry to total exports is approximately 6% on average during 2013 and 2014" (2014 PH-EITI Report, p.66). Exports from metals in absolute terms and as a percentage of total exports are disclosed (2014 PH-EITI Report, p.58) as well as exports from oil and gas in absolute terms and as a percentage of total exports (2014 PH-EITI Report, p.66). Export data from coal in absolute terms and as a percentage of total exports not provided for 2014.
- iv. The contribution of metal sector to employment in absolute terms and as a % of employment is disclosed in the 2014 PH-EITI Report, p.69. The same data for the oil and gas and coal sector can be found on p.66.
- v. Key regions where production is concentrated are listed on p.53 (metals) and p.61 (oil, gas and coal) of the 2014 PH-EITI Report.

PH-EITI has undertaken considerable work on small scale mining. Small-scale mining was estimated to generate 0.85% of gold production in 2014 at a value of PHP 218m (2013 PH-EITI Report, p.18). The 2013 PH-EITI Report included a scoping study and pilot disclosures in two areas, notably to South Cotabato and Compostela Valley (2013 PH-EITI Report, Vol.II, pp.109-135). The report includes reporting templates

received from these two areas (2013 EITI Report, Annexes X and Y). These reporting templates includes disclosures of small scale mining taxes and fees paid for minerals and coal. In March 2015, the DENR issued an Administrative Order (No. 2015-03) immediate adoption and implementation of the People's Small-Scale Mining Act. The order took effect on 2 April 2015 and requires small-scale miners to organize themselves into cooperatives – a Minahang Bayan - and ensure that they have the technical capability and the financial resources to conform to the tax and structural requirements within the concession area. Small scale mining outside a Minahang Bayan would be considered illegal. According to the 2014 PH-EITI Report, there are now five Minahang Bayan in the country, and 64 Minahang Bayan applications awaiting approval by DENR (2014 PH-EITI Report, p.119-120).

Stakeholder views

A government representative said that the information on employment was useful, including knowing the number of foreign vs local employees. Representatives of local government said that the EITI could help inform discussions about the contribution of the mining sector to employment and the consequences of decisions to close mines.

Civil society found the information useful in terms of showing the multiplier effect of the sector. In terms of artisanal mining, civil society referred to the special report on small-scale mining included in the 2013 EITI Report. Next steps would be to work with PMRD, a multi-stakeholder body at the provincial level, to further increase transparency in the small-scale mining sector. The objective would be to disclose more information on licenses and permits issued in which areas, fees paid, production volumes etc.

Some mining companies noted that although the PH-EITI report may show the contribution of the mining companies to the economy, legislators do not seem to use the report to make informed policies. It was also noted that the PH-EITI report brought to the fore the issue of income tax holidays, which was subsequently removed by the government. To some extent that had been a negative impact for the companies.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress towards meeting this requirement. In accordance with Requirement 6.3, the 2014 PH-EITI Report discloses details about the contribution of the extractive sector to the economy in terms of GDP, total government revenue, employment, exports and producing regions. In the Secretariat's view, the Philippines has also gone beyond the minimum requirements by providing additional information on the extractive sector's contribution to the economy through studies on the significance of the large scale non-metallic mining sector, small-scale mining sector, tax incentive management etc.

Table 6 - Summary initial assessment table: Social and economic spending

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI
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		provisions (to be completed for 'required' provisions)
Social expenditures (#6.1)	The 2014 PH-EITI Report discloses the nature and value of mandatory social expenditures, including identifying the beneficiaries. In the Secretariat's view, the Philippines has gone beyond the minimum requirements by providing additional information on discretionary social expenditures as encouraged by the EITI Standard.	Beyond
SOE quasi fiscal expenditures (#6.2)	The PH-EITI Report and stakeholder consultations have confirmed that quasi-fiscal expenditures do not occur in the extractive sector in the Philippines.	Not applicable
Contribution of the extractive sector to the economy (#6.3)	The 2014 PH-EITI Report discloses details about the contribution of the extractive sector to the economy in terms of GDP, total government revenue, employment, exports and producing regions. In the Secretariat's view, the Philippines has also gone beyond the minimum requirements by providing additional information on the extractive sector's contribution to the economy through studies on the significance of the large scale non-metallic mining sector, small-scale mining sector, tax incentive management etc.	Beyond
Initial conclusions and recommendations: 1. PH-EITI is encouraged to work with companies and MGB on the follow up on recommendations related to SDMP.		

Part III – Outcomes and Impact

7.1 Overview

This section assesses implementation of the EITI Requirements related to the outcomes and impact of the EITI process.

7.2 Assessment

Public debate (#7.1)

The following section provides a succinct summary of the International Secretariat's documentation of progress and stakeholder views. A full review and assessment is provided in Annex F.

Documentation of progress

Comprehensibility: The PH-EITI Secretariat has led communications efforts, although all three stakeholder groups have been actively engaged in EITI-related communications. The secretariat has an active communications strategy through engagement with print, broadcast and online media, publishing communications materials ranging from summary EITI Reports to infographics⁴⁶ and data visualisations⁴⁷ both on the PH-EITI website and in hard copies. The PH-EITI Secretariat has also prepared three short videos, including one in July 2014 explaining the EITI process⁴⁸, one in September 2015 socialising the findings of the first PH-EITI Report⁴⁹ and one in February 2016 based on the findings of the second PH-EITI Report.⁵⁰

The Secretariat published quarterly e-newsletters from September 2014⁵¹ to June 2016, featuring updates on EITI implementation and articles written by stakeholders on topics relevant to the extractive industries. PH-EITI also produces information, education and communication materials, including the PH-EITI primer, impact story and brochures on IP royalty payments, SDMP, environmental funds, payments of companies to the national government and infographics on LGU collections per region.⁵² It published "Key findings" and an executive summary for the first two PH-EITI Reports (PH-EITI, 2016). The MSG has produced three major studies covering subnational transfers, artisanal and small-scale mining and large-scale non-metallic mining as well as pilot studies covering South Cotabato and Compostela Valley (PH-EITI, 2015) (PH-EITI, 2014).

Promotion: The PH-EITI Secretariat and MSG have actively promoted EITI information through press briefings, dissemination and outreach events, focus group discussions, social media and capacity building workshops. The MSG's self-assessment in 2016 noted the PH-EITI efforts to distribute printed copies of the PH-EITI Report to a wide range of stakeholders including civil society, companies, the media and other key stakeholders like parliamentarians (PH-EITI, 2016). Each of the three stakeholder groups on the MSG held separate forums to communicate the findings of the first and second PH-EITI Reports (PH-EITI, 2016).

⁴⁶ <http://PH-EITI.org/app/Resources/#/category/Information-Materials/folder/Infographics>

⁴⁷ <http://PH-EITI.org/app/EITI-Report/#/Second-Country-Report/Key-findings-Outer>

⁴⁸ <https://www.youtube.com/watch?v=5TTq5W9rklw>

⁴⁹ <https://www.youtube.com/watch?v=PbZgbhnlrpM>

⁵⁰ <https://www.youtube.com/watch?v=zQQIT70Ezn9w>

⁵¹ <http://us8.campaign-archive2.com/?u=7f0ba73c23438f2647da6013b&id=06f1c4211b>

⁵² <http://PH-EITI.org/Resources/#/Infographics>

The MSG has held report analysis workshops after the publication of each EITI Report.

The secretariat publishes regular press releases on its website⁵³ and has signed up to ten free online press release sites to republish PH-EITI press releases (PH-EITI, 2016). The PH-EITI National Conferences held in the first quarter of the year since 2013 (typically in February) have also provided a key multi-stakeholder platform for debate over the findings of the PH-EITI Reports, canvassing opinions and socialising the annual work plan. Beyond MSG meetings as a regular venue for dialogue and engagement, PH-EITI has also held forums for indigenous peoples affected by extractive activities, and participated in a Coal Forum in the fall of 2015. (PH-EITI, 2016).

The PH-EITI Secretariat and MSG members have actively undertaken outreach both in the capital Manila but more importantly in the three main geographical zones of the Philippines. While the initial 2016 work plan devoted roughly the same share of resources to outreach and training, the work plan was downsized in October 2016 to reflect significant funding constraints (PH-EITI, 2016). The MSG has enlisted sector experts both from within MSG membership as well as other stakeholders to help communicate findings of the two first EITI Reports during a series of LGU roadshows. While all LGU roadshows included focus group discussions on specific topics, PH-EITI has also held standalone focus group discussions around specific topics to solicit feedback, such as the discussion on the contracts portal project on 9 October 2015.⁵⁴

Subnational implementation: Since 2012, Bantay Kita has supported three subnational transparency projects including two in the southern island of Mindanao – one in T’Boli, South Cotabato, focusing on civil society empowerment and artisanal mining, and the other the Compostela Valley transparency initiative as a subnational multi-stakeholder process – and one in Nueva Vizcaya province in Luzon (NRGI, 2016) (University of British Columbia, 2015) (Bantay Kita, 2015).

Public accessibility: The PH-EITI Secretariat and MSG have been proactive in ensuring the public accessibility of EITI information both through online channels, in hard copy through dissemination and outreach events and through ‘use of data’ events. Traffic on the PH-EITI website has grown significantly since its launch in 2013, according to data collected by the PH-EITI Secretariat⁵⁵ and available in Annex G. The secretariat has made improvements to the website’s user interface design and restructured the content architecture over time. Active official social media accounts are maintained on Facebook⁵⁶ and Twitter⁵⁷.

The PH-EITI MSG and secretariat have also undertaken efforts to make the data more accessible and generate use of data, for instance through hosting a regional data visualization boot-camp in June 2015

⁵³ <http://PH-EITI.org/app/Activities/#/>

⁵⁴ <http://PH-EITI.org/Activities/#/FGD-on-Mining-Oil-and-Gas-Contracts-Portal>

⁵⁵ See <http://PH-EITI.org/News/#/PH-EITI-Newsroom>

⁵⁶ <https://www.facebook.com/PhilippineEITI/>

⁵⁷ https://twitter.com/ph_eiti

(PH-EITI, 2015). The MSG launched the Philippine Resource Contracts Portal⁵⁸ in October 2015, disclosing 44 mining, oil and gas contracts and 43 sets of supporting documents. In July 2016, Bantay Kita launched a DATA Portal⁵⁹ (short for “Demanding Action, Transparency, and Accountability” Portal) to present data sets and data stories from PH-EITI and other data (PWYP, 2016).

Open data policy: The MSG agreed the PH-EITI Open Data Policy⁶⁰ on 12 December 2016 (PH-EITI, 2016), which refers to government policy on access to information as cited in the Philippine Constitution as well as the government's OGP commitments. On access and release, the policy states that data shall be open by default, timely and comprehensive and accessible. On reuse, it states that data shall be comparable and interoperable, and encourages users to maximize the value and impact of data.

Contribution to public debate: Press coverage of PH-EITI activities has grown significantly over time, from one article in 2012 to two in 2013, 59 in 2014, 44 in 2015 and 26 in 2016, based on news clippings collected by the PH-EITI Secretariat. There is evidence of active use of EITI data by each of the three stakeholder groups. Civil society appears to have been the most active user of EITI data, from establishing a data portal using EITI and MGB data⁶¹ to drawing on EITI data to support academic research (Magno, 2016) (Magno, 2015). CSOs published their own analysis of both the 2012 and 2013 EITI Reports, which has tended to be critical but constructive in identifying areas of future work and extracting key data for target groups such as indigenous peoples (Republic of the Philippines, 2015) (PH-EITI, 2016). Industry has drawn on EITI data to lobby congress on amendments to the Mining Act, news articles (Chamber of Mines of the Philippines, 2015) and in its quarterly newsletters (Chamber of Mines of the Philippines, 2013). Both houses of Congress have drawn on EITI findings in their discussions of proposed reforms to mining legislation, while the Senate has included coverage of EITI in the Senate Economic Planning Office's Policy Briefs (Senate Economic Planning Office, 2013). Beyond being an integral part of the government's Open Government Partnership action plan (Republic of the Philippines, 2015), the MICC has drawn on data from the first two EITI Reports to implement reforms in several agencies including MGB, BIR, DOF, DBM, NCIP and ULAP (see Requirement 7.3).

PH-EITI has also undertaken outreach to both houses of Congress, including hosting legislators' forums on their role in the EITI in February 2014 and June 2015⁶² and bilateral meetings with select representatives and congressmen, particularly in relation to work on EITI-specific legislation. The MSG has also used the EITI Reports to provide information on topics of public debate and controversy, well beyond the requirements of the EITI Standard. This is particularly evident in small-scale mining (SSM). There is also ample evidence from documentation on PH-EITI's LGU roadshows that these channels provided effective platforms for discussions of ASM. The MSG has discussed developing indicators to measure improvements in public awareness of the EITI on several occasions in 2016 (PH-EITI, 2016) (PH-EITI, 2016) and planned to include evaluation and feedback forms in LGU roadshows as a means of measuring

⁵⁸ <http://contracts.PH-EITI.org/>

⁵⁹ <http://bkdataportal.weebly.com/>

⁶⁰ <https://eiti.org/document/philippines-open-data-policy>

⁶¹ <http://bkdataportal.weebly.com/>

⁶² <http://PH-EITI.org/Activities/#/Strengthening-Natural-Resource-Governance-The-Role-of-Legislators-and-EITI>

changes in awareness of EITI (PH-EITI, 2016) (PH-EITI, 2016).

Stakeholder views

See Annex F for a full account of stakeholder views on specific aspects of Requirement 7.1. A summary of the main points of contention is provided below.

Comprehensibility: Several CSOs noted that while the MSG had initially planned to translate targeted summaries of the PH-EITI Report into local languages, this had never been done. Rather, Bantay Kita had published local language versions of their brochures about EITI as a stop-gap measure. Secretariat staff explained that PH-EITI newsletters had not been published since June 2016, although they intended to resume publications and had prepared drafts of newsletters since.

Promotion: Secretariat staff explained that while the recruitment of a communications officer and finalisation of the formal PH-EITI communications strategy had been delayed, the secretariat had followed an internal communications plan for several years. While the MSG had discussed drafts of the communications strategy on several occasions in 2015 and 2016, the MSG was seeking to make the strategy focused on thematic issues rather than simply channels of communications and dissemination. Secretariat staff explained that press coverage of PH-EITI had dipped somewhat in 2016 given lower engagement with the DOF press pool during Assistant Secretary Habitan's six-month leave of absence. However, they explained that the secretariat maintained a database of roughly 100 contacts amongst both national and local press. They explained that they targeted both English-language broadsheets and Filipino-language tabloids. They noted that the EITI had generated the most public debate in the regions, particularly in Davao, Cebu, Baguio and Palawan. Staff also noted significant interest from Congress, which tended to be the first to ask for copies of the PH-EITI Report for their library every year.

Several LGU representatives noted that the roadshows were an important channel both for dissemination, for generating public debate at the local level and for soliciting input from local stakeholders to feed into the national debate. However, they emphasised the need for more capacity building in relation to the EITI at the subnational level. Secretariat staff noted the importance of LGU roadshows in expanding outreach at the subnational level, noting that there was always significant local press coverage of the events and that this was an opportunity to participate in local radio shows and the like. A media representative considered the LGU roadshows as the best channel for dissemination in an archipelago like the Philippines, praising the PH-EITI briefings on the benefits of mining to local communities and calling for the inclusion of such analysis in future PH-EITI Reports. A government MSG member explained that LGUs brought up a variety of concerns during roadshows, including about LGU shares, SDMP implementation and boundary disputes between LGUs. While mining representatives noted their participation in regional roadshows, depending on the location of individual companies' operations, none of the oil and gas companies consulted said they had participated in regional roadshows, considering that PH-EITI roadshows were only for mining companies that faced greater challenges in their relations with host communities. Rather, oil and gas companies always held their own annual meetings with communities to provide updates on their operations. However, these representatives noted that it would be useful for DBM representatives to attend their bilateral roadshows to address questions about

how the central government was using oil and gas revenues. They also noted they would be interested in participating in more dissemination events in Manila. Senate representatives consulted noted that they undertook outreach to raise awareness about EITI in connection to the EITI bill currently under discussion, given that Senators that were not involved in mining tended not to be aware of the EITI. Secretariat staff explained that PH-EITI had introduced an awards scheme to recognise the government agencies that had reported in the most comprehensive and timely manner at the 2016 PH-EITI National Conference, as a means of incentivising participation.

Public accessibility: An industry representative considered CSOs' efforts to develop subnational EITI implementation to be unwarranted, given industry's perception that the DOF was already effectively institutionalising the EITI at a subnational level through their regional offices and the PH-EITI LGU roadshows. However, more active communication of EITI findings at the local level was necessary, according to this representative. However, several government representatives said that subnational MSGs could be useful in channelling debate in certain provinces hosting mining operations and to build trust between stakeholders. A CSO MSG member explained that subnational implementation efforts had been driven by CSOs, pending agreement by the MSG on establishing a formal framework for subnational implementation. The CSOs had focused on generating demand for EITI information and subnational implementation more broadly, through regular capacity building activities, to prepare for the day when a framework for such implementation was agreed. The representative noted that the initiative in Compostela Valley was the most advanced, given their publication of a first CSO report, while the Nueva Vizcaya structure was established but still working on agreeing the focus of their process. The third initiative in T'boli was still at the embryonic stages, with CSOs focusing on capacity building. A government MSG member noted that the MSG had evaluated subnational pilots but had not yet formally recognised these structures. There was a need to align subnational implementation priorities with national EITI objectives, to avoid duplication and clarify the relationship between the various structures. Several CSOs noted that while both the PH-EITI and CSOs were very active on social media, there was a significant digital divide in the Philippines with many indigenous peoples not having Internet access.

Public debate: Secretariat staff noted that there were normally spikes in press coverage of PH-EITI, particularly linked to publication of the PH-EITI Report and the National Conference. However, they noted that while the media covered PH-EITI activities, they did not tend to actively analyse the data and relied on third-party analysts' views. A media representative noted that he focused on discrepancies in the PH-EITI Reports, rather than the non-financial information. He noted that he used PH-EITI data as background for articles on the mining sector, but noted that the two-year time-lag in EITI information meant the data was less useful and unlikely to make the front page of newspapers. While there was a consensus amongst stakeholders consulted that CSOs were the main users of EITI information, they also offered significant evidence of use of EITI data by the other two constituencies.

Several CSOs expressed satisfaction at the growing use of EITI data by the Duterte administration, while Secretariat staff noted the inclusion of EITI as one of the sources for the ongoing multi-stakeholder review of the mining audits. Several government representatives also highlighted the complementarity of EITI implementation with other government projects, particularly those that were donor funded. However, several industry representatives expressed concern that EITI information was only being used by the DOF and were critical of government figures quoting other mining data that was at odds with that provided in

PH-EITI Reports.

Senate representatives highlighted the importance of PH-EITI Reports for certain Senate deliberations, citing a recent example where they had drawn on employment figures in the PH-EITI Report to estimate the employment impact of recent mine closures. They noted that, contrary to certain estimates of 1.2m redundancies, they had estimated an impact on around 200,000 jobs and highlighted the role of PH-EITI data as being agreed by both companies and government. A senior government official expressed satisfaction that Congress had started using PH-EITI Reports and hope that PH-EITI information could be used as a basis for legal reforms, such as those related to fiscal terms in the extractive industries. Several LGUs noted the importance of EITI data as a means of demonstrating the various contributions of mining companies to the economy. This was particularly important given the recent closure of a large share of the country's mines, which could have a serious impact on local employment and revenues. In particular, these LGUs were particularly concerned about the management of environmental rehabilitation funds. These LGUs called for more analysis in EITI Reports to complement the data provided. Many CSOs explained that the use of EITI data by local communities depended largely on each community's capacity and therefore varied significantly. Several development partners explained that the main focus of their financial support for PH-EITI was to channel funding to CSOs to build their capacities to use the EITI data.

Several industry MSG members explained that EITI data was used by companies, particularly in their discussions with government entities both at the national and subnational levels. One company representative said that it had proven useful to disclose taxes paid to LGUs as they had used it when lobbying the LGU against raising the local business tax. Another industry MSG member explained that Congress depended on data from the industry for their discussions on the mining sector and that the EITI provided a source of independent and credible figures to support this debate. An oil and gas representative noted that he had recently started using EITI data in presentations to Congress and with local Governors. However, several industry representatives considered that some EITI data had been used against industry, primarily by CSOs, and expressed concern about the perceived manipulation of information in the PH-EITI Reports. An industry representative called for more proactive communication of PH-EITI findings with national government agencies, given industry's perception that the new government did not realise the full contribution of the mining sector to the economy. Another mining representative noted that the public trust in mining was being eroded by the audits and permit cancellations, highlighting the potential for EITI to rebuild this trust.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. The PH-EITI Reports are comprehensible, actively promoted through varied channels (including print, online and through active outreach), publicly accessible and have tangibly contributed to public debate on the extractive industries in the Philippines. In the Secretariat's view, the Philippines has gone beyond the minimum requirements by developing online and interactive means of accessing EITI information as well as through active subnational outreach and dissemination. The three stakeholder groups have also actively contributed to dissemination of PH-EITI information in their bilateral interactions.

Data Accessibility (#7.2)

Documentation of progress

The PH-EITI Internal Rules establish a clear presumption of transparency for all MSG information, under the open data policy contained in Title III, Article II.1 (PH-EITI, 2013) (PH-EITI, 2016). All three PH-EITI Reports produced were published in machine-readable format on the PH-EITI website⁶³ The MSG has also included in the ToR for the IA a requirement to produce a dataset for all PH-EITI data, beyond the GFS-coded tables already produced (PH-EITI, 2016), which is available from the PH-EITI Secretariat upon request. This was a result of consistent CSO demands for clean individual company data sets, expressed at several MSG meetings (PH-EITI, 2016). The MSG also published “Key findings” and an executive summary for the first two PH-EITI Reports (PH-EITI, 2016). It produced summary reports in simple forms with infographics⁶⁴, including six documents in 2014 focusing on the EITI process, seven infographics in 2015 extracting key information from the first PH-EITI Report for six regions and a general summary and five infographic summaries in 2016 drawing on key findings from the second PH-EITI Report for five different sets of regions.

Stakeholder views

None of the stakeholders consulted expressed any concerns about the availability of PH-EITI information in machine-readable format. However, CSO MSG members consulted noted that the MSG had requested the IA to submit the data in open data format, but considered that this had not been done in a timely manner. The IA noted that the process of preparing summary data tables of EITI data had become easier over the three years, noting that the process of GFS coding revenue streams had been fine-tuned with feedback from the International Secretariat.

Initial assessment

Requirement 7.2 encourages the MSGs to make EITI reports accessible to public in open data formats. Such efforts are encouraged but not required and are not assessed in determining compliance with the EITI Standard. The PH-EITI data is available in machine readable format through the EITI global website, drawing on summary data tables completed by the national secretariat. PH-EITI has also published summaries of EITI Reports in accessible infographic format for the first two PH-EITI Reports.

Lessons Learned and follow-up on recommendations (#7.3)

Documentation of progress

Starting with the first PH-EITI Report, the MSG and the IA split responsibilities for developing

⁶³ <http://PH-EITI.org/app/EITI-Report/#/>

⁶⁴ <http://PH-EITI.org/Resources/#/Infographics>

recommendations, with both sets of recommendations included in the final report. In preparing the EITI Report, each constituency identified gaps highlighted in the PH-EITI Report and drafted recommendations to address these. There is evidence of the MSG's input to formulating the recommendations for both the 2012 and 2013 EITI Reports, at meetings on 7 October and 5 December 2014, 23 January and 21 December 2015 (PH-EITI, 2014) (PH-EITI, 2014) (PH-EITI, 2015) (PH-EITI, 2015). Reviewing these, the MSG agreed a common set of recommendations that were presented in the form of a memorandum for submission to the MICC. The recommendations drafted by the IA followed its ToR, focusing on improvements to the EITI reporting process and auditing practices (EITI, 2016). There is ample evidence of the MSG discussing the status of follow up on recommendations from past EITI Reports, including at meetings on 27 March and 3 July 2015 (PH-EITI, 2015) (PH-EITI, 2015).

The MICC established directives for all agencies allocated responsibilities for EITI recommendations to develop action plans with clear deadlines to implement them. The secretariat and key MSG members have also engaged with Senators and Congressmen to facilitate legal amendments required to implement recommendations (EITI, 2016). As of January 2016, all government agencies aside from BOI and PEZA had submitted action plans based on EITI recommendations to the MICC (PH-EITI, 2016). The PH-EITI Reports also include recommendations to make extractive sector data accessible, including that government reporting on projects in which it participates be broken down by company and revenues to publicly disclose mandatory social and environmental expenditures (PH-EITI, 2014) (EITI, 2016). Following up on these recommendations, government entities prepared their own action plans to address gaps in their systems (PH-EITI, 2016).

Dissemination events for PH-EITI Reports have also helped facilitate collaboration between CSOs and local governments and supported broader public oversight of follow-up of EITI recommendations. A particular example from the first PH-EITI Report was the recommendation that DBM should disclose the sources of the local governments' share of extractive industry revenues, disaggregated by company. In response to this, DBM committed to disclosing this information in the 2013 PH-EITI Report (EITI, 2016).

The MSG has also led efforts in investigating unreconciled discrepancies ahead of publication of each of the three PH-EITI Reports, including at discussions on 7 October and 5 December 2014, 4 September, 2 October and 13 November 2015, 15 January, 9 February and 1 July 2016 (PH-EITI, 2014) (PH-EITI, 2014) (PH-EITI, 2015) (PH-EITI, 2015) (PH-EITI, 2015) (PH-EITI, 2016) (PH-EITI, 2016) (PH-EITI, 2016). For instance ahead of the first PH-EITI Report at its 5 December 2014 meeting, the MSG discussed the issue of discrepancies, noting that the majority of discrepancies were due to weaknesses in government systems, such as LGUs' accounting systems (PH-EITI, 2014). Following publication of the second PH-EITI Report at its 9 February 2016 meeting, the MSG discussed the potential for discrepancies in accounting procedures between companies and government to have led to discrepancies in the 2013 PH-EITI Report (PH-EITI, 2016).

This active MSG follow-up on the recommendations of the 2012 PH-EITI Report led to several concrete reforms affecting local governments in particular within a year of publication. Firstly, the MSG recommended that the DBM disaggregate the share of the national budget allocated to LGUs according to the different types and sources of payments. Local governments are entitled to 40% of total extractives collections although up until 2015 the LGUs were not able to disaggregate the payments they received

and thus monitor subnational transfers. Acting on the MSG's recommendation, from fiscal-2016 DBM has started to disclose disaggregated subnational transfer information to LGUs, a vital input to their local development plans. The government has also taken measures to speed up distribution of LGUs' shares, following up on the first EITI Report's finding that only one of the 32 LGUs covered had reported figures that tallied with DBM data, given delays in transfers. The MSG facilitated extensive discussions around the reasons for the delays and from 2016 the Bureau of Treasury has started transferring LGUs' shares directly, without having to pass through DBM, which should lead to swifter allocations of subnational transfers.

There is evidence that the pace of MSG follow up on EITI recommendations through the MICC was sustained following publication of the 2013 PH-EITI Report. At the PH-EITI roadshow in Manila on 21 September 2016 for instance, the secretariat provided updates on the status of follow-up on recommendations from the 2013 PH-EITI Report, including four planned reforms each on the part of MGB, BLGF and DBM/Treasury as well as two planned reforms by NCIP. Following up on the first PH-EITI Report's findings that some LGU data was not yet digitised or in open format, the Bureau of Local Government and Finance (BLGF) has piloted a project to integrate EITI data in regular reporting requirements, as part of their reforms to the local government electronic reporting system, thereby centralising all LGU data in a single online portal – the Environment and Natural Resource Data Management Tool (ENRDMT) - hosted by BLGF (EITI, 2015).

The MSG has also successfully followed up on EITI recommendations related to indigenous peoples. The PH-EITI Resource Contracts Portal provides access to indigenous peoples' contracts with mining companies. Acting on the 2012 EITI Report's identification of a 154% discrepancy in revenues transferred to NCIP, the MSG has worked with the NCIP to develop a tool that IPs can use to improve monitoring of revenues. (PH-EITI, 2016).

Stakeholder views

Follow-up: All MSG members and several government representatives whose agencies did not directly sit on the MSG confirmed their active involvement in developing the MSG's recommendations in each PH-EITI Report. They explained that while the MSG's recommendations were agreed ahead of publication, the MSG did not amend the IA's recommendations but rather triaged them following publication of the PH-EITI Report. A CSO MSG member noted that the lack of prioritisation of MSG recommendations in the PH-EITI Reports meant that they did not always get acted upon. The representative noted that CSOs always read EITI recommendations from other constituencies, but expressed scepticism that other constituencies read CSOs' recommendations. However, a senior government official noted that there had been consistent follow-up on PH-EITI recommendations given the vigilance of CSOs, who were very active in encouraging improvements in government systems.

Secretariat staff highlighted the MSG's follow-up on EITI recommendations as a particular strength of the Philippines' EITI implementation, particularly in the area of subnational transfers to LGUs. Staff noted that the pace of follow-up on EITI recommendations had slowed in 2016 given that the MICC did not meet that year, in light of the political transition. They noted that the MICC had met twice in February 2017

however, albeit primarily to discuss the mining audits, and expressed hope that PH-EITI could leverage the MICC again to follow up on recommendations. Nonetheless, in the absence of MICC meetings in 2016, the secretariat followed up bilaterally with individual government agencies about specific recommendations, given that the MICC's mandate to PH-EITI still stood.

Several government representatives confirmed that, despite the lack of MICC meetings in 2016, government agencies had followed up bilaterally on EITI recommendations. A government MSG member noted that the MICC had also sent a letter to follow up on EITI recommendations. However, several CSOs considered that the pace of follow-up on recommendations had slowed significantly in 2016, with little progress made on recommendations from the 2013 PH-EITI Report. This was evident from the fact that the recommendations in the 2013 PH-EITI Report were the same as for the 2014 PH-EITI Report, according to these representatives. Secretariat staff noted that the MSG had not yet had the opportunity to discuss follow-up on the recommendations of the 2014 PH-EITI Report, given that it had only recently been published. All MSG members consulted confirmed that follow-up on the most recent PH-EITI Report's recommendations was still pending.

Reforms: Representatives from all government entities concerned by past EITI recommendations highlighted their efforts to follow up and implement reforms, even if the degree of progress varied across different agencies. Several industry and government representatives considered that EITI recommendations were more linked to government systems than to companies. There was consensus amongst government representatives consulted that the EITI had led to the strengthening of individual government entities' systems. Secretariat staff emphasised that some of the recommendations, such as enhancements to MGB's database, aligned with what different government entities had already planned, which served as positive reinforcement and made successful implementation more likely. The IA considered that the MGB was the agency that had implemented the most reforms as a result of EITI implementation, particularly in its data management systems. An industry MSG member said that the EITI had brought the lack of oversight of IP royalties to the fore and that this was a significant benefit for industry, given the risks involved in dealing with IPs without the oversight of the NCIP.

With regards to the recommendation related to transfer of LGU shares, a government representative explained at length the follow-up on recommendations related to the transfer of LGUs' share. Noting that the CoA's 2014 local government audit report had also recommended streamlining the transfer process, he explained that LGUs' share of national wealth were now transferred directly from Treasury to the LGUs with accounting to DBM, which had led to more timely disbursement of these subnational transfers. The DBM was now preparing a joint departmental circular providing enhanced guidelines on LGU transfers and was developing an online system for reporting on LGU shares. All LGUs and several central government officials consulted confirmed this, but called for greater transparency on the calculations of individual LGUs' shares as well as disaggregation of individual transfers by company. Several government MSG members highlighted the BLGF and DILG's development of the Environment and Natural Resources Data Management Tool (ENRDMT), which automates LGU reporting and disaggregates transfers by revenue source. The data collected through ENRDMT was to be made public and freely accessible online in early 2017. One representative noted that, since 2016, LGUs had begun receiving their shares of national wealth disaggregated by type of revenue and could now more easily track disbursement of their shares of national wealth. Another representative noted that the system was still limited to PH-EITI

requirements but called for PH-EITI to expand their reporting requirements for LGUs to expand the information collected. She noted that the compliance rate for the 200 LGUs required to report their receipt of these subnational transfers was roughly 50% by the initial deadline of December 2016, for reporting 2014 and 2015 transfers. The official highlighted the importance of LGU roadshows in building the capacity of LGU focal points to comply with reporting requirements.

A government representative contested the relevance of the EITI recommendation related to strengthening monitoring of SDMPs, considering that MGB's system was already efficient, and considered that current mineral production figures were already reliable. However, he noted that other EITI recommendations related to MGB were being implemented, such as improvements to the mining cadastre and automation of the license allocation system. Secretariat staff also explained that recommendations to the DOE related to ensuring participation by coal companies in EITI reporting and improvements in the oil and gas cadastre had been discussed, but not implemented by the department.

Discrepancies: Secretariat staff noted that the MSG actively investigated the causes of discrepancies together with the IA ahead in preparing the PH-EITI Report annually, but did not tend to investigate discrepancies once the PH-EITI Report was published. Staff explained that discrepancies were normally due to the lack of supporting documentation by reporting entities. A government representative explained that the discrepancies recorded at the level of NCIP were due to the fact that IPs only submitted copies of their receipts of royalties to NCIP voluntarily, which meant that the NCIP did not have records for many transactions.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. The MSG and the government have taken steps to act upon lessons learnt, to identify, investigate and address the causes of any discrepancies and weaknesses of the EITI process and to consider the recommendations for improvements from the IA. In the International Secretariat's view, the Philippines has gone beyond the minimum requirements given the MSG's proactive role in formulating its own recommendations, assessing and following up on the IA's findings and recommendations and implementation of reforms starting with the first PH-EITI Report.

To further strengthen implementation, the government is encouraged to strengthen the MICC's role in following up on EITI recommendations to further link PH-EITI to ongoing reforms and sustain the momentum of EITI evidence-based reforms.

Outcomes and impact of implementation (#7.4)

Documentation of progress

There is extensive evidence of the MSG using the annual progress report as a means of benchmarking its strategic decisions to its record of achievements, identify shortcoming and barriers to implementation and provide a solid assessment of implementation as a basis for formulating future work plans (PH-EITI,

2013) (PH-EITI, 2014). The 2015 annual progress report was published on the PH-EITI website on 3 July 2016 (PH-EITI, 2016), having been approved by the MSG on 1 July 2016 (PH-EITI, 2016). Some of the main achievements highlighted in the summary of activities (pp.2-5) included preparations of the EITI Report, communications efforts, outreach activities and contract disclosures. The report innovated by including an overview of activities undertaken independently by industry and civil society constituencies.

The 2015 report included an assessment of progress in meeting individual EITI requirements (pp.21-23), highlighting information contained in the latest EITI Report (2013) to meet each requirement. While there is minimal detail of the outcomes and impact of implementation in this section, the role of forums and roadshows as platforms for discussion of extractives issues is highlighted. The report also highlighted steps to exceed requirements, including the creation of an inter-active contracts portal (p. 21) efforts to extend the scope of EITI reporting, subnational activities, the online reporting tool for local government units, and engagement with Indigenous Peoples (p. 35). Actions to address encouraged aspects under Requirement 7.4 ii are also covered in the 2015 annual progress report. On revenue management, the report referred to the 2013 EITI Report's coverage of Fund 151, a special account designated for revenues from Malampaya (p.22). On discretionary social expenditures, the report noted that PH-EITI had fully complied with disclosure requirements on mandatory and voluntary social expenditures (p.22- 23). The report also referred to the EITI Report's discussion of beneficial ownership (p.22) and described efforts to disclose contracts and implement enhancements to its Resource Contracts Portal (p.3). The report did not mention transportation revenues, which are not applicable, or ad-hoc subnational transfers.

The 2015 report provided a matrix tracking follow up on recommendations from past EITI Reports (pp.25-29), describing in detail the recommendations from the first and second EITI Reports, the actions taken by each government agency on each recommendation, as well as relevant aspects of their action plans required by the MICC and the level of progress (status as of June 2016). The report also highlighted agencies that had not provided updates or action plans (p.31). An assessment of progress in meeting work plan objectives was also included in the 2015 report alongside the outcomes and impacts of activities related to two specific objectives, namely strengthening government systems and creating opportunities for dialogue (pp.5-6). Outcomes highlighted included gains in efficiency in subnational transfers, the creation of online reporting tool for LGUs, the improvement of the MGB's monitoring of social development projects and the NCIP's adoption of a monitoring tool for IP royalties. A detailed narrative of efforts to strengthen implementation was also included in the discussion on strengths and weaknesses (p.34).

Stakeholder views

There was consensus amongst stakeholders consulted that EITI implementation had had a clear impact in the Philippines, albeit to varying degrees. All MSG members confirmed that they undertook consultations with their constituencies on the development of key PH-EITI documents such as the annual progress report. Secretariat staff noted the use of the annual progress report as one of the MSG's monitoring and evaluation tools for EITI implementation. Staff explained that the secretariat normally prepared a first draft of the progress report, based on discussions around MSG members' self-assessments every year. All government representatives highlighted the reforms in specific agencies' internal systems as a result of EITI recommendations and one government representative noted the use of the annual progress report in

taking stock of progress in following up on recommendations. Company representatives consulted noted the government reforms that had been implemented through EITI, noting that recommendations were less relevant to companies, but did not express any particular comments on the annual progress reports. While several CSOs noted the role of annual progress report as a tool for taking stock of progress in implementation, they called for the establishment of more systematic and robust monitoring and evaluation tools. While the MSG had discussed this on several occasions, it had yet to agree on a framework.

Initial assessment

The International Secretariat's initial assessment is that the Philippines has made satisfactory progress in meeting this requirement. The MSG has reviewed progress and outcomes of implementation on a regular basis, including by publishing annual progress reports over the past three years. The 2015 PH-EITI annual progress report provided an assessment of impact of EITI implementation and was the product of broad consultations within each of the three constituencies. In the International Secretariat's view, the Philippines has gone beyond the minimum requirements given the MSG's active and repeated outreach to give all stakeholders the opportunity to provide feedback on EITI implementation and its impact, drawing on discussions in regional roadshows to shape the annual progress report in the same manner as the annual work plan.

To further strengthen implementation, the MSG may wish to consider undertaking an impact assessment, 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.

Table 7 - Summary initial assessment table: Outcomes and impact

EITI provisions	Summary of main findings	Validator's recommendation on compliance with the EITI provisions (to be completed for 'required' provisions)
Public debate (#7.1)	The PH-EITI Reports are comprehensible, actively promoted through varied channels, publicly accessible and have tangibly contributed to public debate on the extractive industries. The Philippines has gone beyond the requirement by developing online interactive access to EITI information, through active subnational outreach and through each stakeholder group's dissemination of PH-EITI information.	Beyond
Data accessibility (#7.2)	PH-EITI has published data in machine readable format and summaries of EITI Reports in accessible infographic format.	
Lessons learned and follow up on recommendations	The MSG and the government have taken steps to act upon lessons learnt, to identify, investigate and address the causes of any	Beyond

(7.3)	discrepancies and weaknesses of the EITI process and to consider the recommendations for improvements from the IA. The Philippines has gone beyond the requirement given the MSG's formulation of its own recommendations and implementation of reforms starting with the first PH-EITI Report.	
Outcomes and impact of implementation (#7.4)	The MSG has reviewed progress and outcomes of implementation on a regular basis, including by publishing annual progress reports following broad consultations. The Philippines has gone beyond the requirement given the MSG's proactive outreach to give all stakeholders the opportunity to provide feedback on EITI implementation and its impact.	Beyond
<p>Secretariat's recommendations:</p> <ol style="list-style-type: none"> 1. To further strengthen implementation, the government is encouraged to strengthen the MICC's role in following up on EITI recommendations to further link PH-EITI to ongoing reforms and sustain the momentum of EITI evidence-based reforms. 2. To further strengthen implementation, the MSG may wish to consider undertaking an impact assessment, 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. 		

8. Impact analysis (not to be considered in assessing compliance with the EITI provisions)

Impact

Based on the PH-EITI work plan's five objectives, the Philippines' EITI implementation has been particularly effective. led to significant impact. MSG meeting minutes reveal regular discussions of follow-up on recommendations, progress against the work plan and impact. The MSG has repeatedly discussed establishing a benchmark and tracking impact of EITI implementation based on factors ranging from public awareness to public finance management and other sector reforms. This focus on methodological rigour and ambition appears characteristic of PH-EITI.

Constructive engagement: The EITI has helped create opportunities for dialogue and constructive engagement on issues of extractive industries management, helping to start building trust and reduce conflict between the three constituencies. While trust-building remains by nature a moving target, particularly at a time of audits of the mining industry, members from all three constituencies highlight the scope for EITI to help build public trust in the mining sector in particular. All stakeholders consulted agree that, at its most fundamental, EITI implementation has gradually built trust between civil society, industry and government stakeholders. MSG members from all three constituencies described the evolution of relations from the early days of the Philippines' EITI application. While members of the three stakeholder

groups sat at different tables at their first meeting, they subsequently began to mingle, encouraged by the MSG Chair. Highlighting the importance of working through technical subjects together, company representatives have noted the improvement of relations between industry and civil society following publication of the first PH-EITI Report. While select industry and civil society representatives continue to express scepticism about each other's intentions, levelling accusations of misrepresenting EITI data at each other, there was consensus that discussions on the MSG remained cordial even at the most challenging times.

There appears to be consensus that the EITI has established a systematic framework for dialogue. Stakeholders have highlighted that the engagement of the right stakeholders on the MSG has been key to building trust while discussing often contentious issues. While civil society representatives remain ever-vigilant to preserve their critical outlook vis-à-vis other constituencies, establishing elaborate constituency governance, relations between stakeholders have largely remained cordial and constructive. The lack of any instances where the MSG took a decision without consensus, albeit at time following lengthy discussions, reflects this emerging trust. Stakeholders not directly represented on the MSG have also described gradual improvements in trust, such as LGUs' discussions with industry and civil society during LGU roadshows. Local civil society in Cebu was increasingly analysing PH-EITI information and using the PH-EITI Reports as a platform for discussions, according to one activist. While public criticism between stakeholders has continued, the MSG has provided a forum for tripartite discussion away from the glare of public attention. Key civil society organisations have actively used this channel to air grievances, although the other two constituencies (including LGUs) have also done so to some extent. In particular, roadshows have provided a channel for LGUs to discuss various topics of concern with relevant government and industry representatives, including delays in transfers of their shares of national wealth, monitoring of SDMPs and boundary disputes between LGUs hosting mines. While civil society is by no means monolithic in the Philippines, with certain anti-mining groups viewing EITI as a form of co-option to industry interests, outreach in regions hosting extractives activities have proved a potent mechanism for channelling popular grievances through the EITI. There is clearly scope for even more such subnational outreach.

Economic contributions: There is also consensus amongst stakeholders from the three constituencies that the EITI has started to help clarify the direct and indirect contributions of the extractive industries – particularly mining – to the economy. However, opinions clearly differ as to the starting point as well as about the future directions of the PH-EITI work on this issue. Industry representatives have noted the importance of the EITI in highlighting that mining companies contributed far more than the mere 2% excise tax, contrary to popular belief. Companies have also noted that PH-EITI produced useful data to calm the debate on increasing taxes on mining companies over the past several years and that this did not seem to be a government priority anymore. A senior government official considered that the mining companies had not done a good job at explaining what they had achieved in the past. Technical-level government representatives highlighted the importance of the EITI in showing extractive companies' various contributions, including to special funds. This information, including employment data, has increasingly been used by Congress for its deliberations. While maintaining their ambitions for more information, civil society representatives agree that PH-EITI has stimulated a better understanding of the contributions of the industry. There is however a widespread perception amongst stakeholders consulted that the two-year delay in publishing PH-EITI Information hindered its usefulness and that more timely reporting could be achieved, as planned for 2017 when the 2015-2016 PH-EITI Reports are planned.

Improvements in the availability of key data on the mining sector has improved in line with the implementation of EITI recommendations, starting in 2015. In terms of direct contributions, the BIR has begun to publish disaggregated tax revenue information through PH-EITI Reports, but has also streamlined its tracking of extractives companies' tax payments by centralising tax filings by these companies directly to BIR's head office. The MGB has begun improving its mining database. The DOF's BLGF, the DILG and DBM have begun disaggregating transfers of LGUs' shares of national wealth by revenue stream since 2016, which has started to enhance LGUs' ability to track the revenue they receive. PH-EITI has also helped clarify the indirect contributions of the mining sector to the economy by providing information on annual disbursements and beneficiaries under SDMPs, companies' voluntary corporate social responsibility spending, environmental rehabilitation provisioning and transfers of royalties to IPs. Civil society expresses cautious satisfaction at gaining more information through PH-EITI, which allows them to start evaluating the comprehensive contribution of mining companies to the economy, but still continues the picture painted by PH-EITI to be incomplete.

Public understanding: With information disclosed through PH-EITI widely recognised as credible and robust, there is evidence that public understanding of the management of natural resources had gradually improved. Both civil society and industry highlight that CSOs have gained a better understanding of the mining industry through their participation in MSG discussions. Starting to bridge gaps in the availability of information on extractives at the local level, PH-EITI roadshows have proven an effective means of informing local communities of some aspects of the contribution of the extractives sector to their community. However, as consistently highlighted by CSOs, there is significant pent-up demand for information on areas not yet directly covered by the PH-EITI Reports including artisanal and small-scale mining and large-scale non-metallic mining. This has been echoed in independent research on PH-EITI, which has highlighted the need to sufficiently disaggregate PH-EITI data to ensure it is meaningful for stakeholders at the local level, who must have the interest and capacity to use the information to inform their negotiations with extractives companies and local development plans (Brockmyer, 2016).

There is also consensus amongst stakeholders that PH-EITI information provides a baseline of evidence agreed by both industry and civil society, upon which debate can be structured. While there remain misgivings on the part of some stakeholders about the potential "misuse" of information, stakeholders agree that one of the greatest immediate impacts of EITI implementation has been to provide information that could not be questioned by any of the three constituencies. This is in sharp contrast to the past, according to CSOs consulted, when their calculations could be questioned by companies based on allegations of poor-quality information. Several development partners have also noted the growing participation of CSOs that never used to engage on issues of natural resource governance as a consequence of EITI implementation and its tangible impacts. Stakeholders including CSOs, LGUs and development partners consider that the PH-EITI has provided a voice for local stakeholders at the national level as well as a means of monitoring adherence to the rules. While government has tended to highlight the impact of the EITI on ensuring local stakeholders were aware of their rights, civil society emphasises the need for capacity building to ensure the opportunity offered by PH-EITI yields tangible improvements in such accountability. Government stakeholders also highlight the use of PH-EITI Reports to inform individual government agencies about the work of their counterparts in other departments and provide a more comprehensive view of the government's management of the extractive industries. They also point to the importance of PH-EITI transparency in securing the public's trust in government systems.

Strengthening government systems: PH-EITI Reports have served as a diagnostic tool for government systems related to oversight of the mining, oil and gas sectors as well as broader public finance management. The quality of recommendations agreed by the MSG for each successive PH-EITI Report reflects their focus on re-assessing government systems and suggesting reforms to improve oversight. From the publication of the first PH-EITI Report in December 2014, the MSG has actively followed up with individual government agencies and through the MICC to implement reforms. While the pace of progress in following up on recommendations may have been less evident in 2016, given the political transition and the lack of MICC meetings, there is evidence that reforms have continued to be implemented at the level of individual government agencies. While a rigorous analysis of improvements in government systems as a result of the EITI has yet to be undertaken, some academic research has already highlighted improvements in internal tracking and reporting systems at the level of government agencies, even if broader improvements in government accountability were considered to have not yet been achieved (Brockmyer, 2016).

The most significant area of reforms spurred by EITI is at the level of local government finance. LGU officials have long been critical of delays in disbursing their 40% shares of national wealth, while being unable to track the source of revenues transferred in lump sums. However, as highlighted by several government officials, the frequent turnover in LGU officials (other than local Treasurers appointed by the DOF) often every three months has hindered their ability to successfully advocate for change. There is consensus amongst all stakeholders consulted that the EITI has provided a framework for identifying bottlenecks in subnational transfers, proposing reforms and following up on their execution. The first PH-EITI Report identified discrepancies between what DBM reported having transferred to LGUs and what LGUs reported having received, likely due to delays in disbursements. Within six months of the PH-EITI Report launch, the DBM issued a joint circular streamlining the transfer process. Each extractives revenue collecting agency (BIR, MGB and DOE) continues to calculate each LGU's share and transfer revenues to the Treasury, but under the revised system the funds are not then transferred through DBM's local offices to LGUs as lump sums. Rather, effective from the 2016 budget, LGU shares were transferred directly by the Treasury with approval from DBM, effectively cutting one layer of the process. The transfers were also disaggregated by revenue stream, although not yet by company, allowing LGUs to track revenues per stream. The impact of this reform was swift, with the average time for transferring shares cut from up to two years to roughly six months, with all LGU shares budgeted for 2016 effectively transferred in 2016. The DOF's BLGF and the DILG also recently developed a reporting tool for LGUs (the Environment and Natural Resources Data Management Tool – ENRDMT) to integrate PH-EITI reporting requirements into LGUs' regular reporting to central government through the quarterly Statement of Receipts and Expenditures (PH-EITI, 2016). The system was piloted in 2016 for LGUs' reporting on 2014 and 2015 shares of national wealth, with a roughly 50% success rate. It will further be expanded to enable oversight of LGU spending of extractive revenues earmarked for specific purposes. More recently, the publication of each collecting agency's calculations of specific LGUs' shares should strengthen LGUs' oversight of their receivables linked to extractives revenues.

Follow-up on PH-EITI recommendations had also led to reforms in other government agencies, including NCIP, BIR, MGB. The first PH-EITI Report identified significant gaps in NCIP's oversight of company royalty payments to IPs on ancestral lands, given that IPs only report their royalty receipts to NCIP on a voluntary basis. Following a forum on IPs held by PH-EITI in 2015, the NCIP agreed to develop a monitoring tool for better tracking of IP royalties, due to be launched in March 2017. The BIR implemented internal reforms

to its information management systems. From 2016, the BIR revised its categorisation of “large taxpayers” to include all producing extractives companies, thereby centralising tax collection from all mining, coal, oil and gas companies at the central government level rather than through BIR regional offices. This simplified tax reporting for companies. BIR also began publishing tax information disaggregated by revenue stream. The MGB focused on improvements to its internal database and its mining cadastre, with an online cadastre, the Online Mineral Rights Management System (OMRMS), due to be launched in mid-2017.

Contribution to sustainable development: While the EITI’s impact on strengthening the extractive sector’s contribution to sustainable development is more tenuous, there is evidence that the EITI has provided a channel for discussions of the economic contribution of the mining sector in particular. Civil society activists highlight the use of PH-EITI in empowering stakeholders to question the contribution of the mining sector to sustainable development and poverty reduction.

Auditing procedures in the Philippines have not been impacted by EITI implementation, given strict adherence to both public and private sector auditing requirements. However, there is some evidence that EITI implementation under the Aquino administration was viewed as one of the proxies for broader tax administration reforms by investment and credit ratings analysts (EITI, 2015).

Recognition: More broadly, there is also evidence of additional impacts beyond those planned as part of the PH-EITI work plan’s objectives. The PH-EITI achievements have been highlighted on the international stage, both within the EITI community for instance through the EITI Chair’s Award for impactful implementation at the 7th EITI Global Conference and beyond. In addition, the Philippine experience implementing the EITI were highlighted (“starred”) as a model OGP commitment given its significant potential impact and substantial implementation (PH-EITI, 2016). Implementation of the EITI has also generated significant public interest in expanding its scope to other sectors, including large-scale non-metallic mining, artisanal and small-scale mining as well as on government expenditure, particularly at the subnational level.

Sustainability

Funding: The PH-EITI has faced repeated funding shortfalls due to delays in disbursement of donor support. Following the closure of the MDTF in January 2016, the PH-EITI Secretariat faced significant delays in securing World Bank funding due to delays in processing and counter-party signing of a new grant under the EGPS. Disbursement of USD 1.5m in World Bank EGPS funding (for 2016-2018) was still pending as of February 2017 despite the DOF’s counter-signing of the grant agreement in October 2016. The government disbursed its budgeted share of PH-EITI funding in the first quarter of 2016, but this was depleted at the end of June 2016 (PH-EITI, 2016). Funding was secured from other donors, such as USAID for the 2016 LGU roadshows and 2016 National Conference, but this was insufficient to cover all work plan activities planned for the rest of 2016. In 2015, the PH-EITI Secretariat faced a similar funding gap early in the year, when government funding covered PH-EITI expenses for the first quarter, pending disbursements of the MDTF (PH-EITI, 2015). The 2017-2018 EGPS grant agreement foresees a higher level of government funding than under MDTF, although the DOF exceeded the planned PHP 27m PH-EITI budget for 2017 by an additional PHP 10m (PH-EITI, 2016) (PH-EITI, 2016). While funding for PH-EITI

implementation is secured until end-2018, financial support for PH-EITI thereafter will depend on normal government budgeting.

Legal backing: The MSG has frequently discussed the drafting of legislation institutionalising the EITI in the Philippines. By the MSG's meeting on 1 July 2016, a Technical Working Group had been established to work on a draft and the secretariat had started liaising with various Congressmen as possible sponsors (PH-EITI, 2016). Bills institutionalising the EITI were submitted to the House of Representatives and the Senate in October and September 2016 respectively (House of Representatives, 2016) (Senate, 2016). Beyond provisions waiving the tax code's confidentiality provisions for EITI reporting purposes, EITI-specific legislation would institutionalise government funding for PH-EITI and include it in the normal budgeting process. The two bills were being considered at committee-level in each of the two houses as of February 2017, pending their first of three hearings. Representatives from the lower house of Congress reported that EITI legislation had been identified as one of the 17th Congressional term priorities.

Annexes

Annex A – List of MSG members and contact details

Government

Full members

Gil S. Beltran, USEC and Chief Economist / PH-EITI OIC Focal Person and Chair, Department of Finance (DOF)

Hon. Austere A. Panadero, Undersecretary, Department of the Interior and Local Government (DILG)

Engr. Leo L. Jasareno, Acting Director, Mines and Geosciences Bureau - Department of Environment and Natural Resources (MGB- DENR)

Mr. Rino E. Abad, Director IV, Department of Energy (DOE)

Gov. Alfonso Umali Jr., President, Union of Local Authorities of the Philippines (ULAP)

Mr. Nestor Valeroso, Assistant Commissioner, Bureau of Internal Revenue (BIR)

Alternates

Hon. Ma. Teresa S. Habitan, Assistant Secretary, Department of Finance (DOF)

Hon. Anna Liza F. Bonagua, OIC – Director, Department of the Interior and Local Government-Bureau of Local Government Development (DILG-BLGD)

Engr. Romualdo Aguilos, OIC-Chief, Mineral Economics, Information and Publication, MGB- DENR

Ms. Araceli Soluta, Director III, Department of Energy (DOE)

Maria Czarina Medina-Guce, Executive Director, ULAP

Atty. Teresita Angeles, Bureau of Internal Revenue (BIR)

Industry

Full members

Engr. Artemio F. Disini, Chairman, Chamber of Mines of the Philippines (CoMP)

Mr. Gerard H. Brimo, President and CEO, Nickel Asia Corporation

Mr. Sabino Santos, Asset Manager, Chevron - Malampaya LLC

Alternates

Ms. Nelia C. Halcon, Executive Vice President, Chamber of Mines of the Philippines (CoMP)

Mr. Emmanuel L. Samson, Senior Vice President- Chief Financial Officer, Nickel Asia Corporation

Mr. James Ong, President, Ore Asia Mining and Development Corporation

Anthony P. Ferrer, Galoc Production Company

Civil Society

Full members

Dr. Cielo D. Magno, National Coordinator, Bantay Kita (BK)

Prof. Jay L. Batongbacal, Assistant Professor, UP College of Law/Bantay Kita

Dr. Merian C. Mani, Research Coordinator, Romblon Ecumenical Forum Against Mining (REFAM)

Mr. Chadwick Go Llanos, Focal Person, Cebu Alliance for Safe and Sustainable Environment (CASSE)

Ms. Starjoan Villanueva, Executive Director, Alternate Forum for Research in Mindanao (AFRIM)

Alternates

Mr. Filomeno Sta. Ana III, President, Bantay Kita/Action for Economic Reforms (AER)

Jose Melvin A. Lamanilao, Independent Consultant

Engr. Maria Rosario Aynon A. Gonzales, Director, Center for Strategic Policy and Governance, Palawan State University

Atty. Golda S. Benjamin, Lecturer, Siliman University, Dumaguete City, Negros Oriental

Buenaventura M. Maata, Jr., Executive Director, Philippine Grassroots Engagement in Rural Development Foundation, Inc. (PhilGrassroots-ERDF), Dinagat Islands

Annex C – International Secretariat’s materiality calculations on the 2014 PH-EITI Report

CALCULATION OF TOTAL OMITTED PAYMENTS FROM NON-REPORTING COMPANIES, AGGREGATE			
BIR: O&G, mining, coal		ref.	notes
BIR total revenue	25,005,359,507	p.83	
BIR revenue participating companies	22,822,370,002	p.67	
BIR revenue non-participating companies	2,182,989,505		
Coal			
Semirara total, excluding BIR	1,890,340,319	p.226	
O&G			
DOE	36,618,366	p.225	There is one company having production/paying production share: Philodrill
Mining			
BOC	529,528	pp.217-224	
LGU	19,587,975	pp.217-224	
MGB	530,589,393	pp.217-224	There are 4 companies having production/paying royalty: Wellex, Oriental, CTP construction and Century peak that pay royalty. These also likely have CIT.
NCIP			
SDMP/Funds	321,379,699	pp.217-224	
Total omitted payments	4,982,034,785		
excl. SDMP	4,660,655,086		
CALCULATION OF TOTAL GOV'T REVENUE			
Total gov't revenue O&G + mining	57,715,895,959	p.145	excludes coal and SDMP/Funds
Total gov't revenue Semirara (coal)	1,890,340,319	p.226	
Total gov't revenue all sectors	59,606,236,278		including coal, excluding SDMP/Funds
% omitted payments non-reporting companies	7.82%		
% Semirara	3.17%	p.226	excl.SDMP, incl.BIR
CTP construction	365,548,732	p.217	excl.SDMP, incl.BIR
% CTP construction	0.61%		
Oriental	31,969,541	p.220	excl.SDMP, incl.BIR
% Oriental	0.05%		
Not possible to calculate exact materiality of Wellex, Century Peak and Philodrill (those that paid royalty/production share in 2014) due to lack of BIR figure.			

Annex D – Cost of EITI Reports

Year	EITI Report	Cost inc. VAT (PHP)
2014	2012 EITI Report	3,879,590
2015	2013 EITI Report	7,494,075
2016	2014 EITI Report	4,500,000
<u>Source: PH-EITI annual progress reports</u>		

Annex E – Detailed assessment of progress in implementing Requirement 1.4

#1.4 Sub-requirement	Documentation of progress	Stakeholder views
<p>MSG composition and membership</p>	<p>The PH-EITI MSG was established during the National Workshop on 19 January 2013 and as of January 2017 comprises 15 full members and 14 alternates with equal representation for the three constituencies.⁶⁵</p> <p>The five government members include Hon. Ma. Teresa S. Habitan, Assistant Secretary at the Department of Finance, who is also Chair of the MSG as well as representatives from Department of the Interior and Local Government (DILG), Mines and Geosciences Bureau - Department of Environment and Natural Resources (MGB- DENR), Department of Energy (DOE), Union of Local Authorities of the Philippines (ULAP) and the Bureau of Internal Revenue (BIR). Government also has five MSG alternates from the same institutions.</p> <p>Industry's five MSG representatives include three from the COMP, one from a non-COMP mining company and one from PAP, supported by four alternates from COMP and PAP. Civil society's five representatives and five alternates were drawn from the membership of Bantay Kita.</p> <p>The composition of the MSG is set out in Section IV of the January 2013 Terms of Reference (ToR) for the PH-EITI MSG (PH-EITI, 2013) and in Section 2 of EO 147 of 29 November 2013 (President of the Philippines, 2013). In terms of government appointments, Section 2 of EO 147 vests authority for nominations in the MICC and states that at least one member must come from the Union of Local Authorities of the Philippines (President of the Philippines, 2013). Section IV of the MSG's ToR further clarifies that government MSG members must include representatives from DOF, DENR, DOE, DILG and ULAP (PH-EITI, 2013). Both EO 147 and the MSG's ToR confirm the industry and civil society</p>	<p><i>Representation:</i> Despite suggestions from government and civil society to include further representatives on the MSG, all stakeholders consulted considered that they were adequately represented. It does not appear that enshrining the composition of the MSG in EO 147 has affected the ability of stakeholders to be adequately represented. CSO representatives have publicly highlighted the importance of regional outreach prior to nominating MSG representatives and for input on governance rules, ensuring the credibility and legitimacy of MSG members and EITI implementation (MSI Integrity, 2015). A CSO representative noted that with the MSG meeting monthly, the body had become collegial and members became increasingly friendly. This represented a risk, according to this person, given that there was a tendency for CSOs to become complacent: thus Bantay Kita had established strict rules for regular renewal of MSG members to ensure they retained a critical outlook.</p> <p>A senior government official highlighted the smooth renewal of MSG membership from the industry and civil society constituencies. CSOs consulted explained that the Bantay</p>

⁶⁵ The full list of MSG members and alternates is available on the PH-EITI website: <http://PH-EITI.org/app/Stakeholders/#/Multi-stakeholder-Group>

	<p>constituencies' rights to appoint their own representatives, although the MSG's ToR clarifies that these nomination processes should be supported by the PH-EITI Secretariat (PH-EITI, 2013). While the MSG discussed adding a sixth formal CSO member to the MSG from Indigenous Peoples representative at its 27 February 2015 meeting, the motion was not carried given this would require amendment of the EOs establishing PH-EITI. Rather, civil society included an indigenous peoples' representative as one of its five members during its renewal of representatives in early 2016. The MSG agreed to continue inviting participants from other entities on an ad-hoc needs basis (PH-EITI, 2015). At its 23 January 2015 meeting, the MSG discussed procedures for replacing inactive MSG members. CSOs noted the MSG's agreement not to simultaneously replace all members of a constituency at once, in line with ToR provisions requiring that MSG member renewals ensure continuity in institutional memory, with one representative from each sector expected to stay for another term (PH-EITI, 2015).</p> <p>An interim MSG initially met on 22 August 2012, with Bantay Kita representing civil society, the COMP representing industry and the Government of the Philippines. Consultations were subsequently held within each of the three constituencies between October 2012 and January 2013.⁶⁶ Permanent MSG members were selected at the first national PH-EITI workshop on 18-19 January 2013, followed by outreach to targeted stakeholder including local government units, indigenous peoples, academia, provincial officials and religious groups in the January-February 2013 period (PH-EITI, 2013). On 4 April 2013, a joint statement on the Philippine Implementation of the EITI was signed by the three constituencies and Secretary Elisea 'Bebet' Gozun, Presidential Advisor for Climate Change, was appointed MSG Chair (Republic of the Philippines, 2013). Following formal appointment of MSG members selected by their constituencies at the</p>	<p>Kita Board had recently (in 2017) removed one of the CSO MSG members appointed in 2016: while he had been appointed in his position as member of a CSO, he presented himself as an independent consultant during MSG meetings. Upon investigation, they had found that his consultancy work affiliated him with the mining industry, which contravened the coalition's strict rules barring industry affiliation for CSO MSG members. However, no such rules had been agreed on affiliation with government, since three CSO MSG members noted their affiliation with government-funded public universities. While they described industry's initial concerns at including academics as CSO MSG members, they considered that this was a strategy by industry to seek to include less capacitated CSOs on the MSG. They emphasised that these three CSO MSG members enjoyed academic freedom of expression and had first assumed positions as CSO members before working for public universities. One representative expressed concerns over alleged attempts by industry to remove a particular CSO MSG member, although these attempts were resisted.</p>
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⁶⁶ Regional CSO consultations took place in October-December 2012 and a national CSO workshop on EITI was held on 17 January 2013. The 2012 Mining Philippines industry conference on 18-20 September 2012 included a breakout session on EITI, followed by outreach meetings to companies not member of the COMP on 6 November 2012 and the PAP on 24 January 2013.

	<p>first PH-EITI National Conference on 19 January 2013, the full MSG held its first meeting on 29 January 2013 (PH-EITI, 2013). MSG representation of industry and civil society was renewed in 2016, with new CSO members and industry representatives from PAP appointed in June and new COMP members appointed in January 2017 (PH-EITI, 2016) (PH-EITI, 2016). The MSG has repeatedly discussed the need to disseminate the results of MSG discussion to broader constituencies and to canvass stakeholder opinions in preparation of MSG meetings (PH-EITI, 2016).</p>	
<p>Civil society representation</p>	<p>The selection process for civil society MSG members was broadly consultative and open to all. After the initial regional consultations around EITI Candidature in October-December 2012⁶⁷, Bantay Kita facilitated the nominations process for MSG representatives from the civil society constituency. Drawing on feedback from the consultations, the terms of MSG representatives were agreed, including the requirement for two of the five MSG members to be women and for one member to be a grassroots representative from a mining-affected community, one representative from each of the three geographical zones and two from the capital area. A screening committee was established to vet all nominees for MSG members, comprising representatives from all three geographical zones. The criteria for becoming an MSG member included not having a (past or present) conflict of interest or affiliation with the extractive industries as well as demonstrating strong negotiating and public relations skills, commitment to the principles of PWYP and a history of integrity and advocacy (Bantay Kita, 2013). The selection process took place in January 2013, with participation from 65 CSOs from across the country, and ten nominees were appointed to the five full and five alternate MSG seats (MSI Integrity, 2015). The process leading up to the formal appointment of CSO representatives to the MSG at Bantay Kita's 17 January</p>	<p>CSO MSG members consulted explained that their constituency always organised discussion forums when an EITI Report was published as well as regular focus group discussions, annual national conferences, capacity building workshops and roadshows to canvass their constituents for their opinions, concerns and demands for further information. For instance, they had found strong demand for EITI coverage of the large-scale non-metallic mining sector. CSOs both on and off the MSG considered that Bantay Kita provided a very effective platform for civil society to liaise with their constituency and account to them. Several CSOs noted that they also kept the other civil society networks they participated in informed when EITI Reports were published. A CSO noted that civil society was in the process of creating two new coalitions specifically for indigenous peoples and for artisanal miners, both of which were currently members of Bantay Kita, given that</p>

⁶⁷ The regional consultations were held in five regional centres covering the three major island groupings. Bantay Kita announced the meetings on social media, and invited participants through its networks, as well as the networks of other accountability and advocacy coalitions. In total, over 80 people from approximately 40 different regions or provinces participated in the local consultations in October-December 2012 with Manila-based CSOs and civil society representatives with EITI experience from other countries such as Indonesia and Timor-Leste.

	<p>2013 National Conference (PH-EITI, 2013) was well documented in the annexes to the Philippines' EITI Candidature (PH-EITI, 2013) and in a standalone report on these consultations published on the PH-EITI website (Bantay Kita, 2015).</p> <p>Approaching the end of CSO representatives' MSG tenure in 2016, the Bantay Kita Board established a selection committee with five members (Atty. Christian Monsod, Dr. Gail Ilagan, Jaybee Garganera, Vincent Lazatin and Tina Pimentel) at its 7 December 2015 meeting (Bantay Kita, 2016). The initial call for CSO nominations for the 2016-2019 MSG term was open from 20 January to 10 February 2016, based on revised selection criteria, which included active engagement in and knowledge of EITI, members of legal organisations, without direct or indirect affiliation to the extractive industries, sufficient time and willingness to report back to broader civil society audiences as well as negotiations and public relations skills (Bantay Kita, 2015). The call for applications was open, disseminated on Bantay Kita's website, social media and through email to CSOs networks, including the PH-EITI Secretariat (Bantay Kita, 2016). While the short-listed candidates were presented to Bantay Kita's National Conference on 17 February 2016, the call for nominations was extended to 30 March 2016 due to high interest and the finalists were approved at Bantay Kita's 16 May 2016 Board meeting and informed of their selection by email on 18 May 2016 (Bantay Kita, 2016). The four new CSO representatives⁶⁸ on the MSG attended their first meeting on 3 June 2016. Bantay Kita also identified two interim indigenous peoples' representatives⁶⁹ during an IP conference in Davao City in 2015, who took one full and one alternate MSG position (Bantay Kita, 2016).</p>	<p>their focuses were different from the existing coalition's. Several CSOs and development partners described the growing interest of CSOs to join the Bantay Kita coalition, although anti-mining groups, particularly in areas where indigenous peoples lived.</p>
Industry	While the COMP undertook significant outreach in September-December 2012, outreach to the PAP only	An oil and gas MSG member explained that his sub-constituency normally

⁶⁸ Engr. Maria Rosario Aynon Gonzales of Palawan State University, Atty. Golda Benjamin of Siliman University in Dumaguete City, Buenaventura Maata Jr. of Philippine Grassroots Engagement in Rural Development Foundation, Inc. (PhilGrassroots-ERDF) in Dinagat Islands and Jose Melvin Lamanilao, an Independent Consultant.

⁶⁹ Augusto S. Blanco, Jr. of the Mandaya tribe in Compostela Valley and Alfredo Montilla Ubo of the Manobo tribe in Agusan del Sur.

<p>representation</p>	<p>began after the first EITI National Conference on 18-19 January 2013. At the conference, the industry constituency decided to leave one MSG seat open for the oil and gas industry, which the PAP filled with one full member and one alternate at its 24 January 2013 meeting (PH-EITI, 2013). The PAP agreed its MSG representative qualification requirements and selection procedures in October 2015, which involved the PAP's Executive Committee screening all qualified candidates and appointment of MSG members by the PAP's Board of Directors for two-year terms (Petroleum Association of Philippines, 2015). According to the minutes of the MSG's 15 January 2016 meeting, the COMP had submitted guidelines to the PH-EITI Secretariat on the selection of their MSG representative (PH-EITI, 2016). While the COMP's selection procedures are dated January 2013, these do not appear available online (Chamber of Mines of the Philippines, 2013). The selection process, agreed by the COMP's board of directors, confirms the personal nature of appointments of the three full MSG members and three alternates, including one full position for the Chairman of the Board or President of the COMP and two senior executives of mining firms in operation, with a representative cross-section of commodities (gold, copper, nickel). Alternates may be officers of mining companies in either exploration or production and a senior officer of the COMP. The COMP's executive committee selects nominees based on criteria including commitment to actively engage in EITI and acquire EITI-related knowledge, sufficient time and resources and the ability to seek a consensus of the rest of the mining industry on EITI-related issues. These nominations are subsequently approved by the COMP board of directors (Chamber of Mines of the Philippines, 2013).</p> <p>There was a change in industry membership of the MSG in January 2014 when CTP Construction and Mining Corp. joined the COMP and relinquished its non-COMP MSG seat to alternate MSG member Francisco J. Arañes Jr. of Cambayas Mining Corp. (PH-EITI, 2014). In June 2015 following Arañes' resignation, he was replaced by James Ong of Ore Asia Mining and</p>	<p>coordinated via email and regular meetings on EITI roughly once a quarter, organised through the PAP executive committee and annual general meeting. EITI documents such as draft EITI Reports were typically circulated for comments by the PAP MSG member to the largest PAP members such as Chevron, Shell and Philodrill ahead of MSG meetings. Comments from the oil and gas industry typically focused on the financial reconciliation sections rather than non-financial information, according to the oil and gas representative. Mining industry representatives explained that the main mechanism for coordination and communication within their constituency was through the COMP, which regularly kept them abreast of EITI-related developments through COMP meetings roughly once a quarter as well as regular emails, phone calls and text messages.</p>
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	<p>Development Corporation, who has never attended an MSG meetings, with no alternate appointed as of February 2017. The constituency, excluding the non-COMP member, renewed its MSG representation following the end of original industry MSG members' terms in 2016. In June 2016, Anthony P. Ferrer of Galoc Production Company replaced Sebastian C. Quiniones Jr. of Shell as PAP President and MSG member. In October 2016, MSG members from COMP agreed on three new members and alternates, effective from January 2017.</p>	
<p>Government representation</p>	<p>The original government MSG members were appointed by the MICC, in line with EOs 79 and 147, drawing representatives from the DOF, DILG, MGB, ULAP and DOE, and formally announced at the January 2013 PH-EITI Conference. The MSG discussed the possibility of adding a sixth government MSG member from BIR following the transition to the DOF in July 2013 (PH-EITI, 2013), with the sixth member added in 2015. The MSG discussed the possibility of expanding the number of MSG seats for government again at its 23 January 2015 meeting, to include representatives from DBM, BOI, NCIP and BIR (PH-EITI, 2015), although the proposal was not carried through. At the same MSG meeting, the MSG also nominated Secretary Gozun as "piso" consultant, or "MSG member in all but name" (PH-EITI, 2015). The MSG has discussed and clarified government MSG member nominations on several occasions and agreed selection process through a ToR for government representatives on the MSG, finalised in February 2017 (Republic of the Philippines, 2015). At its 1 July 2016 meeting, the MSG noted that the MICC identified the appointment of government members, in line with EOs 79 and 147. While these specified only five MSG members for government, the MSG noted that it was possible to propose additional members to the MICC in writing without revising the EOs, as had been done with the addition of DILG (PH-EITI, 2016). The heads of the five agencies are able to recommend new principal and alternate MSG representatives from their agency (Republic of the Philippines, 2015). Government representation on the MSG has remained constant following the transition to the Duterte</p>	<p>A government MSG member explained that while there was no formal coordination mechanism for government agencies involved in EITI aside from the high-level MICC, government MSG members typically communicated and coordinated on EITI-related matters in an informal manner, since they normally attended other meetings together. Within each agency represented on the MSG, all stakeholders confirmed that the person who attended MSG meetings regularly briefed colleagues on EITI-related matters. The ULAP MSG member explained that she regularly kept LGUs updated on EITI-related matters and that the union was developing a smartphone application to ensure even closer coordination. A representative from MGB explained that their MSG member always consulted internally within the Bureau prior to MSG meetings to confirm what information could be publicly disclosed, to ensure that the MSG could make effective decisions.</p>

	<p>administration. Secretary Lopez reaffirmed the mandate of the DENR under EO79 to ensure operationalisation of the EITI as well as its commitment to support effective implementation in her foreword to the 2014 PH-EITI Report (PH-EITI, 2016).</p>	
<p>Terms of Reference</p>	<p>The ToR of the PH-EITI MSG are clear and public (PH-EITI, 2013) (President of the Philippines, 2013) (PH-EITI, 2016). The MSG extensively discussed its ToR, drawing on input from the first PH-EITI National Conference at its first meeting on 29 January 2013 (PH-EITI, 2013). Representatives from the three stakeholder groups had already completed a public oath-taking based on the “Statement of stakeholder commitment to the EITI” at the January 2013 PH-EITI Conference (PH-EITI, 2013). The MSG subsequently updated its ToR at its 4 November 2016 meeting, with minor amendments to reflect actual practice (PH-EITI, 2016) (PH-EITI, 2016).</p> <p>Section I of the MSG’s ToR defines the objectives and mission of PH-EITI, including five key mandates (PH-EITI, 2013) (PH-EITI, 2016): ensuring sustained political commitment for the initiative and mobilizing resources to sustain its activities and goals; setting the strategic direction required for effectively implementing the initiative in the Philippines; assessing and removing barriers to its implementation; setting the scope of the EITI process; and ensuring that the initiative is effectively integrated in the reform process outlined under EO 79 and any other related government reform agenda. Section II of the MSG’s ToR sets ten rules for engagement by the three stakeholder groups, including local ownership and inclusive, transparency, accountability, integrity, inclusivity, partnership, consultation, capacity-building and empowerment, respect for internal processes, sustainability and national interest.</p> <p>The ToR includes specific language on the responsibility of the MSG to regularly review and update the PH-EITI work plan, appoint the IA, agree the scope of EITI implementation and participate in outreach and dissemination. Sections 4 and 5 of EO 147 describes the</p>	<p>All stakeholders confirmed that the revisions to the MSG’s ToR agreed in November 2016 had been the product of consultations with each of the three constituencies, even if industry members did not suggest any changes. Representatives from government and the secretariat explained that the recent updating of the ToR had been undertaken to ensure the ToR was in line with actual practice, with only minor amendments made. This was important given that the original ToR had been agreed by the three stakeholder groups in January 2013, prior to the original MSG members assuming their functions.</p> <p>All stakeholders confirmed that the MSG typically met once a month, with meetings scheduled at the end of the previous MSG meeting. A government representative noted that the EITI was one of the inter-agency groups that met the most often. All stakeholders consulted confirmed that any MSG member had the ability to add topics to the agenda of MSG meetings and other EITI-related activities, noting that this was often the case. Indeed, MSG members from all three stakeholder groups cited examples of instances when a member of their constituency had volunteered to make presentations on particular issues. However, oil and gas representatives consulted noted that they did not tend to propose topics for discussion,</p>

	<p>mandates, powers and functions of the MSG, including responsibilities for ensuring sustained political commitment, mobilising necessary resources, setting the strategic direction of implementation, assessing and removing barriers to implementation, setting the scope of EITI implementation and ensuring EITI is effectively integrated into the reform process enshrined in EO 79. It also confirms the MSG's responsibilities for agreeing a fully-costed work plan, production of EITI Reports, annual reconciliation of payments, appointment of the IA, oversight of the secretariat, as well as for outreach, dissemination and awareness building (President of the Philippines, 2013). These functions are confirmed in Sections III and V of the MSG's ToR, which also includes responsibility for appointing the IA (PH-EITI, 2016). Section V of the MSG's ToR defines the roles of MSG members both as a whole and disaggregated by constituency. Government representatives are required to provide political leadership and support, ensure full participation of national and local government entities, ensure full participation of extractives companies, encourage full participation of civil society, provide a legal basis for EITI implementation and disclose government revenues and relevant data in an accurate and timely manner. Industry MSG members are required to help ensure full participation by extractives companies, disclose payments and relevant data and communicate to industry stakeholders about EITI developments. Civil society representatives are required to communicate and consult widely with a diverse range of stakeholders, build capacities, ensure full participation of relevant CSOs and monitor disclosures from government and extractives companies (PH-EITI, 2013) (PH-EITI, 2016). The procedures for choosing an organisation to undertake the reconciliation are defined by national procurement legislation, under the Government Procurement Law.</p>	<p>considering that EITI was more focused on mining than on oil and gas. A government MSG member said that government representatives were typically less outspoken than the other two constituencies on the MSG, given the perception that government was a recipient of recommendations from industry and civil society. However, government played a key role in occasionally explaining why specific recommendations could not be implemented. Industry MSG members consulted confirmed that the national secretariat ensured an efficient communications flow, even if documents were sometimes circulated as late as the night before meetings. Civil society representatives consulted noted that documents were consistently circulated sufficiently in advance of meetings in the past, the funding and human resource challenges faced by the secretariat in 2016 had meant documents were sometimes circulated at short notice since mid-2016, which did not allow sufficient time for review. Several government MSG members confirmed that documents were normally circulated around a week ahead of meetings, with some exceptions. However, all stakeholders considered that documents were generally circulated sufficient in advance of MSG discussions.</p>
<p>Internal governance and decision-making</p>	<p>The MSG's ToR and EO 147 states that stakeholders are treated as partners and confirms that the MSG aims to take decisions by consensus. Section 3 of EO 147 requires the MSG to meet quarterly or as often as</p>	<p>There was consensus amongst all stakeholders consulted that MSG decisions were always taken by consensus and that there had never been any instances of voting. Industry</p>

	<p>necessary, with quorum requiring attendance of a minimum of three members from each constituency (President of the Philippines, 2013). Section VII of the MSG's ToR further clarifies that the MSG Chair is responsible for calling MSG meetings with notices sent out a minimum of one week prior to the meeting alongside supporting documents prepared by the PH-EITI Secretariat. Section IV of the MSG's ToR further clarifies that MSG meetings are to be chaired by a representative from DOF, who is also responsible for organising the PH-EITI Secretariat and is nominated by MICC in line with Section VI (PH-EITI, 2013). The principle of ensuring institutional memory and continuity of representation in the renewal of MSG members was discussed by the MSG at its 2 August 2013 meeting and enshrined in Section VI of the MSG's ToR (PH-EITI, 2013) (PH-EITI, 2013).</p> <p>Section VII of the ToR confirms that decision-making is by consensus and provides for urgent decisions to be taken through email on the same consensus basis (PH-EITI, 2013). There is evidence of the MSG frequently considering the frequency and timing of its meetings and considering rotating the location of MSG meetings to different government agencies and on-site mine visits (PH-EITI, 2015). The PH-EITI Internal rules, drawn largely from EO 147 and from the MSG's ToR, were discussed in draft form at the MSG's 9 July 2013 meeting, where it was agreed that both MSG members and others could participate in the Technical Working Group, which would be governed by the same rules as the MSG (PH-EITI, 2013). The Internal rules were subsequently updated and approved at the same time as the MSG's ToR on 4 November 2016 (PH-EITI, 2016) (PH-EITI, 2016).</p> <p>Section 8 of EO 147 establishes the MSG's technical working group composed of government departments, bureaus, offices and agencies, state-owned enterprises and representatives from industry and civil society, mandating full participation from relevant government entities (President of the Philippines, 2013). However, there is evidence of only five meetings of the technical</p>	<p>representatives explained that in cases of divergent views, the MSG would continue discussing an issue until they reached consensus. An industry representative also noted that a strong MSG Chair typically manoeuvred the conversation towards consensus. While an industry MSG member did not consider that he could single-handedly block decisions he opposed, given that "he was only one MSG member", he was not aware of any issue on which the industry constituency had been overruled on the MSG. Another industry MSG member considered that industry was sometimes overruled in MSG decisions, but explained that this was because they withdrew their objections rather than being formally overruled. The representative described calls for the MSG to vet all communications by MSG members on EITI-related matters, including in individual constituencies' use of EITI data, but complained that the MSG had not agreed. Another industry representative considered that MSG members could steer the conversation away from decisions they did not favour. The IA described MSG discussions as robust and dynamic, where compromises were struck between diverging views between different MSG members.</p>
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	<p>working group in the August 2012 – May 2013 period.⁷⁰ While ad hoc technical working groups have met since then, the results of their deliberations is reflected in MSG meeting minutes. The MSG's revised Internal Rules clarify that the technical working group only meets as and when necessary (PH-EITI, 2016).</p>	
Record-keeping	<p>Section VII of the MSG's ToR and Article III of the PH-EITI Internal Rules vest the PH-EITI Secretariat with responsibility for preparing and circulating meeting minutes and sets a one-week time limit for comments on draft minutes, which are approved on a no-objection basis. It also requires the secretariat to report the status of implementation of past MSG decisions at subsequent MSG meetings (PH-EITI, 2013). The MSG has kept minutes of their meetings to date, which are available together with the five technical working group meetings on the PH-EITI website.⁷¹ The MSG adopted the Chatham House rules for its meeting minutes at its 13 June 2013, although there is evidence that subsequent meeting minutes included the affiliation of certain participants, particularly government entities.</p>	<p>There was consensus amongst stakeholders consulted that records of MSG meetings were detailed and reflected the content of MSG discussions and decisions. One government MSG member noted that a proposal to only include in meeting minutes those topics included in the original agenda had not been taken forward.</p>
Capacity of the MSG	<p>There appears to be good capacity amongst MSG members to carry out their duties, among all three constituencies. While government and industry representatives have the capacity to engage in technical discussions, four of the six civil society MSG members hold positions in academia on issues related to EITI. Minutes document that the three constituencies have been engaged in technical discussions related to reporting templates as well as participated in other duties such as dissemination and stakeholder outreach. In particular, in the lead-up to publication of the two first EITI Reports in December 2014 and 2015, the MSG engaged in detailed discussions both of the draft EITI Report and disclosure of contracts. There is evidence in the minutes of input from all three constituencies to the 2014, 2015, 2016</p>	<p>Industry MSG members considered that they had sufficient capacity to carry out their EITI-related duties. A government MSG member noted that her only constraint was time, given significant other responsibilities associated with normal government duties. A CSO representative explained that while CSO MSG members had the capacity to carry out their duties, there was a need for ongoing capacity building, particularly for newer members. There was consensus amongst MSG members consulted that individuals with specific required expertise were often invited to attend</p>

⁷⁰ See technical working group meeting minutes: <http://PH-EITI.org/app/Stakeholders/#/Technical-Working-Group/Meetings>

⁷¹ <http://PH-EITI.org/app/Stakeholders/#/Multi-stakeholder-Group/Meetings> and <http://PH-EITI.org/app/Stakeholders/#/Technical-Working-Group/Meetings>

	<p>and 2017 work plans, the 2013, 2014 and 2015 annual progress reports and the discussions related to the preparations of the 2012, 2013 and 2014 EITI Reports. The PH-EITI Secretariat has led significant capacity building efforts that have involved MSG members from all three constituencies, targeting parliamentarians, academics, students, the media, indigenous people, mine-affected communities and grassroots organisations. Section 9 of EO 147 states that the funding required for EITI implementation would be included in the annual DOF budget and vests the PH-EITI with authority to receive, disburse and manage financial aid or grants from foreign and domestic entities subject to usual accounting and auditing rules (President of the Philippines, 2013). The MSG has also adopted a practice of including regular learning sessions as part of MSG meetings to build understanding and capacity. These sessions have often been facilitated by resource persons and experts from government, companies and civil society. In 2015 for example, the learning sessions included topics such as small-scale mining, tax incentives, freedom of information bill, decommissioning, monitoring and evaluation of social projects in the mining sector, nickel ore shipment process, gold trading policies, etc. (2013 PH-EITI Report).</p>	<p>MSG meetings as observers and resource persons.</p>
<p>Per diems</p>	<p>The MSG does not practice per diems for MSG members attending PH-EITI activities. Civil society MSG members are entitled to reimbursement of minimal transportation costs associated with attending MSG meetings and PH-EITI events, upon presentation of supporting documentation. These costs were originally covered by Bantay Kita through funding from the British Embassy before being transferred to the PH-EITI budget from the DOF from January 2016.</p>	<p>Stakeholders confirmed that the MSG did not have a per diem policy. A CSO representative confirmed that the MSG did not practice honorariums but explained that there was a policy of the DOF reimbursing CSO MSG members for the cost of transportation and related activities for EITI-related activities. While Bantay Kita originally covered this from the grant secured from the British Embassy, the DOF had covered these costs since the grant ended. Several CSOs highlighted significant arrears in reimbursement of these costs, with an estimated USD 1000 in arrears due to each CSO MSG member, and</p>

		emphasised the challenges this caused for less affluent CSO MSG members who travelled to Manila from their regions.
Attendance	<p>Section 3 of EO 147 and Section VII of the MSG's ToR require the MSG meet quarterly or as often as necessary, with meetings announced at least a week in advance (President of the Philippines, 2013) (PH-EITI, 2013). The MSG has had the practice of meeting on the first Friday of every month while it prepares its EITI Reports (MSI Integrity, 2015). At its 23 January 2015 meeting, the MSG agreed to publish meeting attendance of MSG members on the PH-EITI website (PH-EITI, 2015) and these are available in the annexes to the annual progress reports.⁷² Analysis of MSG meeting attendance (in Annex B) shows that a quorum was reached at all MSG meetings, including "special" ones. Despite the lengthy travel time from extractives regions to Manila, attendance rates for CSO MSG members from distant regions appears to be amongst the most consistent. There is evidence of strong engagement by all constituencies on the MSG. Beyond oversight of technical aspects of reporting and approval of the EITI Report, the MSG took responsibility for compiling the contextual information sections of the first PH-EITI Report, contracting specific sections out to individual consultants and contracting the IA only for the reconciliation of payments. Following approval of each of the first two PH-EITI Reports, covering 2012 and 2013, the MSG formulated common key messages around the EITI Report, a common action plan for following up on EITI recommendations and evaluate progress in implementation with additional recommendations where relevant (PH-EITI, 2016).</p>	<p>There were diverging views about the consistency of attendance at MSG meetings on the part of the three stakeholder groups. While industry and government MSG members considered that attendance at MSG meetings by representatives of their constituencies was consistent, despite the delegation of attendance to proxies at times, all CSOs consulted were highly critical of the level of government and industry attendance. Civil society representatives noted that, aside from the MSG Chair, the highest rank of government representatives at MSG meetings was below Director-level, hindering their ability to make decisions and constraining follow-up on MSG discussions. One senior government official noted that higher-level attendance by government representatives would be welcome, although did not consider this to impact the effectiveness of the MSG. The official highlighted that a key strength of PH-EITI was that most senior technical-level government officials consistently attended MSG meetings. However, industry members considered that government representation was sufficiently senior to ensure adequate oversight of EITI implementation. Another government representative noted that the DOE had recently appointed an EITI focal person</p>

⁷² <http://www.PH-EITI.org/app/Documents/#/Activity-Report>

		<p>who had started consistently attending MSG meetings. One industry representative noted that it had been “business as usual” on the MSG during the transition, given that government MSG representatives were civil servants and not political appointments. A senior government official noted that while there had been some delays with the political transition, the MSG had continued meeting monthly, followed the work plan despite funding constraints and succeeded in finalising the third PH-EITI Report by the December 2016 deadline. There was consensus amongst all MSG members consulted that CSO MSG members consistently attended meetings.</p>
<p>National Secretariat</p>	<p>Section 6 of EO 147 establishes the PH-EITI Secretariat, overseen by the MSG and whose composition of technical and administrative staff is to be defined by the Secretary of Finance in consultation with the MSG. It notes that hiring decisions are to be agreed with the Department of Budget and Management (President of the Philippines, 2013). Section IV of the MSG’s ToR confirms that the DOF representative chairing the MSG is responsible for organising the PH-EITI Secretariat (PH-EITI, 2013). The PH-EITI Secretariat counts 10 staff as of January 2017.⁷³ The PH-EITI Secretariat was transferred from the Office of the President to the DOF in August 2013 (PH-EITI, 2013). Article III of the PH-EITI Internal Rules further defines the national secretariat’s responsibilities, including its composition and roles and the mandate of the National Coordinator (PH-EITI, 2013) (PH-EITI, 2016). During the PH-EITI Secretariat’s planning workshop on 31 March-1 April 2016, the secretariat reviewed its own organisational structure, refined individual roles and rationalised processes (PH-EITI, 2016). The national secretariat remains an</p>	<p>MSG members from all three stakeholder groups considered that the national secretariat served the interests of all three stakeholder groups equally and was competent in supporting the work of the MSG. However, one industry MSG member considered that the national secretariat tended to excessively favour CSOs and called for staff to defend industry’s interests on a par with those of other constituencies. The IA noted that despite the political transition and the change in National Coordinators in 2016, the national secretariat had remained very involved and provided significant assistance to the IA and the MSG. All CSOs consulted praised the secretariat for its diligent work despite operating</p>

⁷³ <http://PH-EITI.org/app/Secretariat>

	<p>independent special unit within the DOF, rather than a permanent organic office of the DOF, causing challenges during the change in government from July 2016. While the DOF included the secretariat as an organic unit in their rationalisation plan submitted to the DBM in July 2016 (PH-EITI, 2016), this was still pending as of November 2016 (PH-EITI, 2016). While all but four of the secretariat staff's contracts lapsed with the arrival of the new government in July 2016 (PH-EITI, 2016), the secretariat continued functioning without pay for a period of four months in June-October 2016, upon which they were retroactively reimbursed.</p>	<p>without salary for six months.</p>
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Annex F – Detailed assessment of progress in implementing Requirement 7.1

#7.1 Sub-requirement	Documentation of progress	Stakeholder views
Comprehensibility	<p>The PH-EITI Secretariat has led communications efforts, although all three stakeholder groups have been actively engaged in EITI-related communications. The secretariat has an active communications strategy through engagement with print, broadcast and online media, publishing communications materials ranging from summary EITI Reports to infographics⁷⁴ and data visualisations⁷⁵ both on the PH-EITI website and in hard copies. The PH-EITI Secretariat has also prepared three short videos, including one in July 2014 explaining the EITI process⁷⁶, one in September 2015 socialising the findings of the first PH-EITI Report⁷⁷ and one in February 2016 based on the findings of the second PH-EITI Report.⁷⁸</p> <p>The Secretariat published quarterly e-newsletters from September 2014⁷⁹ to June 2016, featuring updates on EITI implementation and articles written by stakeholders on topics relevant to the extractive industries. PH-EITI also produces information, education and communication materials, including the PH-EITI primer, impact story and brochures on IP royalty payments, SDMP, environmental funds, payments of companies to the national government and infographics on LGU collections per region.⁸⁰ It published “Key</p>	<p>A media representative noted that the inclusion of more infographics and graphs in future PH-EITI Reports would be welcome, but considered that the infographics thus far published on the website and disseminated on roadshows were useful in socialising PH-EITI findings.</p> <p>Several CSOs noted that while the MSG had initially planned to translate targeted summaries of the PH-EITI Report into local languages, this had never been done. Rather, Bantay Kita had published local language versions of their brochures about EITI as a stop-gap measure. Secretariat staff explained that PH-EITI newsletters had not been published since June 2016, although they intended to resume publications and had prepared drafts of newsletters since.</p>

⁷⁴ <http://PH-EITI.org/app/Resources/#/category/Information-Materials/folder/Infographics>

⁷⁵ <http://PH-EITI.org/app/EITI-Report/#/Second-Country-Report/Key-findings-Outer>

⁷⁶ <https://www.youtube.com/watch?v=5TTq5W9rklw>

⁷⁷ <https://www.youtube.com/watch?v=PbZgbhnrpM>

⁷⁸ <https://www.youtube.com/watch?v=zQQT7OEzn9w>

⁷⁹ <http://us8.campaign-archive2.com/?u=7f0ba73c23438f2647da6013b&id=06f1c4211b>

⁸⁰ <http://PH-EITI.org/Resources/#/Infographics>

	<p>findings” and an executive summary for the first two PH-EITI Reports (PH-EITI, 2016). The MSG has produced three major studies covering subnational transfers, artisanal and small-scale mining and large-scale non-metallic mining as well as pilot studies covering South Cotabato and Compostela Valley (PH-EITI, 2015) (PH-EITI, 2014).</p> <p>Challenges in recruiting a new communications officer in 2015⁸¹ explain delays in drafting a communications strategy (PH-EITI, 2016). While a formal communications strategy was still under development in 2017, the secretariat has followed an internal communications plan annually that sets out targeted media and communications channels.</p>	
Promotion	<p>The PH-EITI Secretariat and MSG have actively promoted EITI information through press briefings, dissemination and outreach events, focus group discussions, social media and capacity building workshops. The MSG’s self-assessment in 2016 noted the PH-EITI efforts to distribute printed copies of the PH-EITI Report to a wide range of stakeholders including civil society, companies, the media and other key stakeholders like parliamentarians (PH-EITI, 2016). Each of the three stakeholder groups on the MSG held separate forums to communicate the findings of the first and second PH-EITI Reports (PH-EITI, 2016). At its 15 January 2016 meeting, the MSG agreed that all members should attend a communications training in 2016 prior to briefing the press about the 2013 EITI Report. At the same meeting, the MSG advised government agencies to prepare articles, blogs and press releases about the recently-published 2013</p>	<p>Secretariat staff explained that while the recruitment of a communications officer and finalisation of the formal PH-EITI communications strategy had been delayed, the secretariat had followed an internal communications plan for several years. While the MSG had discussed drafts of the communications strategy on several occasions in 2015 and 2016, the MSG was seeking to make the strategy focused on thematic issues rather than simply channels of communications and dissemination. A media representative called for PH-EITI to reach out to more columnists alongside news reporters, given that these journalists could devote more space to covering EITI and include more analysis. However, several media representatives noted the challenges in selling extractives-</p>

⁸¹ Communications officer Roselyn Salagan was recruited in January 2016.

	<p>PH-EITI Report (PH-EITI, 2016). The MSG has held report analysis workshops after the publication of each EITI Report, for instance in 2016 on the basis of the 2013 EITI Report, which included essay writing contests (PH-EITI, 2016) (PH-EITI, 2016).</p> <p>The secretariat publishes regular press releases on its website⁸² and has signed up to ten free online press release sites to republish PH-EITI press releases. The 2015 annual progress report notes PH-EITI's ongoing efforts to strengthen its media network, particularly relationships with different media and provincial media personalities, columnists, bloggers and foreign correspondents (PH-EITI, 2016). The PH-EITI National Conferences held in the first quarter of the year since 2013 (typically in February) have also provided a key multi-stakeholder platform for debate over the findings of the PH-EITI Reports, canvassing opinions and socialising the annual work plan. The 4th EITI National Conference on 16 February 2016 brought together over 200 stakeholders including representatives from national government agencies and their satellite offices studied the results of the second PH-EITI Report and discussed government's progress in implementing reforms. Beyond MSG meetings as a regular venue for dialogue and engagement, PH-EITI has also held forums for indigenous peoples affected by extractive activities, and participated in a Coal Forum in the fall of 2015. (PH-EITI, 2016).</p> <p>The PH-EITI Secretariat and MSG members have actively undertaken outreach both in the capital Manila but more importantly in the three main geographical zones of the</p>	<p>related stories in the Philippine press, but noted that there was popular interest in more information on artisanal mining, production figures and safety standards. They noted the largest press coverage on extractives in 2016 had been about the environmental impacts of mining and the local impact of rising global oil prices. Secretariat staff explained that press coverage of PH-EITI had dipped somewhat in 2016 given lower engagement with the DOF press pool during Assistant Secretary Habitan's six-month leave of absence. However, they explained that the secretariat maintained a database of roughly 100 contacts amongst both national and local press. They explained that they targeted both English-language broadsheets and Filipino-language tabloids. They noted that the EITI had generated the most public debate in the regions, particularly in Davao, Cebu, Baguio and Palawan. Staff also noted significant interest from Congress, which tended to be the first to ask for copies of the PH-EITI Report for their library every year.</p> <p>Several LGU representatives noted that the roadshows were an important channel both for dissemination, for generating public debate at the local level and for soliciting input from local stakeholders to feed into the national debate. However, they emphasised the need for more capacity building in relation to the EITI at the subnational level. Secretariat staff noted the</p>
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⁸² <http://PH-EITI.org/app/Activities/#/>

	<p>Philippines. Some 36% of the 2015 PH-EITI budget was allocated to outreach and training activities (PH-EITI, 2016). While the initial 2016 work plan devoted roughly the same share of resources to outreach and training, the work plan was downsized in October 2016 to reflect significant funding constraints (PH-EITI, 2016). The MSG has enlisted sector experts both from within MSG membership as well as other stakeholders to help communicate findings of the two first EITI Reports during a series of roadshows. Structured as two-day events, these LGU roadshows also included daylong trainings by BLGF for LGU treasurers, accountants and focal points for training on reporting on their revenues. The LGU roadshows in August-September 2014 reached 21 municipalities and cities in eight provinces, reaching a total of 64 LGU officials and 27 ARMM regional government officials (Cotabato, Benguet, National Capital Region (NCR), Butuan, Cebu and Palawan) (PH-EITI, 2014). The PH-EITI Secretariat produced reports with minutes of proceedings (PH-EITI, 2014) (PH-EITI, 2015) (PH-EITI, 2016).</p> <p>The second set of LGU roadshows was organised from 15 July to 20 August 2015, co-organised with the ULAP and Bantay Kita in five key areas hosting mining to communicate the findings of the first PH-EITI Report to local government units, government agencies, extractive companies and CSOs in the area. These types of multi-stakeholder discussions were held in Butuan, Puerto Princesa, Cebu, Davao, and Manila and were attended by over 400 stakeholders from LGUs, regional government agencies, industry representatives and CSOs (PH-EITI, 2016). These LGU roadshow aimed to identify gaps in existing extractives governance systems and assess how EITI reporting could provide information to help</p>	<p>importance of LGU roadshows in expanding outreach at the subnational level, noting that there was always significant local press coverage of the events and that this was an opportunity to participate in local radio shows and the like. A media representative considered the LGU roadshows as the best channel for dissemination in an archipelago like the Philippines, praising the PH-EITI briefings on the benefits of mining to local communities and calling for the inclusion of such analysis in future PH-EITI Reports. A government MSG member explained that LGUs brought up a variety of concerns during roadshows, including about LGU shares, SDMP implementation and boundary disputes between LGUs. While mining representatives noted their participation in regional roadshows, depending on the location of individual companies' operations, none of the oil and gas companies consulted said they had participated in regional roadshows, considering that PH-EITI roadshows were only for mining companies that faced greater challenges in their relations with host communities. Rather, oil and gas companies always held their own annual meetings with communities to provide updates on their operations. However, these representatives noted that it would be useful for DBM representatives to attend their bilateral roadshows to address questions about how the central government was using oil and gas revenues. They also noted they would be interested in participating in more dissemination events in Manila.</p>
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	<p>address gaps as well as for local governments to complete their reporting templates, with significant feedback gathered and documented in the 2015 annual progress report among other places (PH-EITI, 2016). The 2016 LGU roadshows were similar to the first two series, although the MSG focused sessions on topics of greatest appeal to participants in 2015, including DBM's disbursement of LGU shares and the development of SDMPs at the local level, and introduced the EITI Transparency Awards (PH-EITI, 2016) (PH-EITI, 2016). Given delays in disbursement of World Bank EGPS funding for PH-EITI, USAID provided partial funding for the roadshows (PH-EITI, 2016). There has also been training of LGUs and communities on filling out reporting templates, as noted at the MSG's 15 January 2016 meeting (PH-EITI, 2016). However, Bantay Kita has estimated that only around 2%-3% of communities in LGUs such as Didipo (Kasibu) and Runruno (Quezon) had participated in EITI multi-stakeholder meetings as of late 2015 (Brockmyer, 2016). While all LGU roadshows included focus group discussions on specific topics, PH-EITI has also held standalone focus group discussions around specific topics to solicit feedback, such as the discussion on the contracts portal project on 9 October 2015.⁸³</p>	<p>Senate representatives consulted noted that they undertook outreach to raise awareness about EITI in connection to the EITI bill currently under discussion, given that Senators that were not involved in mining tended not to be aware of the EITI. Secretariat staff explained that PH-EITI had introduced an awards scheme to recognise the government agencies that had reported in the most comprehensive and timely manner at the 2016 PH-EITI National Conference, as a means of incentivising participation.</p>
<p>Subnational implementation</p>	<p>Since 2012, Bantay Kita has supported three subnational transparency projects including two in the southern island of Mindanao – one in T'Boli, South Cotabato, focusing on civil society empowerment and artisanal mining, and the other the Compostela Valley transparency initiative as a subnational multi-stakeholder process – and one in Nueva Vizcaya province in Luzon. These</p>	<p>An industry representative considered CSOs' efforts to develop subnational EITI implementation to be unwarranted, given industry's perception that the DOF was already effectively institutionalising the EITI at a subnational level through their regional offices and the PH-EITI LGU roadshows. However, more active</p>

⁸³ <http://PH-EITI.org/Activities/#/FGD-on-Mining-Oil-and-Gas-Contracts-Portal>

	<p>initiatives have been supported by the British Embassy, USAID, AusAID/DFAT and NRGi. In Compostela Valley, Governor Arturo Uy signed an executive order establishing the ComVal Multi-Stakeholder Council for Extractive Industry Transparency and Accountability in 2012 (NRGI, 2016), which operates a Facebook page⁸⁴ and a site hosted by Bantay Kita.⁸⁵ The CSO-driven subnational council produced a handbook on the subnational initiative in 2013 and reporting templates for relevant entities. Reports on the subnational pilots were published in 2015 and 2016. In 2016, the MSG in Compostela Valley planned to create a formal framework for subnational EITI implementation, drawing on existing provisions of the Mining Act establishing local councils and newer rules for small-scale mining (University of British Columbia, 2015). In Nueva Vizcaya a group of CSOs, led by the Philippine Rural Reconstruction Movement (PRRM) and supported by Bantay Kita, has met since March 2015 to discuss plans for a Nueva Vizcaya Environment Code (Bantay Kita, 2015). However, the initiative continued to progress in 2016 without a formal regional legal framework. In T'boli, the Alternate Forum for Research in Mindanao (AFRIM) supported by Bantay Kita led outreach and capacity building for local civil society since 2012. T'boli's Mayor Dibu S. Tuan passed an executive order in September 2013 establishing the T'boli Small-Scale Mining Transparency and Accountability Multi-Sector Council, aimed at advising the local legislature and regulatory board on small-scale mining policy. Bantay Kita has continued to support the T'boli council's capacity development</p>	<p>communication of EITI findings at the local level was necessary, according to this representative. However, several government representatives said that subnational MSGs could be useful in channelling debate in certain provinces hosting mining operations and to build trust between stakeholders. A CSO MSG member explained that subnational implementation efforts had been driven by CSOs, pending agreement by the MSG on establishing a formal framework for subnational implementation. The CSOs had focused on generating demand for EITI information and subnational implementation more broadly, through regular capacity building activities, to prepare for the day when a framework for such implementation was agreed. The representative noted that the initiative in Compostela Valley was the most advanced, given their publication of a first CSO report, while the Nueva Vizcaya structure was established but still working on agreeing the focus of their process. The third initiative in T'boli was still at the embryonic stages, with CSOs focusing on capacity building. A government MSG member noted that the MSG had evaluated subnational pilots but had not yet formally recognised these structures. There was a need to align subnational implementation priorities with national EITI objectives, to avoid duplication and clarify the relationship</p>
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⁸⁴ <https://www.facebook.com/TransparencyInitiativeInCompostelaValley/>

⁸⁵ <http://bantaykita.ph/transparency-initiative-in-compostela-valley/>

	through bi-monthly workshops (NRGI, 2016).	between the various structures.
Public accessibility	<p>The PH-EITI Secretariat and MSG have been proactive in ensuring the public accessibility of EITI information both through online channels, in hard copy through dissemination and outreach events and through ‘use of data’ events. Traffic on the PH-EITI website has grown significantly since its launch in 2013, with the number of unique visitors growing from 2301 in 2013 to 5,902 in 2014, 7,880 in 2015 and 10,350 in 2016 and the number of website hits growing from 58,232 in 2013 to 385,508 in 2014, 832,344 in 2015 and 505,557 in 2016, according to data collected by the PH-EITI Secretariat⁸⁶ and available in Annex G. These statistics show that while the number of new website users has grown, the average number of pages consulted per browser has declined. The secretariat has made improvements to the website’s user interface design and restructured the content architecture over time, with a spike in visitors in Q1-2015 following the PH-EITI website refresh. Active official social media accounts are maintained on Facebook⁸⁷, with 862 likes as of January 2017, and Twitter⁸⁸, where it had 269 followers and had made 513 tweets as of January 2017.</p> <p>The PH-EITI MSG and secretariat have also undertaken efforts to make the data more accessible and generate use of data, for instance through hosting a regional data visualization boot-camp in June 2015, together with the EITI International Secretariat and Open Data Philippines and involving graphic artists and</p>	<p>A government MSG member noted that while individual government agencies adhered to full disclosure on their individual websites, these tended not to be consulted by citizens. The EITI thus provided a channel to actively promote and socialise the findings. Several CSOs noted that while both the PH-EITI and CSOs were very active on social media, there was a significant digital divide in the Philippines with many indigenous peoples not having Internet access.</p>

⁸⁶ See <http://PH-EITI.org/News/#/PH-EITI-Newsroom>

⁸⁷ <https://www.facebook.com/PhilippineEITI/>

⁸⁸ https://twitter.com/ph_eiti

	<p>communications officers from the Philippines and seven other Asian implementing countries (PH-EITI, 2015). The MSG launched the Philippine Resource Contracts Portal⁸⁹ in October 2015, disclosing 44 mining, oil and gas contracts and 43 sets of supporting documents. Further improvements are planned, from the inclusion of contract annotations to help researches understand them better to interactive maps to provide company information based on PH-EITI data (PH-EITI, 2016). As of January 2016, the secretariat had uploaded all supporting materials but had yet to develop maps for each contract, as the MSG noted at its 15 January 2016 meeting (PH-EITI, 2016). In July 2016, Bantay Kita launched a DATA Portal⁹⁰ (short for “Demanding Action, Transparency, and Accountability” Portal) to present data sets and data stories from PH-EITI and other data. It includes data from 18 administrative regions in the Philippines, with each regional page providing a database of statistics and relevant news stories. The portal was developed at “Data Extractors” workshops⁹¹ organised by PWYP in Jakarta, Indonesia, and Harare, Zimbabwe, in late 2015 and early 2016 (PWYP, 2016).</p>	
<p>Open data policy</p>	<p>The MSG agreed the PH-EITI Open Data Policy⁹² on 12 December 2016 (PH-EITI, 2016), which refers to government policy on access to information as cited in the Philippine Constitution as well as the government's OGP commitments. On access and release, the policy states that data shall be open by default, timely and comprehensive and accessible. On reuse, it</p>	

⁸⁹ <http://contracts.PH-EITI.org/>

⁹⁰ <http://bkdataportal.weebly.com/>

⁹¹ <http://www.publishwhatyoupay.org/the-data-extractors/>

⁹² <https://eiti.org/document/philippines-open-data-policy>

	states that data shall be comparable and interoperable, and encourages users to maximize the value and impact of data.	
Contribution to public debate	<p>Press coverage of PH-EITI activities has grown significantly over time, from one article in 2012 to two in 2013, 59 in 2014, 44 in 2015 and 26 in 2016, based on news clippings collected by the PH-EITI Secretariat. There was a particular spike in press coverage in the run-up to and following publication of the first PH-EITI Report, with 83 EITI-related articles published in major newspapers and online platforms between July 2014 and June 2015 (PH-EITI, 2015).</p> <p>There is evidence of active use of EITI data by each of the three stakeholder groups. Civil society appears to have been the most active user of EITI data, from establishing a data portal using EITI and MGB data⁹³ to drawing on EITI data to support academic research (Magno, 2016) (Magno, 2015). CSOs published their own analysis of both the 2012 and 2013 EITI Reports, which has tended to be critical but constructive in identifying areas of future work and extracting key data for target groups such as indigenous peoples (Republic of the Philippines, 2015) (PH-EITI, 2016). Industry has drawn on EITI data to lobby congress on amendments to the Mining Act, news articles (Chamber of Mines of the Philippines, 2015) and in its quarterly newsletters (Chamber of Mines of the Philippines, 2013). Both houses of Congress have drawn on EITI findings in their discussions of proposed reforms to mining legislation, while the Senate has included coverage of EITI in the Senate Economic</p>	<p>Secretariat staff noted that there were normally spikes in press coverage of PH-EITI, particularly linked to publication of the PH-EITI Report and the National Conference. However, they noted that while the media covered PH-EITI activities, they did not tend to actively analyse the data and relied on third-party analysts' views. A media representative noted that he focused on discrepancies in the PH-EITI Reports, rather than the non-financial information. He noted that he used PH-EITI data as background for articles on the mining sector, but noted that the two-year time-lag in EITI information meant the data was less useful and unlikely to make the front page of newspapers. Another media representative noted that PH-EITI data was useful in curbing extremes of opinion and providing a set of credible data for debate. While there was a consensus amongst stakeholders consulted that CSOs were the main users of EITI information, they also offered significant evidence of use of EITI data by the other two constituencies.</p> <p>While most government representatives – and all government MSG members – consulted highlighted their different uses of EITI data, one government representative not on the MSG noted that they were</p>

⁹³ <http://bkdataportal.weebly.com/>

	<p>Planning Office's Policy Briefs (Senate Economic Planning Office, 2013). Beyond being an integral part of the government's Open Government Partnership action plan (Republic of the Philippines, 2015), the MICC has drawn on data from the first two EITI Reports to implement reforms in several agencies including MGB, BIR, DOF, DBM, NCIP and ULAP.</p> <p>PH-EITI has also undertaken outreach to both houses of Congress, including hosting legislators' forums on their role in the EITI in February 2014 and June 2015⁹⁴ and bilateral meetings with select representatives and congressmen, particularly in relation to work on EITI-specific legislation. The PH-EITI Secretariat has also disseminated copies of PH-EITI Reports to the Senate Economic Planning Officer and the Congressional Policy and Research Department upon publication.</p> <p>The MSG has also used the EITI Reports to provide information on topics of public debate and controversy, well beyond the requirements of the EITI Standard. This is particularly evident in small-scale mining (SSM). While all gold mined in the Philippines required to be sold to the central bank, a 2011 regulation by the Bureau of Internal Revenue (BIR) imposing a 7% tax increase (5% withholding tax, 2% tax upon extraction) on gold production led to a sharp drop in the amount of gold sold in 2012 and a proliferation of black-market sales. Gold production roughly halved from 31,120kg in 2011 to 15,762kg in 2012, before recovering to 17,248kg in 2013 and 18,423kg in 2014 (US Geological Survey, 2016). The 2013 PH-EITI Report included a scoping study on SSM</p>	<p>only providers of information rather than users of the PH-EITI Reports. One government MSG member noted that while his agencies already had all of the relevant information about the mining sector, the PH-EITI Reports were useful in providing an overview of the work of other government departments in the extractive industries and promote a better understanding of how the industry worked for all government agencies. In particular, this representative noted that information about employment in the mining sector was of particular interest to his agency given that they did not previously have this data. In addition, a representative said the PH-EITI Reports were helpful for revenue collecting agencies to fine-tune their revenue projections and to validate these figures with other government agencies. A BIR representative noted that EITI Reports were useful for the agency for audit purposes and considered that PH-EITI data was sufficiently timely for these purposes despite the two-year time-lag, given that their 2014 tax audits were still ongoing in 2017. Several CSOs expressed satisfaction at the growing use of EITI data by the Duterte administration, while Secretariat staff noted the inclusion of EITI as one of the sources for the ongoing multi-stakeholder review of the mining audits. Several government representatives also highlighted the complementarity of EITI implementation with other</p>
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⁹⁴ <http://PH-EITI.org/Activities/#/Strengthening-Natural-Resource-Governance-The-Role-of-Legislators-and-EITI>

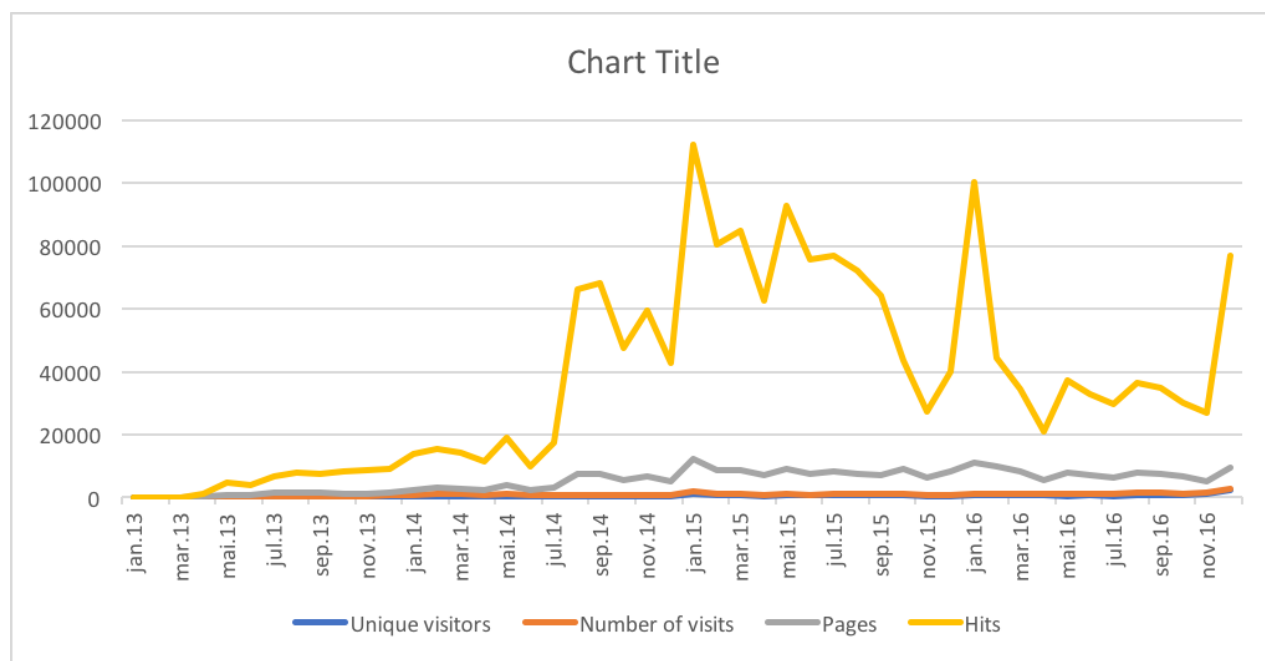
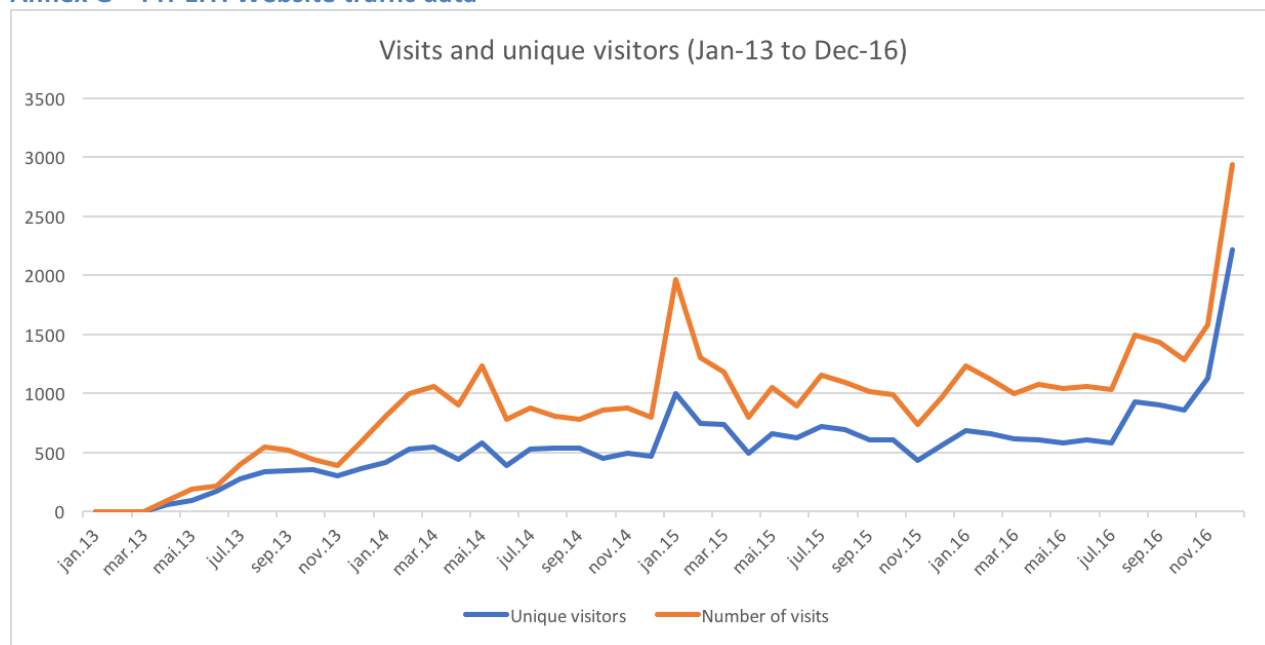
	<p>and highlighted gaps in government data, formulating recommendations for potentially extending the scope of EITI reporting to SSM. The MGB has also initiated improvements in its monitoring system for SDMPs (PH-EITI, 2016). There is also ample evidence from documentation on PH-EITI's LGU roadshows that these channels provided effective platforms for discussions of ASM. The MSG has discussed developing indicators to measure improvements in public awareness of the EITI on several occasions in 2016 (PH-EITI, 2016) (PH-EITI, 2016) and planned to include evaluation and feedback forms in LGU roadshows as a means of measuring changes in awareness of EITI (PH-EITI, 2016) (PH-EITI, 2016).</p>	<p>government projects, particularly those that were donor funded. However, several industry representatives expressed concern that EITI information was only being used by the DOF and were critical of government figures quoting other mining data that was at odds with that provided in PH-EITI Reports.</p> <p>Senate representatives highlighted the importance of PH-EITI Reports for certain Senate deliberations, citing a recent example where they had drawn on employment figures in the PH-EITI Report to estimate the employment impact of recent mine closures. They noted that, contrary to certain estimates of 1.2m redundancies, they had estimated an impact on around 200,000 jobs and highlighted the role of PH-EITI data as being agreed by both companies and government. A senior government official expressed satisfaction that Congress had started using PH-EITI Reports and hope that PH-EITI information could be used as a basis for legal reforms, such as those related to fiscal terms in the extractive industries. The official noted that PH-EITI was often invited to brief Congressmen and called for more such interactions.</p> <p>Several LGUs noted the importance of EITI data as a means of demonstrating the various contributions of mining companies to the economy. This was particularly important given the recent closure of a large share of the country's mines, which could have a serious impact on local employment and revenues. In particular, these</p>
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		<p>LGUs were particularly concerned about the management of environmental rehabilitation funds. They noted that they would like to see more information about subnational transfers to LGUs, particularly the DBM's calculations of each LGU's share of national wealth given that they did not currently have access to this information. These LGUs also called for more analysis in EITI Reports to complement the data provided. One CSO representative noted that he had first received information about PH-EITI from a Provincial Governor, which revealed the use of EITI information by local officials.</p> <p>Many CSOs explained that the use of EITI data by local communities depended largely on each community's capacity and therefore varied significantly. Several development partners explained that the main focus of their financial support for PH-EITI was to channel funding to CSOs to build their capacities to use the EITI data. An industry representative noted the impression that CSOs were primarily interested in the management of SDMPs and environmental rehabilitation funds. Several CSOs noted that their consultations with local stakeholders had revealed significant demand for more information that was already included in PH-EITI Reports, particularly on environmental impacts, cost benefit analysis of the FPIC process and collection frameworks for SDMPs.</p> <p>Several industry MSG members explained that EITI data was used by</p>
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		<p>companies, particularly in their discussions with government entities both at the national and subnational levels. One company representative said that it had proven useful to disclose taxes paid to LGUs as they had used it when lobbying the LGU against raising the local business tax. Another industry MSG member explained that Congress depended on data from the industry for their discussions on the mining sector and that the EITI provided a source of independent and credible figures to support this debate. An oil and gas representative noted that he had recently started using EITI data in presentations to Congress and with local Governors. The IA noted that companies, particularly in the mining sector, seemed to use EITI data to benchmark their sub-sector's performance against others, for instance nickel miners comparing their sector to gold mining companies. Several industry representatives from both mining and oil and gas confirmed this, adding that they also used EITI data as a way of checking their own in-house data. However, several industry representatives considered that some EITI data had been used against industry, primarily by CSOs, and expressed concern about the perceived manipulation of information in the PH-EITI Reports. For instance, one MSG member noted that CSOs had used EITI data for reverse computations of the effective government take but that such a simplistic approach misrepresented the ultimate profit sharing split as favouring industry, which was deemed incorrect. An industry</p>
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		<p>representative called for more proactive communication of PH-EITI findings with national government agencies, given industry's perception that the new government did not realise the full contribution of the mining sector to the economy. Another mining representative noted that the public trust in mining was being eroded by the audits and permit cancellations, highlighting the potential for EITI to rebuild this trust. However, several CSOs expressed satisfaction at the growing use of EITI data by officials in the new administration, particularly since the closure of mines, and noted that this was the first time companies could not contest the data being used since they had approved publication of the PH-EITI Reports.</p> <p>The IA noted that the LGU roadshows had had a significant impact on stimulating the interest of LGUs in participating in the EITI process, particularly given their interest in gaining more information on the process or transferring LGUs' shares of national wealth. This was reflected both in the growing attendance by LGU representatives at roadshows, but also in the consistent growth in LGU participation in EITI reporting. The IA also noted that some LGU representatives used the opportunity of the roadshows to present their own recalculations of their shares of national wealth, which generated significant debate.</p>
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Annex G – PH-EITI Website traffic data



Annex H – List of stakeholders consulted

Government

MS. MARIA TERESA S. HABITAN, Alternate Focal Person, PH-EITI, Assistant Secretary, Department of Finance

MS. ELSA P. AGUSTIN, Director, Fiscal Policy and Planning Office

MS. FEBE J. LIM, Fiscal Policy and Planning Office

MS. CHARMAINE ODICTA, Fiscal Policy and Planning Office

ENGR. ROMUALDO AGUILOS, Director IV, MGB

ATTY. RINO ABAD, Director, Department of Energy (DOE) - Energy Resource Development Bureau

MS. THELMA CERDEÑA, Chief, Compliance Division, Financial Services, DOE

MS. ANNA LIZA BONAGUA, Director, Department of the Interior and Local Government - Bureau of Local Government Development

MS. SANDRA T. PAREDES, Interim Executive Director, Union of Local Authorities of the Philippines (ULAP)

MR. JOHN ARIES MACASPAC, Chief Budget and Management Specialist, Local Government Policy Division Public Expenditure Management Bureau, Department of Budget and Management

ATTY. GILLIAN DUNUAN, Director, Ancestral Domains Office, National Commission for Indigenous Peoples

MS. FAY APIL, Director, MGB - Cordillera Administrative Region, Mines and Geosciences Bureau

ENGR. ROLAND DE JESUS, Director, MGB - MIMAROPA Region, Mines and Geosciences Bureau

ATTY. DANILO UYKIENG, Assistant Director, Mines and Geosciences Bureau

ENGR. RODOLFO VELASCO, JR., Chief, Mine Safety, Environment and Social Development Division, Mines and Geosciences Bureau

ENGR. EDGARDO D. CASTILLO, OIC-Chief, Mining Tenements Management Division, Mines and Geosciences Bureau

MS. TERESA MAÑALAC / MR. ED MADDERA, Mineral Economics, Information and Publication Division, Mines and Geosciences Bureau

MR. GILBERT AQUINO, Chief, Social Development Division, Mine Safety, Environment and Social Development Division, Mines and Geosciences Bureau

MS. ELOISA LEGASPI, Chief, Financial Management Division, Mines and Geosciences Bureau

MS. MAGDALENA ANCHETA, Director II, Large Taxpayers Service – Excise, Bureau of Internal Revenue

MS. YOLANDA LUNA, Section Chief, Large Taxpayers Service-Excise LTs, Bureau of Internal Revenue

MS. TERESITA ANGELES, Director II, Large Taxpayers Service-Excise LTs, Bureau of Internal Revenue

MS. MELITA DEL ROSARIO, Former OIC Deputy Commissioner of the Assessment and Operations Coordinating Group, Bureau of Customs (BOC)

MS. GENILYN MINARDO, Port Operations Service, Bureau of Customs (BOC)

MR. SHA-HARIVAL OTTO, Port Operations Service, Bureau of Customs (BOC)

Mr ROMEO BERNARDINO, management information design specialist, Philippines Ports Authority

MR. JOHN DUQUE, Accounting Division Manager, ICTD, Philippines Ports Authority

Mr JAN VIER RUABURO, consultant, Philippines Ports Authority

MS. CARMELITA O. ANTASUDA, Director, Commission on Audit

ATTY. EMMANUEL ARTIZA, General Accountant, Securities and Exchange Commission

MS. FIDELES DE GUZMAN, Supervising Administrative Officer, Securities and Exchange Commission

MS. ANGELA CARIÑO, Municipal Treasurer, Municipality of Itogon, Province of Benguet

MS. MARGIE ROSE WAKIT, Disbursement Officer, Municipality of Itogon, Province of Benguet

MR. ALBERTO BUMOLO, Mayor, Municipality of Kasibu, Province of Nueva Vizcaya

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