

BRIEFER: Extractive Industries Transparency Initiative (EITI)

- EITI is a global standard for transparency in the extractives sector that involves the reconciliation of company payments with government receipts by an independent administrator and disclosure of that information to the public;
- The objective of the EITI is to ensure that accurate figures about revenues are publicly available, to identify any potential discrepancies between payments & receipts and to investigate and address the underlying causes;
- EITI is a voluntary, multi-stakeholder initiative launched in 2002, in response to Publish What You Pay (PWYP) campaign;
- The process is managed by government, company and civil society stakeholders. Civil society must be involved in the process;
- The basic or minimum EITI focuses only on one aspect of extractive industries governance: revenue transparency;
- Some countries have chosen to include other stages in their EITI but this is not a minimum requirement;
- Currently, there are 15 EITI compliant countries (Azerbaijan, Central African Republic, Ghana, Kyrgyz Republic, Liberia, Mali, Mauritania, Mongolia, Niger, Nigeria, Norway, Peru, Timor-Leste, Yemen and Zambia) and 20 candidate countries (Afghanistan, Albania, Burkina Faso, Cameroon, Chad, Cote d'Ivoire, Democratic Republic of Congo, Gabon, Guatemala, Guinea, Indonesia, Iraq, Kazakhstan, Mozambique, Republic of the Congo, Sierra Leone, Solomon Islands, Tanzania, Togo, and Trinidad and Tobago). Several others have expressed their intention to sign-up;
- The International Governance of EITI consists of:
 - a) The EITI International Board, which consists of representatives from EITI implementing country governments, extractive companies, civil society groups, investors, and supporting country governments;
 - b) EITI International Secretariat in Oslo, which is responsible for turning policy decisions of the EITI Board into action and coordinating efforts in implementing the EITI globally (including support to stakeholders in implementing countries, plus monitoring of progress);
 - c) The highest governing body is the Members Meeting at the EITI International Conference. The next EITI Conference takes place in Paris in March 2011;
- The EITI sign-up phase:
 - a) The Government issues an unequivocal public statement of its intention to implement EITI;
 - b) The Government expresses its commitment to work with civil society and with companies on EITI implementation;

- c) The Government appoints a senior individual to lead on EITI implementation;
 - d) A fully costed Country Work-Plan is published and made widely available, containing measurable targets, a timetable for implementation and an assessment of capacity constraints (government, private sector and civil society);
- The EITI implementation phase:
 - a) The Government establishes a multi-stakeholder work-group to oversee EITI implementation;
 - b) Civil society is engaged in the process;
 - c) Companies are engaged in the process;
 - d) The government removes any obstacles to EITI implementation;
 - e) Reporting templates are agreed;

 - f) The multi-stakeholder group is content with the organization appointed to reconcile figures;
 - g) The government ensures that company reports are based on audited accounts to international standards;
 - h) The government ensures that government reports are based on audited accounts to international standards;
 - i) All material oil, gas and mining payments by companies to government are disclosed to the organization contracted to reconcile figures and produce the EITI Report;
 - j) All material oil, gas and mining revenues received by the government are disclosed to the organization contracted to reconcile figures and produce the EITI Report;
 - k) The multi-stakeholder group is content that the organization contracted to reconcile the company and government figures did so satisfactorily;
 - l) The EITI Report identifies any discrepancies and makes recommendations for actions to be taken.

STATUS of EITI in the PHILIPPINES

- In 2007, tasked with the adoption of EITI in the Philippines, the Department of Foreign Affairs (DFA) requested comments from the Minerals Development Council (MDC) members regarding the proposed participation of the Philippines in the EITI;
- The Bureau of Internal Revenue (BIR) expressed reservations due to the confidentiality of reported tax payments by companies as provided under the National Internal Revenue Code;
- For its part, the Department of Environment and Natural Resources (DENR), through then Secretary Jose L. Atienza, Jr., expressed support to the proposed participation of the Philippines in the EITI, in a letter to the DFA dated 28 November 2007. The endorsement recommended a study of the “private sector’s cooperation and commitment in paying the appropriate taxes, fees and shares that should accrue to government and other stakeholders like the indigenous peoples and the community;

- Also in 2007, the Chamber of Mines of the Philippines (COMP) conducted pilot studies in two mining areas with technical assistance from the Economic Reforms and Governance Enhancement Project of the United States Agency for International Development. The studies reported the following findings:
 - a) LGUs received shares lower than their statutory shares; and
 - b) LGU shares were received two to three years late;
- Based on Sec. 290 of the Local Government Code, the MDC forged an inter-agency cooperation to facilitate the release of the share of local government units (LGUs) from collections derived by the national government from mining taxes. Thus, on 31 March 2009, Joint Circular No. 2009-1 between the Department of Finance (DOF), Department of Budget and Management (DBM), Department of the Interior and Local Government (DILG), and the DENR was signed. The Circular is entitled *“Updated Guidelines and Procedures on the Release of the Share of Local Government Units from Collections Derived by the National Government from Mining Taxes”* ;
- Similarly, on 25 June 2010, DENR-DOF-DBM-DILG Joint Circular No. 2010-01 entitled *“Revised Guidelines and Procedures on the Release of the Share of Local Government Units Derived by the National Government from Royalty Income Collected from Mineral Reservations”* was also signed;
- The DENR-Mines and Geosciences Bureau (MGB) performs the following roles and responsibilities under the said Joint Circulars:
 - a) Joint Circular No. 2009-1:
 1. Furnish the BIR the estimated annual volumes and values of metallic mineral production of mining companies for the current year;
 2. Furnish the BIR the actual volumes and values, on a per project basis, of metallic minerals produced during the immediately preceding year;
 3. Furnish the BIR the actual volumes and values of production of non-metallic minerals, on a per permittee/project basis, during the immediately preceding year; and
 4. Provide the BIR the list of new metallic permittees, actual volumes and values of their respective production and extraction sites;
 - b) Joint Circular No. 2010-1:
 1. For budget preparation purposes, submit to the department of Budget and Management, the estimated or projected royalty income to be collected for the current year and the corresponding forty percent (40%) share of the LGUs on or before March 15 of every year. The amount should be consistent with that reflected in the MGB Statement of Revenue (BP Form 100);
 2. For budget execution purposes, prepare a Joint Certification of the actual collections from royalty income during each calendar year. The said certification/documents shall be transmitted to the Bureau of Treasury (BTr), for

validation and approval purposes, within sixty (60) days immediately after the end of the year. This shall be supported with the List of Deposited Collections, validated deposit slip and a schedule of the corresponding shares of the beneficiary LGUs from the actual royalty income collections from the preceding year. In the case mining sites/operations are located within two or more provinces, or in two or more component cities, or in two or more barangays, the updated master list of land area officially issued by the Land Management Bureau and the updated census of population officially issued by the National Statistics Office shall be adopted as basis in computing the allocation of shares of the affected LGUs; and

3. Inform the LGUs of their share from the proceeds of the royalty income from Mineral reservation of the preceding year within thirty days after receipts of the copy of the validated and approved Joint Certification submitted by the BTr to DBM;
- Independent of EITI action, the DENR-MGB has already made significant disclosure of mining data by providing the following information, among others, in the MGB website:
 - a) Mining tenement applications;
 - b) Exploration Permit Holders;
 - c) Mining Production Sharing Agreement Contractors;
 - d) Financial or Technical Assistance Agreement Contractors;
 - e) Annual mining fees and charges collected;
 - f) Annual mining taxes and royalties paid by large-scale operating companies.
 - Recently, with the signing of Executive Order No. 79 entitled *“Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources”*, the Philippines has expressed its commitment to improve transparency, accountability, and governance in the minerals sector through its participation in the EITI. Section 14 of EO 79 states that *“Improving Transparency in the Industry by Joining the Extractive Industries Transparency Initiative. In order to improve transparency, accountability, and governance in the sector, the government shall support and commit participation in the Extractive Industries Transparency Initiative (EITI). The DENR is mandated to ensure that mechanisms are established to operationalize the EITI in the mining sector, in consultation and coordination with the mining industry and other concerned stakeholders.”*
 - Consistent with the aforementioned Section, the Mining Industry Coordinating Council (MICC) has formed a Technical Working Group (TWG) on the Implementation of EITI. The MICC has designated Secretary Elisea G. Gozun, Presidential Assistant II on climate Change, as head of the said TWG.

References:

1) United Nations Development Programme Project Document

2) <http://eiti.org/>

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