

Validation of the Philippines:

Final assessment of progress in implementing the EITI Standard

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Acronyms

BIR	Bureau of Internal Revenue
BLGF	Bureau of Local Government Finance
COMP	Chamber of Mines of the Philippines
CSO	Civil Society Organisation
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
DOF	Department of Finance
EDGE	Extractives Data Generator
EGPS	Extractives Global Programmatic Support
ENRDMT	Environment and Natural Resources Data Management Tool
FPIC	Free Prior and Informed Consent
IA	Independent Administrator
IPs	Indigenous Peoples
LGU	Local Government Unit
MGB	Mines and Geosciences Bureau
MMT	Multipartite Monitoring Team
MPSA	Mineral Production Sharing Agreement
MSG	Multi-Stakeholder Group
NCIP	National Commission on Indigenous Peoples
ORE	Online Reporting in the Extractives Tool
PH-EITI	Philippines EITI
PMDC	Philippine Mining Development Corporation
PNOC-EC	Philippine National Oil Company – Exploration Corporation
PSA	Philippine Statistics Authority
SDPM	Social Development and Management Program

Executive summary

This draft Validation report presents the findings of the International Secretariat's Validation of the Philippines, which commenced on 1 April 2021. The draft report was finalised for review by the multi-stakeholder group (MSG) on 14 May 2021. Following comments from the MSG received on 28 June 2021, the Validation report was finalised for consideration by the EITI Board. The Secretariat's assessment suggests that the Philippines has exceeded three EITI Requirements, fully met fourteen, mostly met nine and partly met one requirement.

Key achievements

- The scope of EITI implementation has been adapted to stakeholders' demands and nationally relevant challenges, beyond the minimum requirements of the EITI Standard. PH-EITI has actively reached out to stakeholders both at national and subnational levels to seek their input on the objectives and impact of the EITI. This has led to disclosures and activities related to, for example, companies' provisioning for environmental impacts of mining, gender inclusion in the extractive sector and non-metallic mining.
- Philippines EITI has adapted its approach to implementation to the Covid-19 pandemic. It organised the Extractive Transparency Week, the annual National Conference and trainings for companies online. Instead of the annual roadshow to local communities, PH-EITI organised Online Learning on Extractives, a series of webinars arranged in regional clusters that allowed stakeholders to continue dialogue and exchange ideas. The MSG also agreed to undertake a study that documents how companies have realigned their social expenditure to address Covid-19 response.
- Philippines EITI has created the building blocks for the decentralisation of multi-stakeholder transparency and accountability mechanisms in the extractive industries. There have been improvements in the management and accessibility of data on subnational payments and transfers, and PH-EITI continues to disclose royalties to indigenous peoples. PH-EITI and the civil society coalition Bantay Kita have organised roadshows and other events across the country, and there are plans to establish subnational MSGs.

Areas for development

- While civil society is actively engaging in the EITI through the Bantay Kita coalition, there are concerns related to the enabling environment for civil society participation in the EITI, in particular at the local level (see Annex A). Ensuring that any constraints on broader civic space do not affect civil society's ability to engage in all aspects of EITI implementation is important for enabling the EITI to further develop as an accountability mechanism, also at the subnational level. Corrective actions and recommendations are provided in Annex A.
- The Philippines should ensure the comprehensiveness of disclosures of extractive sector data through systematic disclosures. The Validation demonstrates shortcomings in, for example, disclosures related to revenues and licenses, in particular regarding the coal

sector. The MSG is committed to advancing systematic disclosures, which could address these gaps in a timely and cost-efficient manner.

- The Philippines is encouraged to consider further disclosures and activities that would help address stakeholders' demand for information regarding the impact of mining at the local level, including social and environmental impact and implementation of commitments to indigenous peoples. This could involve strengthening collaboration between PH-EITI, LGUS and the National Commission on Indigenous Peoples.

Progress in implementation

EITI Validation assesses countries against three components – “Stakeholder engagement”, “Transparency” and “Outcomes and impact”.

Stakeholder engagement

The government, civil society and extractive companies are generally actively engaged in EITI implementation. The MSG appears to be functioning in an efficient and equitable manner, with adequate representation from the three constituencies. PH-EITI's efforts to engage stakeholders from the regions with extractive activities are commendable. Further strengthening the engagement of all relevant government agencies, particularly the Department of Energy (DOE), and extractive companies could improve the comprehensiveness of disclosures and the EITI's impact. In particular, the engagement of mining companies that are not members of the Chamber of Mines (COMP) should be strengthened. Civil society engages in the EITI actively through the Bantay Kita coalition. However, Validation identified obstacles to full, active and effective civil society engagement at the subnational level. Sustainability of implementation could be further ensured by providing adequate funding to ensure that the MSG's work plan activities are implemented fully and in a timely manner, and that enough financial and technical resources are provided by the government to match the level of ambition of the MSG in creating impact.

Transparency

While the Philippines has made progress on building data management systems for its extractive industry disclosures, the comprehensiveness of disclosures has declined in some areas since the previous Validation in 2017. The continued challenges in ensuring adequate coverage of government revenues from the coal sector pose a particular challenge to ensuring transparency in the extractive industries (see e.g. *Requirements 2.2, 2.3 and 4.1*). The Philippines is yet to establish a systematic approach for disclosing required information regarding licenses and contracts, with significant gaps in the public accessibility of information on licenses in the mining, coal, oil and gas sectors. The Philippines has made commendable efforts to disclose information that enables oversight and informs debate at the local level. However, technical challenges have affected the comprehensiveness of disclosures related to subnational payments and transfers. The PH-EITI disclosures related to mandatory social expenditures and companies' provisioning for environmental rehabilitation is exemplary and responds to strong public interest in these issues. The Philippines has sought to address stakeholders' information needs by gradually extending EITI reporting to non-metallic mining. The MSG has also begun to address provisions of the 2019 EITI Standard related to gender, the environment, contract transparency and beneficial

ownership. Tax confidentiality and privacy provisions are an obstacle on the way towards further systematic disclosures of revenues and beneficial ownership information.

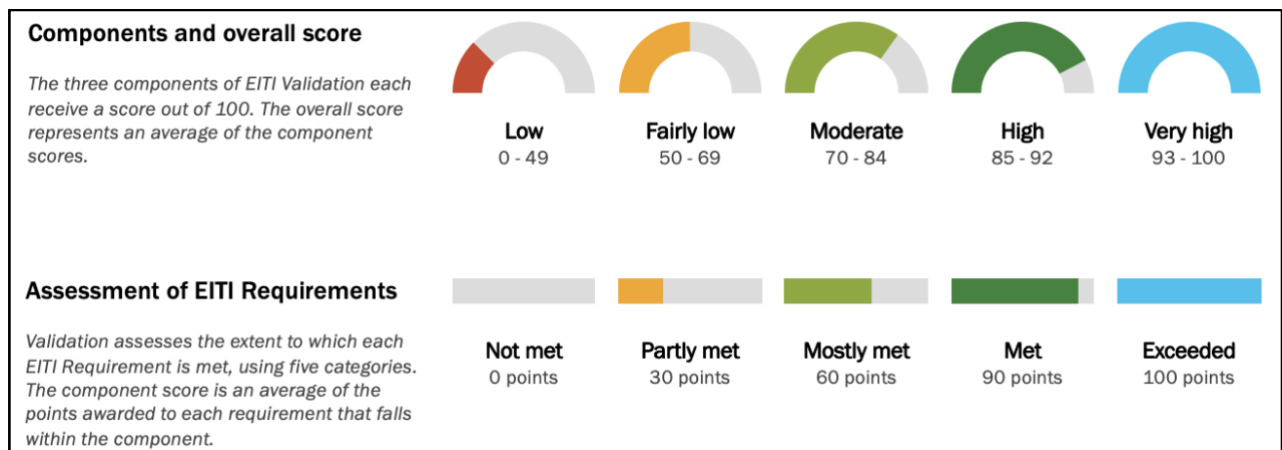
Outcomes and impact

The Philippines has undertaken considerable efforts to ensure that EITI implementation addresses local challenges, as well as EITI Requirements. Annual roadshows, seminars and other events in different parts of the country have ensured that information about the extractive sector reaches regions with oil, gas and mining activities. Civil society has played an important role in this. The MSG has adapted to the Covid-19 pandemic in an innovative way, implementing the annual road show virtually. Although virtual events were not considered as effective as in-person events in engaging stakeholders, PH-EITI made efforts to minimise the impact of the pandemic on outreach. Active partnerships with the media and the Congress have increased the use of EITI data. Both government and civil society have made use of EITI data in the preparation of a new fiscal regime for mining. PH-EITI's outreach to local government units (LGUs) has informed debate on shortcomings in the revenue sharing mechanism and the transfer of revenues. Moving forward, the MSG is encouraged to step up its engagement with relevant government agencies to follow up on long-standing recommendations related to, for example, the monitoring of IP royalties. Further coverage of social and environmental issues related to mining could help address stakeholders' information needs.

Figure 1 Scorecard: Summary of progress in the Validation of the Philippines (2021)

EITI Requirements			Assessment	
Validation of the Philippines (2021): Assessment per EITI Requirement			Level of progress	Score
Component	Module	Requirements		
Outcomes and impact	Extra points	Effectiveness and sustainability indicators		3
	Outcomes and impact	Work plan (#1.5)	Fully met	90
		Public debate (#7.1)	Exceeded	100
		Data accessibility and open data (#7.2)	Fully met	90
		Recommendations from EITI (#7.3)	Fully met	90
	Outcomes & impact (#7.4)	Exceeded	100	
Stakeholder engagement	Multi-stakeholder oversight	Government engagement (#1.1)	Mostly met	60
		Industry engagement (#1.2)	Fully met	90
		Civil society engagement (#1.3)	Mostly met	60
		MSG governance (#1.4)	Fully met	90
Transparency	Overview of the extractive industries	Exploration data (#3.1)	Fully met	90
		Economic contribution (#6.3)	Fully met	90
	Legal and fiscal framework	Legal framework (#2.1)	Exceeded	100
		Contracts (#2.4)	Mostly met	60
		Environmental impact (#6.4)	Not assessed	-
	Licenses	Contract and license allocations (#2.2)	Mostly met	60
		License register (#2.3)	Partly met	30
	Ownership	Beneficial ownership (#2.5)	Mostly met	60
	State participation	State participation (#2.6)	Mostly met	60
		In-kind revenues (#4.2)	Not applicable	-
		SOE transactions (#4.5)	Not applicable	-
		SOE quasi-fiscal expenditures (#6.2)	Not applicable	-
	Production and exports	Production data (#3.2)	Fully met	90
		Export data (#3.3)	Fully met	90
	Revenue collection	Comprehensiveness (#4.1)	Mostly met	60
		Barter agreements (#4.3)	Not applicable	-
		Transportation revenues (#4.4)	Not applicable	-
		Disaggregation (#4.7)	Fully met	90
		Data timeliness (#4.8)	Fully met	90
		Data quality (#4.9)	Fully met	90
	Revenue management	Distribution of revenues (#5.1)	Fully met	90
		Revenue management & expenditures (#5.3)	Not assessed	-
	Subnational contributions	Direct subnational payments (#4.6)	Mostly met	60
Subnational transfers (#5.2)		Mostly met	60	
Social and environmental expenditures (#6.1)		Fully met	90	

How EITI Validation scores work



The overall score (out of 100) represents an average of the scores of each component.

Each requirement will be assessed following the scale below and assigned corresponding points:

- **Exceeded** (100 points): All aspects of the requirement, including ‘expected’, ‘encouraged’ and ‘recommended’ aspects, have been implemented and the broader objective of the requirement has been fulfilled through systematic disclosures in government and company systems.
- **Fully met** (90 points): The broader objective of the requirement has been fulfilled, and all required aspects of the requirement have been addressed.
- **Mostly met** (60 points): Significant aspects of the requirement have been implemented, and the broader objective of the requirement is mostly fulfilled.
- **Partly met** (30 points): Significant aspects of the requirement have not been implemented, and the broader objective of the requirement is not fulfilled.
- **Not met** (0 points): All or nearly all aspects of the requirement remain outstanding, and the broader objective of the requirement is far from fulfilled.

Where the evidence does not clearly suggest a certain assessment, stakeholder views on the issue diverge, or the multi-stakeholder group disagrees with the Secretariat’s assessment, the situation is described in the assessment.

1. Effectiveness and sustainability indicators

The country is awarded 0, 0.5 or 1 point for each of the five indicators. The points are added to the component score on Outcomes and impact.

1.1 National relevance of EITI implementation

This indicator considers the extent to which EITI implementation in the Philippines addresses nationally relevant extractive sector challenges and risks.

Philippines EITI has exceeded the scope of the EITI Standard to address nationally relevant challenges. The disclosure of royalties paid by extractive companies to indigenous peoples, engagement with the small-scale mining sector and work on gender equality are examples of these efforts. PH-EITI has undertaken active outreach efforts in regions with extractive activities and sought stakeholder input through both in-person and virtual events. More recently, PH-EITI has commissioned a study to monitor companies' mandatory social expenditures (SDMP). The government authorised companies to redirect any unspent SDMP funds to responding to Covid-19 or natural disasters, and the study monitors the resulting realignments in expenditure. The study demonstrates the MSG's ability and willingness to respond to emerging demands for information also in exceptional circumstances. Data disclosed through the EITI has also contributed to the redesign of the fiscal regime for mining, which is currently under review in the Congress.

A key challenge in the Philippines' extractive sector appears to be social conflict in the areas around actual or potential mine sites. Consulted government and company stakeholders considered it important that the EITI demonstrates the sector's contribution to the economy and the communities. Consultations also revealed that there are at least perceived inconsistencies between policies and practices related to payments to indigenous peoples, license awards, environmental monitoring and subnational transfers. There is potential for the PH-EITI to further inform debates around these issues and to provide a platform for dialogue on both national and subnational levels. However, PH-EITI has through its disclosures and engagement with local government contributed to public debate about sharing revenues from the extractive sector. The timeliness and accuracy of subnational transfers is of high national relevance in the Philippines.

Stakeholder consultations demonstrated that there is demand for EITI to do further work to address the environmental and social impact of the extractive industries. Some stakeholders noted that the EITI was too focused on financial transparency. Mine closure and rehabilitation was mentioned as a topic that the EITI could cover. Considering developments in civic space, the EITI could consider activities that seek to ensure that citizen participation in extractive sector governance is strengthened and safeguarded. Stakeholders from all constituencies expressed an interest in refocussing the EITI's work from disclosures to data analysis and impact.

The Secretariat's proposal is that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

1.2 Systematic disclosures of extractive industry data

The Philippines systematically discloses information about the legal and licensing framework, as well production and exports. State-owned enterprises such as the Philippine National Oil Company (PNOC) and the Philippine Mining Development Corporation (PMDC) disclose significant parts of required information on their websites and in their publicly available financial statements. Information regarding data reliability is available through the government's audit reports and companies' annual financial statements, which most material companies disclose. The Department of Budget Management (DBM) has launched an online portal, which will track subnational transfers.¹

The Environment and Natural Resources Data Management Tool (ENRDMT) is used by central government and local government units to share information about subnational payments and transfers, as well as their use. Moving forward, ENRDMT provides opportunities for systematic disclosures. Systematic disclosure of disaggregated tax data is not possible under the current legal framework due to tax confidentiality provisions. PH-EITI has established an Online Reporting in Extractives (ORE) tool, through which EITI data is collected.

Systematic disclosures are a priority for the MSG, and PH-EITI has undertaken a mainstreaming feasibility study.² The 2021 EITI work plan includes activities to strengthen systematic disclosures. The MSG is expecting to continue work on systematic disclosures with a grant from the World Bank-managed EGPS. Systematic disclosures should help address challenges related to the sustainability of EITI reporting and improve the government's data management and sharing systems. Systematic disclosure of beneficial ownership information by the SEC is a clear opportunity to streamline transparency, if legislation is amended to enable the SEC to make its beneficial ownership register publicly available. Extractive companies could consider disclosing their payments to government proactively as part of their regular reporting.

The Secretariat's proposal is that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

1.3 Environment for citizen participation in extractive industry governance

This indicator considers the extent to which there is an enabling environment for citizen participation in extractive sector governance, including participation by affected communities. The legal framework in the Philippines seeks to ensure local consent before the award of extractive licenses. The 1997 Indigenous Peoples' Rights Act³ establishes the need for Free Prior and Informed Consent. The 1995 Mining Act⁴ and the 1991 Local Government Code also include provisions for consultation and approval by local government units. However, stakeholder

¹ https://www.dbm.gov.ph/index.php/programs-projects/shares-in-the-utilization-and-development-of-national-wealth?fbclid=IwAR2jFSIjD2qYwCZinF1_QLsJ1cCvHz5COFfC_EmEQqfWpGoq4uqmHeOLcOI.

² <https://pheiti.dof.gov.ph/download/feasibility-study-on-mainstreaming-eiti-data-in-the-philippines/?wpdmdl=1380&refresh=6051c5f71fdfb1615971831>.

³³ <https://www.officialgazette.gov.ph/1997/10/29/republic-act-no-8371/>.

⁴ https://www.lawphil.net/statutes/repacts/ra1995/ra_7942_1995.html.

consultations, statements by civil society⁵ and a communication by UN experts⁶ suggest that there are challenges in the implementation of these provisions.

Reports by international organisations, as well as stakeholder consultations and the report submitted by Bantay Kita, suggest that civic space is on the decline in the Philippines (see Requirement 1.3). Individuals and organisations expressing critical views about mining projects risk being “red-tagged”, i.e. labelled as communists. Land and environmental defenders are being killed at an accelerating rate.⁷ The assessment of Requirement 1.3 (see *Annex A*) concludes that there are obstacles to undertaking EITI-related activities in certain regions of the country. These obstacles have had an adverse effect on the ability of civil society actors engaged in the EITI to express their views, operate and associate on issues related to the EITI process, in particular in regions with mining activities.

PH-EITI has undertaken active outreach efforts in extractive regions and encouraged citizen participation. Bantay Kita’s regionally diverse network have also helped ensure that EITI-related activities are not confined to Metro Manila. Further information on these activities is available in the Outcomes and impact file. Consulted indigenous stakeholders noted that Bantay Kita’s activities had helped them understand their rights. Information published by PH-EITI on subnational transfers, IP royalties and extractive contracts has empowered citizens to monitor compliance by the government and companies.

In the MSG’s feedback on the draft assessment, the civil society constituency proposed that civil society should be engaged at all stages of the extractive industries value chain from project consultations to monitoring and decommissioning.

The Secretariat’s proposal is that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

1.4 Accessibility and use of extractive industry data

This indicator considers the extent to which extractive sector data is accessible and used for analysis, research and advocacy. PH-EITI has made efforts to ensure that data is accessible and responds to stakeholders’ needs. Beneficial ownership data and some contracts are available and searchable on the PH-EITI website. The Extractives Data Generator (EDGE) was developed to host a comprehensive PH-EITI database in open format. It facilitates easier search and sorting of specific data needed by stakeholders. However, some systematically disclosed data on, for example, licenses is challenging to locate (see Requirements 2.2 and 2.3).

Publicly available extractive sector data is used for analysis by both government and civil society. Civil society has used EITI data to inform advocacy of the new fiscal regime for mining. Government agencies and legislators have also used EITI data to inform the design of the fiscal

⁵ See e.g. <http://www.bantaykita.ph/updates1/statement-on-the-issued-permit-for-sagittarius-mines-inc/>; <https://thediplomat.com/2021/04/philippines-embracing-transparency-critical-for-mining-sector/>.

⁶ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25850>.

⁷ <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>.

regime. Journalists have used EITI data, particularly as a result of a joint media training and fellowship programme undertaken by PH-EITI and the Philippine Press Institute.⁸

Going forward, the Philippines could consider making information about SDMP execution more easily available, strengthen disclosures on the environmental impact of extractive activities and consider forward-looking disclosures related to, for example, the impact of energy transition. The MSG could ensure wider use of EITI data to inform reforms, including in identifying corruption risks in tax collection. Improving the availability of all extractive sector data in open format in a timely manner is also encouraged to facilitate data analysis.

The Secretariat's proposal is that 1 additional point be added to the score on Outcomes and impact for this indicator.

1.5 EITI-related changes to extractive industry policy and practice

This indicator considers the extent to which EITI has informed changes in extractive sector policies and practices. The Outcomes and impact file and stakeholder consultations suggest that EITI data has been utilised by the Department of Finance and the Congress in drafting the new mining fiscal regime. The mining fiscal regime bill is pending plenary discussion. Consulted government representatives pointed to EITI data being used to inform legislative proposals related to the timeliness of subnational transfers. PH-EITI influenced the creation of a register of beneficial owners, although it has so far not been made publicly available. The MSG has also developed a legislative advocacy plan and established a technical working group to ensure that transparency and accountability are institutionalised.

A tool was developed to monitor compliance with the memorandum of agreement between extractive companies and indigenous peoples, including the payment of royalties. The tool was made possible through PH-EITI and NCIP collaboration. However, the monitoring tool does not appear to be actively utilised by NCIP.

Some consulted stakeholders noted that the follow-up on recommendations from EITI reporting should be enhanced. They also noted shortcomings in government agencies' follow-up on their commitments related to, for example, the issuance of an order that would compel oil, gas and coal companies to participate in EITI reporting and the timely transfers of funds to LGUs. While EITI data is informing policy-making, there is relatively scarce evidence of recommendations from the EITI leading to changes in policies or practices in the period under review, beyond enhanced transparency. The slow-down may be at least partly explained by the change in administration in 2016 and the time required to implement policy changes. Some consulted stakeholders noted that while the MSG has engaged with decision-makers, the EITI did not provide an effective avenue for contributing to policy-making.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

⁸ See e.g. <https://pcij.org/article/4877/digging-for-profits-who-owns-ph-mining>.

2. Outcomes and impact

This component assesses EITI Requirements 7 and 1.5, which relate to progress in addressing national priorities and public debate.

Progress by requirement and corrective actions

T

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
Work plan (Requirement #1.5)	The 2021 work plan is informed by the PH-EITI's strategic objectives for 2020-2022. While these objectives are relatively general, the planned outcomes for 2021 are more specific and address nationally relevant topics, such as the participation of indigenous communities, gender and anti-corruption. The work plan establishes an effective tool for planning and monitoring activities, and it's structured following results-based management principles. Indicators are included to enable monitoring. The plan addresses systematic disclosures, as well as beneficial ownership and contract transparency. It includes activities to build stakeholders' capacity and engagement, as well as legislative advocacy. However, the plan does not clearly address the scope of EITI disclosures or the policy changes that the MSG wishes to see result from the EITI. The plan has an overall budget, but individual activities are not costed. Due to budget cuts, activities will be undertaken online without separate funds allocated. The overall objective of the work plan serving as a key accountability document for the MSG vis-à-vis broader constituencies and the public is met. The MSG argued in its feedback on the draft assessment that the requirement had been exceeded. The Secretariat finds that while all aspects of the requirement have been addressed, there is not sufficient evidence to suggest an assessment of "exceeded".	Fully met
Public debate (Requirement #7.1)	PH-EITI has undertaken active and innovative communication efforts that enable evidence-based public debate on extractive industry governance, in line with the objective of the requirement. EITI Reports and other PH-EITI documents are comprehensible and actively promoted through regular national conferences, Extractive Transparency Weeks and roadshows. The language of activities varies according to regional needs, and PH-EITI has innovated to ensure that data is accessible to different groups (see e.g. community bulletin board). PH-EITI has successfully adapted its outreach efforts to the Covid-19 pandemic, organising its 2020 roadshow virtually. PH-EITI and Bantay Kita have produced communications materials in English and Tagalog, including infographics . Key materials are printed and distributed	Exceeded

	at events. PH-EITI has increased the media's awareness of EITI data and its capacity to use it through a partnership with the Philippine Press Institute. Stakeholder consultations and the Outcomes and impact file demonstrate that EITI data is used to inform decision-making in the Congress.	
Data accessibility and open data (Requirement #7.2)	PH-EITI has agreed an open data policy and EITI data on payments is available in csv format through the EDGE portal . Reconciliation report tables for 2018 are available in xlxs format. Monthly export data is published in open format by PSA. Data on production (Requirement 3.2) or contribution to the economy (Requirement 6.3) does not appear to be available in open format, beyond the EITI summary data files. DBM is launching an online portal with information on subnational transfers. Summary data files have been submitted to the International Secretariat, but feedback on the 2017 and 2018 files is yet to be addressed by PH-EITI. Consulted civil society actors noted that using the data for analysis regarding the proposed new mining fiscal regime was challenging as older data was not available in open format. The overall objective to enable the broader use and analysis of information on the extractive industries has been addressed. The MSG argued in its feedback on the draft assessment that the requirement has been exceeded. However, there is no indication that the encouraged aspects of the requirement (7.2.d) have been addressed.	Fully met
Recommendations from EITI implementation (Requirement #7.3)	The MSG has made efforts to strengthen the impact of EITI implementation by acting upon lessons learnt. The MSG does not appear to have a systematic approach to following up on recommendations from EITI reporting or Validation, although progress is documented in annual progress reports and PH-EITI has indicated it discusses the recommendations with the inter-agency Mining Industry Coordinating Council. Some civil society stakeholders noted that government agencies were not undertaking sufficient efforts to implement recommendations. Weaknesses in the monitoring and evaluation of IP royalties, timeliness of subnational transfers and the non-reporting of Semirara are examples of outstanding issues that have been identified in several EITI Reports. These issues appear to be occasionally discussed at MSG meetings, but not systematically tracked. In the period under review PH-EITI has undertaken scoping studies on gender and mainstreaming . The 2021 EITI work plan demonstrates that the MSG has planned activities to follow up on recommendations from these studies. The Philippines has met the requirement's overall objective, which is to ensure that EITI implementation is a continuous learning process that contributes to policy-making. The MSG feedback on the draft assessment noted that the civil society constituency questioned whether the requirement had been fully met. The Secretariat recognises that the assessment of this requirement is borderline between "mostly met" and "fully met". On balance and	Fully met

	in line with previous Validations, the Secretariat finds that the MSG has undertaken reasonable efforts to ensure follow-up of recommendations and lessons learnt. The requirement does not include an assessment of whether the government implements EITI recommendations.	
Review the outcomes and impact of EITI implementation (Requirement #7.4)	The MSG has undertaken efforts to review the outcomes and impact of the EITI that exceed the requirement. In addition to publishing annual progress reports , the MSG commissioned an impact study in 2018 that sought views from different stakeholders. The 2020 annual progress report captures PH-EITI's efforts to take gender considerations and inclusiveness into account. Progress in implementing planned activities is captured in the 2020 Work Plan Progress Matrix . Stakeholders are able to provide feedback on the EITI process through outreach events. The requirement's overall objective of regular public monitoring and evaluation of implementation that ensures the EITI's accountability, has been addressed.	Exceeded
New corrective actions and recommendations		
<ul style="list-style-type: none"> • To strengthen the accessibility and usability of data, MGB and DOE are encouraged to disclose data on oil, gas and mineral production in open format. The Philippines is encouraged to disclose in open format all data points related to the extractive sector's contribution to the economy (Requirement 6.3). • To strengthen public debate and the EITI's impact, the Philippines is encouraged to tailor outreach and communications to specific stakeholders, such as indigenous communities. The MSG is encouraged to further consider the information needs of stakeholders to inform the scope of the EITI's work. • To strengthen the EITI's contribution to policy-making, the MSG is encouraged to reflect in its work plan objectives and activities related to the follow-up on recommendations and the scope of disclosures that can improve extractive sector governance. The MSG is encouraged to establish a systematic approach to follow-up on recommendations. 		

3. Stakeholder engagement

This component assesses EITI Requirements 1.1 to 1.4, which relate to the participation of constituencies and multi-stakeholder oversight throughout the EITI process.

Progress by requirement and corrective actions

EITI Requirement	Summary of progress in addressing the EITI Requirement	Preliminary assessment
Government engagement (Requirement #1.1)	Senior government officials, including President Duterte, have publicly expressed support to the EITI. EITI is also featured in the Philippines' OGP action plan . The national secretariat is hosted within the Department of Finance (DOF), which also chairs the MSG. PH-EITI lacked a national coordinator from July 2019 to March 2021, when an	Mostly met

	<p>interim coordinator was appointed. The secretariat has high capacity and commitment. DOF is providing a full, active and effective government lead for EITI implementation. The government funds EITI implementation, although funding was significantly decreased due to the Covid-19 pandemic. According to some stakeholders, efforts to seek additional funding have been limited.</p> <p>Some civil society stakeholders noted that the government’s commitment to addressing shortcomings identified in EITI Reports was limited. The government does not appear to be utilising the MSG as a platform to engage with stakeholders on planned policy reforms. However, government agencies use EITI data to inform their decision-making. Government agencies are also providing requested information for EITI reporting, where available. Concerns related to data availability appear to be mostly related to weaknesses in technical systems, and government agencies have undertaken efforts to improve data management systems. DENR has also implemented an administrative order that compels mining companies to participate in EITI reporting.</p> <p>Consulted stakeholders noted weaknesses in the engagement of the Department of Energy (DOE). Its participation at MSG meetings was at a level that does not seem adequate to initiate reforms within the ministry or to ensure comprehensive disclosures. For example, it is yet to pass an administrative order that would compel coal producing Semirara Mining and Power Corporation to disclose information despite this issue being repeatedly discussed by the MSG. Engagement of other agencies is at a more senior level. Weaknesses in NCIP’s monitoring of IP royalties were also mentioned as a challenge.</p> <p>As weaknesses in DOE’s engagement are affecting the comprehensiveness of disclosures and the wider impact of the EITI in the coal sector, the Secretariat’s assessment is that the objective of the government’s operational engagement, as a means of facilitating all aspects of EITI implementation, is not fully met. The MSG argued in its feedback on the draft assessment that the requirement has been fully met. The feedback cites plans to finalise an administrative order that would compel oil, gas and coal companies to participate in EITI reporting. The Secretariat welcomes these plans but notes that measures to ensure comprehensive disclosures are yet to be implemented.</p>	
<p>Industry engagement (Requirement #1.2)</p>	<p>The extractive industry is engaged in EITI implementation. Particularly MSG members from the Chamber of Mines (COMP) actively participate in the MSG’s work, including technical working groups and outreach events. Consulted stakeholders and MSG meeting minutes suggest that the engagement of oil and gas companies has been less consistent than that of mining companies representing COMP. However, only five oil and gas companies made material payments in 2018. The engagement of mining companies that are not members of COMP is limited, and there is no mechanism for liaison between COMP</p>	<p>Fully met</p>

	<p>and these companies on EITI matters. The MSG seat reserved for non-chamber companies remains unfilled. This is a concern particularly as the scope of EITI reporting has extended to cover non-metallic mining. However, the 2021 work plan includes activities to engage further with non-metallic mining companies. The MSG also noted in its feedback on the draft assessment that it was challenging to engage with companies that were not members of industry associations.</p> <p>Consultations suggest that most companies primarily view EITI as a compliance exercise. EITI Reports help demonstrate the extractive sector's contribution to the economy. Oil and gas companies proposed that the EITI could contribute more to a public discussion about the future of the sector. Some civil society stakeholders noted that companies should engage with the EITI and local stakeholders more actively in regions where exploration and extraction takes place.</p> <p>Most material companies (62/73 in 2018) participated in EITI reporting, although companies commented that the exercise was considered to be heavy. A long-standing issue is the non-reporting of Semirara Mining and Power Corporation (SMPC). The MSG argued in its feedback on the draft assessment that the lack of engagement by SMPC should not affect the assessment of industry engagement in the EITI. The Secretariat recognises the efforts undertaken by the MSG to engage with SMPC and notes that the company's non-participation is reflected under Requirements 1.1 and 4.1.</p> <p>Tax information is confidential in the Philippines, but PH-EITI collects waivers from companies that enable the disclosure of information on revenues, as well as beneficial owners. The approach has helped overcome barriers to EITI reporting, but it makes disclosures reliant on companies' willingness to disclose data, as the government cannot make unilateral disclosures of tax or beneficial ownership data. For the mining sector, DENR has introduced an administrative order that compels companies to disclose information to the EITI or face sanctions.</p>	
Civil society engagement (Requirement #1.3)	<p>Civil society is actively engaged in the EITI, particularly through the Bantay Kita coalition. Civil society influences the scope of the EITI, uses EITI data for advocacy and analysis and actively participates in the MSG's work. However, Validation identified obstacles related to civil society's freedom to express views, operate and associate on issues related to the EITI, in particular on the subnational level. The objective of ensuring an enabling environment for civil society engagement in the EITI is therefore not fully met. Please see Annex A for further details.</p>	Mostly met
Multi-stakeholder group (Requirement #1.4)	<p>The MSG appears to be functioning in an effective and equitable manner, in accordance with the MSG ToRs. The objective of having an independent MSG that can exercise active and meaningful oversight of all aspects of EITI implementation in a way that balances the interests of stakeholders, has been fulfilled. Documentation on the process for</p>	Fully met

	<p>nomination civil society and industry MSG members and PH-EITI internal rules are available on the PH-EITI website. Nominations appear to have been open and inclusive, and the MSG includes appropriate stakeholders. However, the seat reserved for non-Chamber mining companies remains unfilled (see <i>Requirement 1.2</i>). Including a representative from NCIP was recommended by both government and civil society stakeholders. MSG members liaise with their broader constituencies. The MSG's meeting minutes, as well as a register of MSG decisions is available online. The MSG has technical working groups on gender and legislative advocacy. Some civil society representatives noted that government and industry were unwilling to discuss social and environmental concerns at the MSG. However, MSG meeting minutes suggest that civil society has been able to raise concerns at the MSG. Stakeholders from all constituencies were supportive of gearing the MSG's work more towards analysis and impact. The MSG argued in its feedback on the draft assessment that the requirement has been exceeded. The Secretariat recognises the MSG's efforts to extend the scope of EITI implementation and to adapt to Covid-19. However, the Secretariat does not consider there to be grounds to assess the requirement as "exceeded" for the reasons stated in the above assessment, as well as weaknesses identified in government and civil society engagement.</p>	
New corrective actions and recommendations		
<ul style="list-style-type: none"> • In accordance with Requirement 1.1, the government should exert all possible efforts to ensure comprehensive engagement in EITI implementation by all companies making material payments to government, including the coal sector. The Department of Energy is expected to engage with the EITI on a senior level and to ensure consistent and comprehensive disclosures regarding the oil, gas and coal sectors. • In accordance with Requirement 1.3, the Government of the Philippines is required to ensure that there are no obstacles to civil society participation in the EITI process. The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI. The full corrective action and recommendations are included under 'Assessment' in Annex A. • To strengthen implementation, the MSG is encouraged to engage with NCIP to ensure improved oversight of royalty payments to indigenous peoples and consultation processes. • To enhance the impact of EITI implementation on extractive sector governance, government agencies are encouraged to actively follow up on recommendations from EITI reporting, Validation and other EITI studies, in particular on issues considered as priorities by the MSG. 		

4. Transparency

This component assesses EITI Requirements 2 to 6, which are the requirements of the EITI Standard related to disclosure.

Overview of the extractive sector (Requirements 3.1, 6.3)

Overview of progress in the module

Information on the general overview of the extractive industries is systematically disclosed in the Philippines, with PH-EITI reporting mapping existing public sources of information rather than disclosing new information in accordance with Requirement 3.1. However, PH-EITI Reports have effectively summarised this information and provided a mapping of sources of systematic disclosures, thereby improving the accessibility of information on the overview of the extractive industries. The 6th PH-EITI Report has focused on exploration activities in the mining, oil and gas sectors rather than coal, as did previous PH-EITI reporting. The relatively more proactive contributions of the MGB compared to the DOE in shaping the scope of PH-EITI reporting is reflected in more detailed updates on the metallic and non-metallic sectors, compared to the fossil fuels sectors (coal, oil and gas). There are calls from the industry constituency to expand the coverage of small-scale mining in future PH-EITI reporting, even if stakeholders concede the challenges in sourcing data on the sector. The collaboration between PH-EITI and the central bank on sourcing statistics on small-scale mining is welcome and could lead to expanded coverage of this sub-sector in future years.

The contribution of PH-EITI reporting has been more pronounced in aggregating macro-economic information on the extractive industries. PH-EITI Reports have collated information on the contribution of the extractive industries to the economy, often for the first time when it comes to the contribution to government revenues and employment. PH-EITI reporting has disaggregated disclosures of employment in the extractive industries by gender, although stakeholder consultations revealed interest in more granular gender-disaggregated employment data, such as data by type of employment or role. The Philippines has not disclosed total government revenues from the extractive sector through either PH-EITI reporting or through the government's systematic disclosures, but the MSG has been transparent about constraints hindering full disclosure. Indeed, legal taxpayer confidentiality provisions constrain the disclosure of tax information on companies that have not waived their confidentiality rights (see Requirement 4.1), while there is no source of government data on total government revenues for the entire extractive industries, including small-scale metallic and non-metallic mining for instance. Therefore, given that the MSG has been transparent about constraints and that PH-EITI reporting has provided an estimate of government revenues from the most material extractive industry sub-sectors, it can be argued that the MSG has fulfilled Requirement 6.3.b, given its provision that the value of government extractive revenues should be disclosed "*where available*".

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
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Exploration (Requirement #3.1)	The Philippines has ensured that an overview of the extractive sector in the country and its potential, including recent, ongoing and planned significant exploration activities, is accessible to the public. Systematic disclosures of this information on the DOE and MGB websites are sufficient to address all aspects of this requirement, although these are also summarised in successive PH-EITI Reports.	Fully met
Contribution of the extractive sector to the economy (Requirement #6.3)	The Philippines has addressed most aspects of this requirement by publishing the extractive industries' contribution, in absolute and relative terms, to GDP (including informal activities), exports and employment. Public disclosures on the government's extractive industry revenues are limited to the four sub-sectors considered material (metallic and non-metallic mining, coal, oil and gas), not for other extractive sub-sectors. However, PH-EITI reporting has been transparent about some of the constraints hindering disclosure of a figure on total government revenues from the extractive industries, including legal taxpayer confidentiality provisions. The issue of full government disclosure of all extractive revenues is covered in more detail under comprehensiveness (see <i>Requirement 4.1</i>).	Fully met
New corrective actions and recommendations		
<ul style="list-style-type: none"> • To strengthen implementation, the Philippines may wish to expand its use of EITI reporting to track ongoing or planned exploration activities in the coal sector, to match the quality of its disclosures in mining, oil and gas. The Philippines is encouraged to pursue its plans to expand coverage of artisanal and small-scale mining in future PH-EITI Reports, given strong industry and civil society interest in greater transparency on these areas and the MSG's efforts to develop decentralised EITI implementation. • To strengthen implementation in accordance with Requirement 6.3, the Philippines is urged to include more comprehensive estimates, in absolute and relative terms, of government revenues from the extractive industries in future PH-EITI reporting, including extractive sub-sectors not considered material for EITI reconciliation. The Philippines may wish to expand its coverage of employment in the extractive industries to present more granular gender-disaggregated employment data (e.g., by role and remuneration). 		

Legal environment and fiscal regime (Requirements 2.1, 2.4, 6.4)

Overview of progress in the module

The Philippines has used its EITI reporting to ensure public understanding of all aspects of the regulatory framework for the extractive industries, including the legal framework, fiscal regime, roles of government entities and reforms. Annual PH-EITI reporting has provided an effective mapping of the legal environment and fiscal regime for mining, oil and gas, and to a lesser extent coal. The 6th PH-EITI Report has continued to provide this annual review in accordance with Requirement 2.1, with references to extensive systematic disclosures on government websites.

While the updates on ongoing and planned reforms in 2018 focused on the mining sector, the DOE website provides updates on ongoing reforms in the oil and gas sector. Although the MSG has not referenced ongoing or planned reforms in the coal sector, documents on the DOE

website such as the 2017-2014 Coal Roadmap provide some disclosures on planned reforms. Beyond providing an annual review reforms, PH-EITI has provided input to key legal and regulatory reforms both through formal channels and informally given that many members of the MSG have also been consulted on key reforms such as the fiscal regime for mining in 2020-2021 (see Requirement 7.1).

The Philippines has made progress in ensuring the public accessibility of contracts underpinning mining activities as a basis for the public's understanding of the contractual rights and obligations of companies operating in the country's extractive industries. Yet while the government's policy in favour of contract disclosure is clear, actual practice is mitigated, with full publication of contracts in metallic and non-metallic mining in accordance with Requirement 2.4.a, but not in coal or oil and gas. Government officials consulted explained that the DOE had only provided copies of the oil and gas production contracts awarded prior to 2021 that were in production, given that they gave rise to material payments for EITI reporting. None of the stakeholders consulted highlighted any constraints that would hinder the publication of all coal, oil and gas contracts. The MSG has included activities related to assessing the comprehensiveness of contact disclosure in the 2021 PH-EITI work plan.

The mining SOE PMDC also concludes separate contracts for mining in mineral reservations, with a different fiscal regime for companies operating in joint venture with PMDC. These mining contracts in mineral reservations have not been publicly disclosed to date, although the MSG confirmed in a March 2021 meeting that no new mining contracts were awarded in the first quarter of 2021. Therefore, gaps in disclosure of PMDC-awarded mining contracts on mineral reservations do not (yet) constitute a gap in the Philippines' progress in addressing the requires aspects of Requirement 2.4.

Although the full text of all licenses is not published on the MGB or DOE websites, it appears that both regimes operate on a pro-forma template with only the names and details of license-holders and areas covered changing. The MGB website lists the licenses and permits awarded by date and publishes the templates of the pro forma templates for the various licenses and permits. The MSG could consider publishing a clarification of the pro forma nature of different licenses and permits in the mining, coal, oil and gas sectors, with reference to the relevant license and permit templates.

The MGB and DOE both confirmed the lack of new license or contract awards or amendments as of the start of Validation (i.e. for the period 1 January – 31 March 2021) at the MSG's March 2021 meeting. However, the 6th PH-EITI Report's reference to the DOE's objections to publishing coal or oil and gas contracts for projects that are ongoing is a concern, given that this could pose obstacles to the systematic publication of all new contracts and amendments in the coal, oil and gas sectors from January 2021 onwards if the DOE is unable to disclose all new coal, oil and gas awarded or amended thereafter. While industry and government stakeholders consulted did not raise any objections to the publication of all operating contracts in the coal, oil and gas sectors, most contracts in these sectors have not been published to date. Therefore, while PH-EITI reporting has adequately clarified the government's policy on contract disclosure and provided a general overview of actual contract disclosure practices, it has not disclosed a list of all active contracts and licenses in the mining, coal, oil and gas sectors (including exploration licenses and

contracts) indicating which contracts and licenses are publicly accessible, and which have not yet been published, in accordance with Requirement 2.4.c.ii.

The Philippines has effectively used its EITI reporting to provide a basis for stakeholders to assess the adequacy of the regulatory framework and monitoring efforts to manage the environmental impact of extractive industries, and to assess extractive companies' adherence to environmental obligations. The MSG has successfully expanded the scope of EITI disclosures to company contributions to five types of environmental provisioning funds, with disclosures broken down by company and fund in the 6th PH-EITI Report. PH-EITI reporting provides an effective overview of relevant legal provisions and administrative rules related to environmental management and monitoring of extractive investments, as encouraged under Requirement 6.4.a.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
Legal framework and fiscal regime (Requirement #2.1)	The Philippines has addressed all aspects of this requirement by ensuring that PH-EITI reporting summarises descriptions of the legal environment and fiscal regime for mining, coal, oil and gas, including the roles of government entities, the level of fiscal devolution and ongoing of planned reforms in mining, not oil and gas. Government websites provide much of this information in a dispersed manner, including updates on ongoing reforms in the petroleum sector. The Philippines has exceeded the minimum of this requirement by ensuring systematic disclosures of the information mandated under Requirement 2.1, ensuring timely public disclosures.	Exceeded
Contracts (Requirement #2.4)	The Philippines has made progress on most aspects of this requirement, including in clarifying the government's policy on contract disclosure and documenting actual practice. In practice, most mining contracts are published, and the three oil and gas contracts in production are published. While the MSG's comments noted that contracts of coal had been published on the PH-EITI Contracts portal, the comprehensiveness of contract publications remains unclear (with the material company Semirara's contract not appearing on the portal for instance). The MSG has included plans to assess the comprehensiveness of contact disclosure to date in its 2021 work plan. The recent publication of PMDC's joint operating agreements (JOAs) with its operators, referenced in the MSG's comments, is commendable. The MGB and DOE have confirmed that no operating contract has been awarded or amended in the 1 January - 31 March 2021 period. However, the 6th PH-EITI Report's reference to the DOE's inability to publish contracts whose project terms are still active is a concern, as it raises questions about the prospects for the systematic publication of new coal, oil and gas contracts and amendments in future. Nonetheless, government	Mostly met

	officials consulted did not raise any barriers to the publication of all operating contracts in the coal, oil and gas sectors, evidenced by the recent publication of some contracts. Of more immediate concern, there does not appear to be a comprehensive list of active contracts and licenses (including exploration licenses) indicating which contracts are publicly accessible and which are not. In addition, the full text of licenses does not appear to be published and it is unclear whether there are significant variations between licenses (permits).	
Environmental impact (Requirement #6.4)	The Philippines's 6 th EITI Report provides a basis for stakeholders to assess the adequacy of the regulatory framework and monitoring efforts to manage the environmental impact of extractive industries, and to assess extractive companies' adherence to environmental obligations. Indeed, it provides company disclosures of their contributions to environmental funds.	Not assessed
New corrective actions and recommendations		
<ul style="list-style-type: none"> • In accordance with Requirement 2.4, the Philippines should ensure that any contracts and licenses in the extractive industries, including in the coal, oil and gas sectors, that are granted, entered into or amended from 1 January 2021 are publicly disclosed in their entirety. If all licenses have standard stipulations as mandated by law and there are no deviations from such provisions in practice, the onus is on the Philippines to substantiate such claims. In accordance with Requirement 2.4.c.ii, the Philippines is required to publish a list of all active contracts and licenses, indicating which are publicly available and which are not. In accordance with Requirement 2.4.c.iii, the Philippines should publish an explanation for any deviations between disclosure practices and legislative or government policy requirements concerning the disclosure of contracts and licenses. The Philippines is encouraged to publicly disclose all contracts awarded by PMDC for mining on mineral reservations, and is required to disclose any new such contracts awarded or amended from 2021 onwards, given that these contracts include different fiscal terms to conventional mining contracts. • To strengthen implementation in accordance with Requirement 6.4, the Philippines could consider using annual EITI reporting to provide information on the government's environmental sanctioning of extractive companies, with a view to addressing public demands for information on the regulatory oversight of companies' environmental impacts. The Philippines is encouraged to consider the publication of monitoring reports on the management of environmental funds, given the level of public interest in the environmental impacts of mining. 		

Licenses and property rights (Requirements 2.2, 2.3)

Overview of progress in the module

While, the Philippines has made progress in ensuring transparency in its management of extractive licenses and contracts, there are some gaps in the public disclosures related to 2018, both in the 6th PH-EITI Report and government websites. The issue of license and contract awards appears to be of public interest for civil society organisations representing host communities, particularly in the mining sector where free prior informed consent is an integral part of the allocation process. The lifting of the nine-year moratorium on mining license awards in April 2021 has only added to the public interest in license and contract allocation procedures.

The 6th PH-EITI Report addresses most aspects of Requirement 2.2 by referencing systematic disclosures on the MGB and DOE websites. The MSG has discussed the existence of deviations from statutory procedures in the awards and transfers of mining, oil and gas licenses, and there appears to be some dissent from civil society MSG members over the two government regulators' assurances that there were no non-trivial deviations in license and contract awards and transfers in 2018. While the MSG comments clarified the lack of mining and coal license and contract transfers in 2018, they did not clarify whether there were any transfers of participating interests in oil and gas contracts in 2018, which remains unclear based on public sources. PH-EITI reporting has described the award of a new oil and gas contract in 2018, SC 76 to Ratio Petroleum, and the bid criteria are public, with the full list of bidders for this award as part of PEGR5 subsequently published on the PH-EITI website and referenced in the MSG's comments on the draft assessment.

There is no centralised publicly accessible license register or cadastral system for mining, coal, oil and gas licenses in the Philippines and there are significant gaps in the comprehensiveness and accessibility of license information across different government sources. PH-EITI published a list of contracts of coal, oil and gas, with some of the information required but with key gaps such as dates of application and license coordinates. The DOE has questioned the relevance of dates of application for coal, oil and gas contracts, given that contracts were already awarded. It indicated in the MSG's comments that it would be willing to share coordinates of oil and gas contracts, aside from those in the West Philippine Sea for national security reasons. While lack of contract coordinates for national security reasons appears reasonable, the availability of dates of application for active licenses is essential to enable an assessment of the efficiency of license allocation procedures.

Relevant government agencies such as the MGB and DOE have not established publicly accessible license registers for the mining, coal, oil and gas sectors that comprehensively provide all data listed in Requirement 2.3.b, covering at least all licenses held by companies considered material for PH-EITI reporting. While the MSG highlighted that a list of approved Declaration of Mining Project Feasibility (DMPF) had been published on the PH-EITI Contracts portal, the comprehensiveness of this list remains unclear with only 63 companies listed. Therefore, with regards to both the comprehensiveness and accessibility of extractive license information, the Secretariat's preliminary conclusion is that the Philippines is still far from the requirement's objective of ensuring the public accessibility of comprehensive information on property rights related to extractive deposits and projects.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
Contract and license allocations (Requirement #2.2)	The Philippines has made progress in addressing the objective of this requirement, but a number of technical gaps mean the overall objective of transparency in license and contract allocations cannot yet be	Mostly met

	<p>considered to be fully achieved.</p> <p><u>Mining</u>: The 6th PH-EITI Report lists the licenses and contracts awarded in 2018, describes the statutory procedure for awards and transfers and the MSG has undertaken a review of non-trivial deviations from statutory procedures in practice in 2018, although stakeholders expressed concerns that consultation processes were not always followed in practice. However, as confirmed in the MSG’s comments on the draft assessment, the MGB has confirmed the lack of new mining license contract and license awards in 2018. The technical and financial criteria assessed for mining license and contract awards and transfers are described in the public domain and government officials confirm that there is no weighting applied to the criteria, even if this is not explicitly stated in disclosures on the MGB website. None of the mining licenses and contracts appear to have been awarded through bidding in 2018.</p> <p><u>Coal, oil and gas</u>: The 6th PH-EITI Report and online government sources list the one new oil and gas contract award in 2018, while the MSG’s comments refer to a published letter from the DOE confirming the lack of any new coal contract awards or transfers in this period. The minutes of MSG meetings indicate that the DOE was expected to subsequently confirm whether there were any transfers of interests in oil and gas contracts in 2018, although there is no public record (nor reference in the MSG’s comments) of the DOE’s clarification of the number of transfers in oil and gas contracts in 2018. The general procedures for awarding and transferring coal, oil and gas contracts are described, including an assessment of non-trivial deviations in practice. Public sources define the technical and financial criteria assessed for coal, oil and gas contract awards and transfers, but do not clarify whether any weightings are applied to criteria assessed in transfers. The bid criteria for awarding the oil and gas contract granted through bidding in 2018, and the full list of bidders was published on the PH-EITI Contracts portal and referenced in the MSG’s comments.</p>	
<p>Register of licenses (Requirement #2.3)</p>	<p>There is no single license register that is publicly accessible for licenses and contracts in mining, coal, oil and gas in the Philippines. It is unclear whether the 6th PH-EITI Report lists all licenses and contracts held by material companies, or only those that gave rise to material payments to government in 2018 (i.e. producing licenses and contracts). While some of the information listed under Requirement 2.3.b is accessible for the mining, oil and gas licenses, there are significant gaps in dates of application, coordinates and commodity(ies) covered. In its comments, the MSG referenced the new publication of Contracts of Coal and oil and gas Service Contracts through the PH-EITI Contracts portal, albeit with gaps in dates of application and coordinates. While the DOE’s question about the relevance of dates of application is noted, the lack of coordinates is a broader concern, notwithstanding the West Philippine Sea contracts whose coordinates remain confidential for national security considerations. The lack of publicly accessible cadastral portals with key data such as coordinates constitutes a significant gap. The Philippines is therefore far from the objective of ensuring the public</p>	<p>Partly met</p>

	accessibility of comprehensive information on property rights related to extractive deposits and projects.	
New corrective actions and recommendations		
<ul style="list-style-type: none"> • In accordance with Requirement 2.2.a.i-ii, the Philippines should ensure that information on the process for awarding and transferring licenses and contracts in the mining, coal, oil and gas sectors is publicly accessible, including the detailed technical and financial criteria assessed and any weighting applied to the criteria. A clear list of all licenses and contracts awarded or transferred in the mining, coal, oil and gas sectors should be publicly available on an annual basis, including any transfers of participating interests in contracted parties in accordance with Requirement 2.2.a.iii. The Philippines should use its EITI to conduct an annual review of any material deviations from the applicable legal and regulatory framework governing license transfers and awards, in accordance with Requirement 2.2.a.iv. In cases where contracts have been awarded through competitive bidding, the full list of bidders should be publicly disclosed in accordance with Requirement 2.2.c. The Philippines may wish to expand its use of EITI reporting to assess the efficiency of license and contract awards and transfers, with a view to providing input to policy-making and public debate on license management, a topic of high public interest in the country. • In accordance with Requirement 2.3.b, the Philippines should maintain a publicly available register or cadastre system(s) with timely and comprehensive information regarding each of the licenses pertaining to companies within the agreed scope of EITI implementation. Where such registers or cadastres do not exist or are incomplete, any gaps in the publicly available information should be disclosed and efforts strengthen these systems documented, in accordance with Requirement 2.3.c. It is expected that the Philippines maintain a license register or cadastre that includes information about licenses held by all entities, including companies and individuals or groups that are outside the agreed scope of EITI implementation. 		

Beneficial ownership (Requirement 2.5)

Overview of progress in the module

Adherence to Requirement 2.5 on beneficial ownership is assessed in Validation as of 1 January 2020 as per the framework agreed by the Board in June 2019.⁹ The assessment consists of a technical assessment focusing on initial criteria and an assessment of effectiveness.

Technical assessment

The technical assessment is included in the Transparency template, in the tab on Requirement 2.5.

It demonstrates that the Philippines has established a legal basis for collecting and disclosing beneficial ownership information, although there is not yet an enabling regulatory environment for the disclosure of beneficial ownership data of all companies holding or applying for licenses and contracts in the mining, coal, oil and gas sectors. It appears that the MSG has not yet published a list of companies holding extractive licenses in the Philippines that are subsidiaries of companies publicly listed on foreign stock exchanges, including references (links) to their

⁹ <https://eiti.org/document/assessing-implementation-of-eitis-beneficial-ownership-requirement>.

statutory filings to their respective stock exchanges. The MSG’s comments indicate that it has requested a list of such companies from the SEC, which is a welcome development.

Assessment of effectiveness

The Philippines has made progress in addressing most aspects of the initial criteria under Requirement 2.5. In effect, all companies applying for a license or contract in the extractive industries are now required to report their beneficial ownership to the SEC.

The key challenge for the Philippines is to enact legal and regulatory reforms to require the publication of a minimum set of data (name, nationality, country of residence, level and type of ownership and PEPs) on the beneficial owners of companies holding or applying for extractive licenses, ideally in a public BO register. The current constraints of the Data Privacy Act appear not to allow for the publication of all BO data on these companies and stakeholder consultations have indicated the need for legislative reform to establish a public register.

The system of requesting the consent of companies in the scope of PH-EITI reporting has allowed for the publication of some BO data on a temporary PH-EITI BO portal. There is evidence of outreach to 81 extractive companies in the 6th PH-EITI Report. The system of PH-EITI consent letters does not cover all companies in the sector, however. The MSG’s assessment of comprehensiveness and reliability of BO disclosures to date in the 6th PH-EITI Report is realistic about these challenges.

Nonetheless, the public accessibility of information on shareholders (legal owners) has improved with the launch of a new SEC portal (SEC Express), even if data requests for legal owners still requires the manual mailing of documents within 5-7 days of the request, at a modest administrative fee.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Assessment
Beneficial ownership (Requirement #2.5)	The Philippines has agreed appropriate definitions for the terms “beneficial owner” and “politically exposed person” (PEP), and established an enabling legal environment for beneficial ownership disclosure. While the 6th PH-EITI Report highlighted gaps in requirements for foreign companies to disclose their BO, a new SEC Memorandum Circular in 2020 effectively expanded BO disclosure requirements to foreign companies. While the SEC has started collecting BO data from all extractive companies, including foreign and companies applying for licenses, there are regulatory constraints hindering the publication of BO data given the lack of legal requirements to publish BO data and provisions of the Data Privacy Act. Information on legal owners of companies is available upon request from the SEC’s new platform (SEC Express) at a reasonable fee. Given confidentiality constraints, PH-EITI has worked with companies in the scope of EITI reporting to conclude waivers allowing for the publication of BO data. The 6th PH-EITI Report’s review of BO disclosures lists only 81	Mostly met

	<p>extractive companies that had been requested to report this data as of end 2020. The Philippines has established appropriate data quality assurances for BO disclosures. The MSG has published an assessment of the comprehensiveness and reliability of disclosures to date. Yet while information on the filings of companies publicly listed in the Philippines appears to be available online, the MSG does not appear to have published a comprehensive list of all extractive companies that are subsidiaries of companies publicly listed overseas, including references to their statutory filings at their respective stock exchange. Therefore, while the MSG has addressed most aspects of the initial criteria for the Validation of this requirement, there are key gaps related to the lack of an enabling legal environment for the disclosure of beneficial ownership information and the lack of systematic public disclosure of all extractive companies' BO data given that disclosure consent forms were only requested from the 73 companies in the scope of EITI reporting in 2018.</p>	
New corrective actions and recommendations		
<ul style="list-style-type: none"> In accordance with Requirement 2.5 and to prepare for the second phase of Validation of Requirement 2.5 from January 2022 onwards, the Philippines is required to establish an enabling legal environment for the public disclosure of beneficial ownership information and to publicly disclose the legal and beneficial owners of all companies holding or applying for extractive licenses and contracts. Information about the identity of the beneficial owner should include the name of the beneficial owner, the nationality, and the country of residence, as well as identifying any politically exposed persons, in accordance with Requirement 2.5.d. Publicly listed companies, including wholly-owned subsidiaries of companies listed on stock exchanges outside of the Philippines, are required to disclose the name of the stock exchange and include a link to the stock exchange filings where they are listed, in accordance with Requirement 2.5.f.iii. The Philippines could consider expanding beneficial ownership disclosures to other segments of the extractive industries value chain, for instance from extractive-industry service providers. 		

State participation (Requirements 2.6, 4.2, 4.5, 6.2)

Overview of progress in the module

The Philippines has addressed many aspects of the requirements related to SOEs, while clarifying that state participation in the extractive industries through the two SOEs in the extractive industries are not a priority for EITI implementation. Indeed, much of the information listed under Requirement 2.6 is systematically disclosed on the websites of relevant extractive SOEs as well as in laws and regulations, with PH-EITI reporting only summarising and referencing this information.

The 6th PH-EITI Report explains that neither the SOE in the mining sector, PMDC, nor the SOE holding group or upstream subsidiary in the oil and gas sector, PNOC and PNOC-EC, were considered to have made material payments to government nor collected material fiscal payments from extractive companies in 2018. Indeed, both PMDC and PNOC-EC were considered to have made payments to government below the materiality threshold for selecting companies in the 6th PH-EITI Report. Nonetheless, PNOC-EC was included in the scope of reporting given its

participation as a non-operator partner on the Malampaya oil and gas project (SC 38), the country's largest hydrocarbons project to date both by production and value of payments to government. The MSG's comments confirm that PNOC-EC was included as a material company for EITI reporting because of its joint venture with SPEX and Chevron. Therefore, this Validation's assessment of the Philippines' progress in addressing SOE-related requirements is focused on disclosures related to PNOC-EC, rather than PMDC in the mining sector.

Public documents describe the statutory financial relations between extractive SOEs like PNOC-EC and the state in line with the legal and regulatory framework, although it is unclear from either public documents or the 6th PH-EITI Report whether PNOC-EC is entitled to raise equity finance from third parties. The fact that 0.21% of PNOC-EC's equity is held by public shareholders (as noted on the PNOC-EC website) implies that PNOC-EC is statutorily entitled to raise equity from third parties, although it is unclear from PH-EITI reporting where this is codified in the regulations. The practice of PNOC-EC's financial relations with the state in 2018 is sufficiently clear from the publication of its audited financial statements and the 6th PH-EITI Report.

While the 6th PH-EITI EITI Report does not list PNOC-EC's equity interests in other extractive subsidiaries as subsidiaries, joint ventures or affiliates, the company's 2018 financial statements indicate that it holds equity stakes in six joint ventures that appear to operate in the upstream extractive industries. The PH-EITI Report lists PNOC-EC's participating interests in eight oil and gas contracts and four coal contracts (there is a discrepancy here as the company's 2018 financial statements list five coal contracts). Although the MSG and Independent Administrator had provided a summary of the terms attached to PNOC-EC's participating interests in coal, oil and gas contracts for the Philippines' previous Validation in 2017¹⁰, the terms attached both to PNOC-EC's participating interests in coal, oil and gas projects and to PNOC-EC's equity interests in the six joint ventures have not been described in PH-EITI reporting since. While the MSG's comments indicated that a list of PNOC-EC's interests in coal, oil and gas projects is available on the PNOC-EC website, they did not clarify where the terms attached to PNOC-EC's interests were publicly described, including its level of responsibility for covering expenses at various phases of the project cycle, e.g. full-paid equity, free equity or carried interest.

The Philippines' EITI reporting has considered the existence of state loans and guarantees involving PNOC-EC and confirmed the lack of sovereign loans or guarantees to PNOC-EC, or from PNOC-EC to other extractive companies. However, it is unclear whether the MSG has considered the existence of any loans or guarantees from the government to extractive companies not involving PNOC-EC.

Although PH-EITI reporting has only covered corporate governance provisions in a cursory manner, the websites of PMDC and PNOC-EC provide information on these aspects of SOE governance. Information on SOEs' procurement rules and practices are more limited on the part of PNOC-EC, but procurement disclosures on the PMDC website are an example of best practice by an SOE, even if PMDC was not considered to be a material SOE for PH-EITI reporting covering 2018.

¹⁰ See p.52 of EITI (2017), 'The International Secretariat's initial assessment of the Philippines' progress in implementing the EITI Standard', accessible at https://eiti.org/files/documents/philippines_eiti_2017_validation_initial_assessment_on_data_collection_and_stakeholder_consultation.pdf

The MSG has published its conclusions that state in-kind revenues, material transactions related to SOEs and SOE quasi-fiscal expenditures were not applicable in the Philippines in the period under review (2018). While the legal framework for oil and gas provides for potential in-kind payments to government, there is consensus among stakeholders consulted that the operators of producing oil and gas projects commercialise the state's entitlement and transfers the proceeds of the sale of the government's share of production to the state in cash.

Based on a review of the financial statements of PMDC, PNOC-EC and PNOC, the MSG has concluded that the combined dividends from these SOEs in 2018 was below the materiality threshold for selecting revenue streams of 2% of government oil and gas revenues. As confirmed in its comments on the draft assessment, the MSG confirmed that it has reviewed both SOE dividends actually paid in 2018 (i.e. relating to 2017) and dividends related to 2018 that would have been paid in 2019. Meanwhile it appears that neither PMDC nor PNOC-EC collected material revenues from extractive companies on behalf of the government in 2018.

Finally, the MSG has argued that SOEs did not undertake any quasi-fiscal expenditures in 2018, which the MSG's comments on the draft assessment clarified was based on its review of SOEs' financial statements for 2018. Stakeholder consultations and a review of public sources did not highlight any quasi-fiscal expenditures related to extractive revenues in the Philippines.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
State participation (Requirement #2.6)	The 6th PH-EITI Report, together with the SOEs' websites, addresses almost all aspects of the requirement, although there are a number of technical gaps such as the lack of information on the terms attached to state equity and participating interests in extractives projects and the lack of consideration of direct state loans and guarantees to extractive companies. Transparency in state participation is an area where SOE disclosures have been mainstreamed from the start, given the quality of SOEs' existing disclosures. While the MSG comments' clarification of the terms of loans involving PMDC is welcome, they did not clarify the terms of any outstanding loans from the state to any extractive companies. The list of PNOC-EC participating interests in coal, oil and gas projects referenced in the MSG's comments do not include the terms attached to PNOC-EC's interest, including its level of responsibility for covering expenses at various phases of the project cycle (e.g. full-paid equity, free equity or carried interest).	Mostly met
Sale of the state's in-kind revenues (Requirement #4.2)	The MSG appears to have considered the applicability of Requirement 4.2 based on 2018 data and has publicly documented its conclusions that the requirement was not applicable in 2018.	Not applicable

Transactions related to state-owned enterprises (Requirement #4.5)	As confirmed in the MSG's comments, the figures for 2018 dividends from SOEs in the 6th PH-EITI Report are related to dividend payments actually made in 2018. It can therefore be concluded that the MSG has adequately demonstrated that the requirement is not applicable in 2018 given that SOE dividends were below the materiality threshold of 2% of sector revenues.	Not applicable
Quasi-fiscal expenditures (Requirement #6.2)	It appears that this requirement was not applicable in 2018. While the MSG's comments only referred to its review of PNOEC-EC and PMDC's financial statements as a basis for assessing the existence of quasi-fiscal expenditures in 2018, there is no evidence or allegations of any quasi-fiscal expenditures in the year under review.	Not applicable
New corrective actions and recommendations		
<ul style="list-style-type: none"> • In accordance with Requirement 2.6.a.ii, the Philippines should disclose details regarding the terms attached to PNOEC-EC's interests in extractives companies and projects, including its level of responsibility for covering expenses at various phases of the project cycle (e.g. full-paid equity, free equity or carried interest). In accordance with Requirement 2.6.a.i, the Philippines should ensure public disclosure of the prevailing rules and practices regarding the financial relationship between the government and SOEs, including disclosures of third-party equity financing of SOEs. Where the government or SOE(s) have provided loans or loan guarantees to mining, oil and gas companies or projects, details on these transactions should be disclosed, including loan tenor and terms (i.e., repayment schedule and interest rate) in accordance with Requirement 2.6.a.ii. • To strengthen implementation in accordance with Requirements 2.6 and 4.5, the Philippines is encouraged to reconsider the materiality of state participation in the extractive industries on an annual basis, to ensure that any material SOE transactions are comprehensively and reliably disclosed, and that stakeholders' demands for information on extractive SOEs are addressed. In particular, the MSG should assess the materiality of government revenues collected by PMDC on an annual basis, given the separate fiscal regime in mineral reservations, to ensure that any material revenues collected by PMDC derived from operations in minerals reservations are comprehensively and reliably publicly disclosed. • To strengthen implementation in accordance with Requirement 6.2, the Philippines is encouraged to reconsider the existence of quasi-fiscal expenditures undertaken by state-owned enterprises on an annual basis, to ensure that any such expenditures are comprehensively disclosed. 		

Production and exports (Requirements 3.2, 3.3)

Overview of progress in the module

The Philippines has aligned its EITI reporting of production and export data with national classification systems, which are aligned with international standards.

Production volumes are systematically disclosed on the MGB and DOE websites, but PH-EITI reporting has contributed by mapping these data sets and adding production values for most extractive commodities. While disclosure of fossil fuel commodity production values have proved challenging since the previous Validation, the MSG has published estimates of production values based on average commodity prices for coal, oil and gas for 2018 on its EDGe (Extractive Data Generator) data portal.

The Philippines' disclosures of export data are an example of best practice in terms of granularity and punctuality. The 6th PH-EITI Report discloses in annex detailed export data disaggregated by export destination, while HS code numbers with commodity names have been published in open format and referenced in the MSG's comments, addressing concerns over the accessibility of the data. While the MSG's comments argue for an assessment of "exceeded", the Secretariat's assessment is that the encouraged aspects of the requirement, including an explanation of the sources and methods for calculating export volumes and values as well as the systematic disclosure of granular export data through routine government and company systems, have not yet been addressed. The Secretariat therefore concludes that the requirement has been fully met, but not yet exceeded.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
Production (Requirement #3.2)	The Philippines had addressed all aspects of this requirement aside from the publication of production values for crude oil, natural gas, condensate and coal at the start of Validation. However, the MSG has since published estimates of average commodity prices for coal, oil and gas, and related estimates of production values and referenced these in its comments.	Fully met
Exports (Requirement #3.3)	All of the information listed under Requirement 3.3 is publicly available in the Philippines. The MSG's comments noted that the data had been published with HS code numbers and the associated commodity names, aside from non-metallic minerals. Export information is provided in the Transparency template and since republished in the public summary data file in open data format on the PH-EITI website.	Fully met
New corrective actions and recommendations		
<ul style="list-style-type: none"> To strengthen implementation in accordance with Requirements 3.2 and 3.3, the Philippines is encouraged to consider using its EITI reporting to explain the methods for calculating export and production volumes and values. 		

Revenue collection (Requirements 4.1, 4.3, 4.4, 4.7, 4.8, 4.9)

Overview of progress in the module

The Philippines has made progress in ensuring comprehensive disclosures of company payments and government revenues from oil, gas and mining as a basis for public understanding of the contribution of the extractive industries to government revenues. It has set a scope of EITI reporting that includes large-scale metallic and non-metallic mining, coal, oil and gas, although the quantitative materiality threshold used for excluding other extractive sub-sectors (such as

small-scale metallic and non-metallic mining) is not clearly stated. Indeed, the PH-EITI Reports do not provide the government's full unilateral disclosures of total government revenues from the extractive industries, including from non-material sectors, from which the coverage of reconciliation in terms of total government extractive revenues could be estimated.

Given legal taxpayer confidentiality provisions, the MSG has based its materiality calculations on extractive companies' sales values, arguing in a general way that there is a strong correlation between sales and tax payments but without demonstrating this link with data either for the year under review or previous years. The MSG agreed to include companies accounting for 100% of sales in metallic mining, 99.57% in oil and gas, 84% in non-metallic mining and 99.31% in coal. However, it has not convincingly demonstrated that no company accounting for a small share of sales could have made material payments to government, particularly in the non-metallic and oil and gas sectors. For instance, while the oil and gas company Ratio Petroleum Ltd was awarded a Service Contract (SC 76) in 2018 and likely made payment of a signature bonus to the DOE, there is no publicly accessible evidence of the MSG's assessment of the materiality of payments from non-producing companies as a basis for justifying the MSG's materiality decisions for 2018 in the 6th PH-EITI Report. Available evidence suggests that the BIR has not been requested to confirm the adequacy of the MSG's materiality decisions in terms of coverage of tax revenues. The MSG's comments argue that an annual review of materiality decisions was not required, given that it would only have led to the exclusion of more revenue streams from reconciliation and that all of the largest producing companies were included in the scope of reporting. However, the lack of annual review of materiality decisions is potentially problematic, given the scope for new revenue streams (e.g., oil and gas signature bonus) to become material and the potential for non-producing companies to make material payments to government in a particular year.

A total of 11 of the 73 material companies did not submit reporting templates. The materiality of omissions is only assessed in terms of sales, given legal taxpayer confidentiality provisions, and in aggregate for all non-reporting companies' share of government revenues, albeit without an estimate of the value of their tax payments given taxpayer confidentiality constraints. While the non-participation of 10 metallic mining companies appears to have only marginal impact on the reconciliation coverage (again in terms of sales), the continued refusal to participate in EITI reporting by the sole company in the coal sector, Semirara Mining and Power Corp., is problematic. Efforts to encourage Semirara to report do not seem to have been reinforced since the Philippines' previous Validation, with a planned DOE Department Administrative Order requiring coal, oil and gas companies to participate in EITI reporting still only in draft form at the start of Validation. Stakeholders consulted from all constituencies expressed concern over whether the government (and in particular the DOE) had undertaken all possible efforts to encourage Semirara to participate in EITI reporting. While the MSG's comments noted additional follow-up with Semirara by government entities such as the DOF, delays in enacting the DOE's Department Administrative Order were highlighted by the MSG as a key reason for the company's continued refusal to report. The 6th PH-EITI Report presents information on Semirara's payments to government from its audited financial statements and describes the company's reasons for refusing to report to PH-EITI. These reasons for not reporting include claims by the company that disclosure of its payments to government might affect its cost and price competitiveness, that the tax incentives from which the company benefits could be interpreted as government subsidies and prompt countervailing measures from countries to which it exports, and that there is no legal requirement for the company to participate in EITI reporting. Notwithstanding the

MSG's comments that the lack of reporting by Semirara should not be considered a gap in comprehensiveness in the reconciliation, the lack of EITI reporting by the sole material company in the coal sector is problematic, given estimates that the sector accounted for 7% of government revenues in 2018.

Notwithstanding the MSG's efforts to minimise the impact of the company's non-reporting on the transparency of government revenues, it cannot be concluded that the overall objective of Requirement 4.1 in comprehensive disclosures of government extractives revenues has been fulfilled given the lack of clarity on the MSG's materiality decisions, the lack of reporting by the sole material coal company and the lack of public information on total government revenues from each extractive industry revenue stream included in the scope of reconciliation. Nonetheless, PH-EITI has published a review of the public accessibility of material extractive companies' financial statements for 2018, which represents an example of best practice in public disclosures of companies' financial statements.

The MSG has published its assessment that neither barter-type arrangements nor government transport revenues existed in 2018 and that Requirements 4.3 and 4.4 are not applicable in the Philippines in the period under review. While the basis for this finding could be further clarified by PH-EITI, the International Secretariat finds no public evidence or stakeholder views to the contrary.

The Philippines has disaggregated its public disclosures of company payments and government revenues from oil, gas, coal and mining by government entity, revenue stream, company and, where applicable, by project. The MSG has endorsed a definition of project in line with Requirement 4.7. PH-EITI Reports have consistently been published in a sufficiently timely manner (i.e. within two years of the end of the fiscal period covered) in accordance with Requirement 4.8, even if the timeliness of reporting could be improved by further building on government and company systematic disclosures. The MSG's comments on the draft assessment explained reasons for the two-year lag in publications of recent PH-EITI Reports and highlighted its plans for improving the timeliness of PH-EITI reporting to a one-year time lag based on systematic disclosures.

The Philippines' EITI reporting has provided a review of routine government and company audit and assurance systems and practices, including providing a mapping of the public accessibility of extractive companies' audited financial statements. The MSG appears to have taken appropriate measures to ensure the reliability of EITI disclosures of company payments and government revenues from oil, gas and mining, with all reporting companies and government entities adhering to the agreed quality assurances. The 6th PH-EITI Report includes a statement from the Independent Administrator on the comprehensiveness and reliability of the reconciled financial data in the report. Therefore, the broader objective of ensuring a basis for stakeholders to assess the reliability and comprehensiveness of the financial data on payments and revenues in the 6th PH-EITI Report has been achieved in accordance with Requirement 4.9 and the Terms of Reference of the Independent Administrator.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
Comprehensive disclosure of taxes and revenues (Requirement #4.1)	<p>The Philippines has made progress in addressing the objective of this requirement, but there are gaps in the comprehensiveness of the disclosures of government revenues, particularly from the coal sector. The MSG's approach to materiality remains somewhat unclear and the value of the government's total revenues from the extractive industries, including from industries considered non-material, is not yet public. While the MSG's comments justified the lack of review of materiality thresholds ahead of EITI reporting for 2018 on the basis that the structure of revenue streams has not changed over the years and that all of the largest producing extractive companies were included in the scope of reporting, the lack of justification for the scope of 2018 reporting on quantitative grounds based on 2018 data is problematic given the potential for non-producing companies to make material payments to government.</p> <p>The lack of reporting by a material companies accounting for a large share of government revenues from the coal sector is a concern. While the 6th PH-EITI Report and MSG's comments describe the MSG and government's efforts to follow up with the non-reporting companies, there are stakeholder concerns among those consulted over whether the government has undertaken sufficient efforts to ensure participation in EITI reporting by all material companies selected to report. The lack of participation in EITI reporting by the sole material coal company after six years of EITI reporting is a concern, given estimates that the coal sector accounted for 7% of government revenues in 2018. Therefore, the broader objective of comprehensive disclosures cannot yet be considered fulfilled.</p>	Mostly met
Infrastructure provisions and barter arrangements (Requirement #4.3)	<p>The MSG appears to have considered the applicability of Requirement 4.3 based on 2018 data and has publicly documented its conclusions that the requirement was not applicable in 2018.</p>	Not applicable
Transportation revenues (Requirement #4.4)	<p>The MSG appears to have considered the applicability of Requirement 4.4 based on 2018 data and has publicly documented its conclusions that the requirement was not applicable in 2018.</p>	Not applicable
Level of disaggregation (Requirement #4.7)	<p>The 6th PH-EITI Report describes the MSG's definition of project and presents reconciled financial data disaggregated by government entity, revenue stream, company and (where relevant) project.</p>	Fully met
Data timeliness (Requirement #4.8)	<p>PH-EITI financial data has been published in a sufficiently timely manner and the MSG has approved the period for reporting, although more information on the MSG's plans to improve the timeliness of reporting would be welcome.</p>	Fully met

Data quality and assurance (Requirement #4.9)	The Philippines has fulfilled the overall objective and has addressed all aspects of the requirement, ensuring that appropriate measures have been taken to ensure the reliability of disclosures of company payments and government revenues from oil, gas and mining. PH-EITI could do more to develop recommendations for the EITI to contribute to strengthening routine government and company audit and assurance systems and practices.	Fully met
New corrective actions and recommendations		
<ul style="list-style-type: none"> • In accordance with Requirement 4.1.b-c, the Philippines should ensure that the materiality decisions related to the scope of disclosures of company payments and government revenues are publicly disclosed, with reference to the size of the sub-sectors, revenue streams and companies relative to total government revenues from the extractive industries. Where it is not possible to secure confirmation that all payments and revenues whose omission or misstatement could significantly affect the comprehensiveness of the disclosures have been included in the scope of disclosures, due to taxpayer confidentiality constraints, appropriate assurances from relevant government entities such as the Bureau of Internal Revenue (BIR) should be secured and published either as part of the MSG's materiality discussions or after the completion of data collection, confirming that the MSG's materiality decisions did not omit any material payments and revenues. In accordance with Requirement 4.1.d, the Philippines should ensure that all extractive companies making material payments to the government comprehensively disclose these payments in accordance with the agreed scope. In accordance with Requirement 4.1.d, 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 EITI implementation, including revenues that fall below agreed materiality thresholds. Where this data is not available, the Independent Administrator should draw on any relevant data and estimates from other sources in order to provide a comprehensive account of the total government revenues. • To strengthen implementation, the Philippines is encouraged to reconsider the existence of infrastructure provisions and barter-type arrangements on an annual basis, to ensure that any such agreements are comprehensively addressed through EITI reporting in accordance with Requirement 4.3. • To strengthen implementation, the Philippines is encouraged to reconsider the existence of government transportation revenues from the extractive industries on an annual basis, to ensure that any such revenues, where material, are comprehensively disclosed in accordance with Requirement 4.4. • To strengthen implementation, the Philippines is encouraged to implement its plans to improve the timeliness of PH-EITI reporting by building on systematic disclosures and the PH-EITI online reporting for the extractives (ORE) tool, as encouraged under Requirement 4.8. • To strengthen implementation in accordance with Requirement 4.9, the Philippines may wish to use EITI reporting as an annual diagnostic of audit and assurance procedures and practices in government and companies in the extractive industries, with a view to making recommendations for reforms. 		

Revenue management (Requirements 5.1, 5.3)

Overview of progress in the module

Past PH-EITI reporting has made progress in ensuring the traceability of extractive revenues to the national budget by confirming that the Philippines operates a single Treasury account system and that all extractive revenues collected at the national level are recorded in the government budget. The only exception consists of revenues collected from extractive companies by subnational government entities. The national revenue classification system is published on the

Unified Accounts Code Structure website and the chart of accounts published on the Commission on Audit's website.

However, the 6th PH-EITI Report did not comment on the recording of extractive revenues in the national budget in 2018 in accordance with Requirement 5.1.a. The International Secretariat understands from consultations with government stakeholders that the Philippines continued to operate under the single Treasury account system in 2018, which was confirmed in the MSG's comments on the draft assessment based on assurances from the MGB, DOE and DBM at the MSG's 70th meeting in June 2021. It can therefore be concluded that the objective of transparency in the traceability of extractive revenues to the national budget has been fully achieved. While the DOE is entitled to retain up to 20% of the extractive revenues it collects to cover its own expenses, it appears that appropriations of these funds by the DOE is regulated as part of budget appropriations to the DOE annually, as part of the budget process.

The Philippines' EITI reporting has built on systematic disclosures on government websites to provide a strong basis of disclosures for strengthening public oversight of the management of extractive revenues, extractive revenue earmarks and key assumptions underlying the budget process. The 6th PH-EITI Report describes the management of allocations of royalties on mineral reservations, although it does not cover other revenue earmarks such as the allocations to the Malampaya Fund. There is evidence of significant public interest in the management of such earmarked extractive revenues, with allegations in the national press in 2017 of mismanagement of Malampaya Fund assets. While the Commission on Audit (COA) published a sectoral performance audit report on the management of the Malampaya Fund in 2018, there is no evidence of PH-EITI reporting referencing the findings of this audit report.

Nonetheless, the DBM and COA websites provide information on the government's budgeting and audit processes, including key budget documents such as the General Appropriations Act (GAA) and Budget Expenditures and Sources of Financing (BESF) and public sector audit reports. There appears to be strong interest on the part of industry and civil society stakeholders consulted in particular in using future PH-EITI reporting to improve transparency in the management and use of government extractive revenues.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
Distribution of extractive industry revenues (Requirement #5.1)	While the 6th PH-EITI Report does not comment on whether all extractive revenues are recorded in the national budget, previous PH-EITI Reports had confirmed that this was the case in previous years. The MSG's comments referenced assurances from the MGB, DOE and DBM at the MSG's 70 th meeting in June 2021 that this was still the case in 2018 and that no new extra-budgetary extractive industry revenues existed in 2018. It can therefore	Fully met

	be assessed that the broader objective of the requirement of ensuring the traceability of extractive revenues to the national budget has been fulfilled.	
Revenue management and expenditures (Requirement #5.3)	The MSG has addressed all aspects of this requirement, through PH-EITI reporting as well as relevant government websites. However, there is relatively little information in the public domain about the management of earmarked revenues, such as the Malampaya Fund, aside from a COA audit of the Fund in 2018.	Not assessed
New corrective actions and recommendations		
<ul style="list-style-type: none"> To strengthen implementation in accordance with Requirement 5.3, the Philippines could consider using its EITI disclosures to ensure greater transparency in the management of extractive revenues earmarked for specific programmes or geographic regions. In particular, to respond to public interest, the Philippines is encouraged to use its EITI disclosures to publicly clarify the methods for ensuring accountability and efficiency in the use of earmarked revenues such as those managed through the Malampaya Fund. The Philippines may wish to use its EITI disclosures to clarify the reasons for discrepancies in records of company payments to indigenous peoples (IPs) and propose reforms to improve record-keeping and reduce discrepancies in the recording of these company payments. 		

Subnational contribution (Requirements 4.6, 5.2, 6.1)

Overview of progress in the module

The Philippines has made progress in bringing transparency to extractive companies' direct payments to subnational entities (Local Government Units), although gaps remain in disclosures for 2018 due to technical challenges in the online LGU reporting system. Using the same materiality threshold as for national-level payments, the MSG has reconciled three types of revenue streams (business and property taxes) in the 6th PH-EITI Report. Eleven of the 73 material companies did not report (see *Requirement 4.1*).

However, the 6th PH-EITI Report includes data from only 57 of the 93 LGUs collecting revenue from the material companies in 2018 (Tables 36 and 37 of the report only list 51 LGUs, rather than the 57 reporting LGUs it refers to elsewhere). The Environment and Natural Resources Data Management Tool (ENRDMT), maintained by the DOF's Bureau of Local Government Finance (BLGF), was one of the successes of EITI implementation highlighted in the country's previous Validation in 2017. Indeed, the ENRDMT improved LGUs' recording of direct payments collected from companies and improved their reporting on these revenues to national government, effectively establishing a mechanism for systematic disclosure of LGUs' direct revenues, disaggregated by company and revenue flow. However, the 6th PH-EITI Report notes gaps in reporting from the ENRDMT, which government stakeholders explained was due to data loss in the migration of data between servers. This was the first year of PH-EITI reporting with such gaps in LGU reporting of direct subnational payments: for 2017, all 95 LGUs considered material in the 5th PH-EITI Report participated in EITI reporting through the ENRDMT. It appears that the BLGF is currently undertaking maintenance on the data management tool, although it is unclear whether the missing data on LGU direct revenues from the extractive industries could be located from government internal databases. The MSG's comments on the draft assessment highlighted

its efforts to source the missing data from LGUs but noted that these remain unavailable. Although the 6th PH-EITI Report presents the final reconciled total revenues by stream, it does not provide the detail of reconciliation reflecting both company and government disclosures, both prior and following reconciliation.

The Philippines has used its EITI reporting to provide a strong basis for assessing whether the transfer and management of subnational transfers of extractive revenues are in line with statutory revenue-sharing entitlements. The 6th PH-EITI Report addresses all aspects of the requirement, including by disclosing the detail of computations of subnational transfers, the funds made available, and the funds actually transferred reconciled with disclosures of amounts received by LGU. These disclosures exceed the minimum of Requirement 5.2 by including a reconciliation of subnational transfers with LGU receipts. However, the relatively small number of local government units for which subnational transfers are disclosed (11 LGUs receiving royalties from mineral reservations and 36 LGUs receiving mineral taxes) raises concerns about the comprehensiveness of data on subnational transfers of extractive revenues in the PH-EITI Report. Indeed, government officials consulted noted that 215 LGUs received subnational transfers in 2018, although this included non-extractive revenues such as forestry. The MSG's comments on the draft assessment explained that these disclosures were comprehensive of all LGUs that actually received subnational transfers in 2018, but calculations of the notional value of subnational transfers that should have been transferred to each LGU that did not receive anything in 2018 still do not appear accessible in the public domain. While the gaps in disclosures of notional subnational transfers appears to be beyond the MSG's control given gaps in the availability of data from DBM, the national relevance of this issue to public debate adds to the value of disclosures of subnational transfers that were not executed in practice. Despite the small number of LGUs for which information is provided, the PH-EITI has led reforms to the administration of subnational transfers, for instance in scheduling transfers by quarter rather than ad hoc based on company payments. This has improved the visibility of LGUs on their entitlements. While the Philippines' work on using the EITI to clarify subnational transfers of mining revenues is in many ways exemplary, the narrow coverage of disclosures in 2018 means that the objective of transparency in subnational transfers cannot yet be considered fulfilled.

The Philippines has made progress in providing a basis for public understanding of extractive companies' social and environmental contributions. The MSG has addressed all aspects of this requirement by disclosing mandatory social expenditures as part of their Social Development and Management Program (SDMP) in accordance with Requirement 6.1. The detail of the in-kind mandatory social expenditures and identity of non-government beneficiaries in 2018 are publicly disclosed. A basis has been provided for assessing extractive companies' compliance with their legal and contractual obligations to undertake social expenditures, and the granular information on social expenditures under SDMP have been published in open format through the PH-EITI's EDGe portal, although these are not yet systematically disclosed on government or company websites. There appears to be strong support from all three constituencies represented in PH-EITI for disclosures of mandatory social expenditures, given the prevalence of social conflict around mining and allegations of mismanagement of mandatory social expenditures. While the MSG's comments on the draft assessment argued that Requirement 6.1 should be assessed as "exceeded", the lack of disclosures related to the encouraged aspects of this requirement (including disclosure of voluntary social expenditures) and the lack of systematic disclosure of

mandatory social expenditure data to date means that this requirement cannot yet be considered to have been exceeded.

There do not appear to be any material payments to government related to the environment in the Philippines. While PH-EITI reported companies' contributions to five types of environmental funds, these are not payments to government (see Requirement 6.4). The MSG's materiality decisions related to selecting revenue streams are clearly documented and indicate that there were no material extractive company payments to government related to the environment in 2018.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement	Summary of progress in addressing the EITI Requirement	Secretariat's assessment
Subnational payments (Requirement #4.6)	The Philippines has made progress in addressing most aspects of this requirement, but the large number of non-reporting LGUs due to challenges in the ENRDMT system means that the objective of transparency in direct subnational payments cannot yet be considered fulfilled. The ENRDMT system represents an example of best practice in government systematic disclosure of direct subnational payments, which should provide disaggregated data on all subnational revenue flows once technical challenges in the system are addressed.	Mostly met
Subnational transfers (Requirement #5.2)	The Philippines has addressed most aspects of this requirement, although the relatively small number of local government units for which subnational transfers are disclosed raises concerns about the comprehensiveness of disclosures of subnational transfers of mining revenues in the 6 th PH-EITI Report. Indeed, subnational transfer data was only disclosed for 11 LGUs receiving shares of royalties from mineral reservations and 36 LGUs receiving shares of mineral taxes, which appears low relative to the number of LGUs entitled to receive shares of mineral revenues. While the MSG's comments noted that the 6 th PH-EITI Report's disclosures of subnational transfers were comprehensive of all LGUs that actually received such transfers in 2018, it does not comment on whether these disclosures are comprehensive of all LGUs that should have received subnational transfers according to the statutory revenue-sharing formula. It would have been necessary to disclose the notional amount of subnational transfers that should have been transferred in 2018, including to LGUs that did not receive their share in 2018. Therefore, the broader objective of enabling stakeholders at the local level to assess whether the transfer and management of subnational transfers of extractive revenues are in line with statutory entitlements cannot yet be considered to be fulfilled.	Mostly met
Social and environmental	The Philippines has addressed all aspects of this requirement by disclosing mandatory social expenditures as part of mining companies' SDMP. The MSG's comments confirmed that Annex 20 is comprehensive of all mandatory social expenditures by reporting companies in 2018, and the description of in-kind	Fully met

<p>expenditures (Requirement #6.1)</p>	<p>expenditures and identity of non-government beneficiaries is provided in Annex 20 to the 6th PH-EITI Report. There do not appear to be any mandatory environmental payments to government in 2018. While there are gaps in company reporting due to 11 material companies' failure to participate in the 6th PH-EITI Report, these gaps are covered under Requirement 4.1 given that they relate to overall company reporting. Therefore, the overall objective of providing a basis for assessing extractive companies' compliance with their legal and contractual obligations to undertake social and environmental expenditures can be considered fulfilled. Given that encouraged aspects of the requirement have not been addressed however, including the encouragement to disclose voluntary social expenditures, the requirement cannot yet be considered to have been exceeded.</p>	
<p>New corrective actions and recommendations</p>		
<ul style="list-style-type: none"> • In accordance with Requirement 4.6, the Philippines should ensure that all direct subnational payments collected by subnational government entities, where considered material by the MSG, are comprehensively and reliably disclosed to the public. • In accordance with Requirement 5.2.a, the Philippines should ensure public disclosure of all subnational transfers of extractive revenues, including all extractive revenues regardless of the materiality of companies from which the revenues are collected. These disclosures should include the transfer amount calculated in accordance with the relevant revenue-sharing formula and the actual amount that was transferred between the central government and each relevant subnational entity entitled to receive subnational transfers of extractive revenues in the year(s) under review. The Philippines may wish to undertake a comprehensive scoping of all local government units entitled to receive subnational transfers (shares of national wealth) from mineral taxes and from royalties on mineral reservations, to ensure that PH-EITI disclosures of subnational transfers are comprehensive of all transfers of extractive revenues to local governments. • To strengthen implementation, the Philippines is urged to reconsider the existence and materiality of environmental payments to government on an annual basis, to ensure that any material environmental payments to government are comprehensively and reliably disclosed in accordance with Requirement 6.1.b. 		

Background

Overview of the extractive industries

An overview of the extractive industries is accessible on the [country page](#) of the EITI website for the Philippines.

History of EITI implementation

The history of implementation is accessible on the [country page](#) of the EITI website for the Philippines.

Explanation of the Validation process

An overview of the Validation process is available on the EITI website.¹¹ The [Validation Guide](#) provides detailed guidance on assessing EITI Requirements, while the more detailed [Validation procedure](#) include a standardised procedure for undertaking Validation by the EITI International Secretariat.

The International Secretariat's country implementation support team include Gay Ordenes and Edwin Warden, while the Validation team was comprised of Lydia Kilpi and Alex Gordy.

Confidentiality

The detailed data collection and assessment templates are publicly accessible, on the internal Validation Committee page here.

The practice in attribution of stakeholder comments in EITI Validation reports is by constituency, without naming the stakeholder or its organisation. Where requested, the confidentiality of stakeholders' identities is respected, and comments are not attributed by constituency.

Timeline of Validation

The Validation of the Philippines commenced on 1 April 2021. A public call for stakeholder views was issued on 1 March 2021. Stakeholder consultations were held virtually on 12-23 April 2021. The draft Validation report was finalised on 14 May 2021. Following comments from the MSG expected on 11 June 2021, the Validation report will be finalised for consideration by the EITI Board.

¹¹ See <https://eiti.org/validation>

Resources

- Validation data collection file – [Stakeholder engagement](#)
- Validation data collection file – [Transparency](#)
- Validation data collection file – [Outcomes and impact](#)
- Bantay Kita’s submission to the public call for stakeholder views: [A Rising Tide: Shadow Report on Civic Space in the Philippines](#).

Annex A: Assessment of Requirement 1.3 on civil society engagement

Methodology

Due to concerns expressed by stakeholders related to the enabling environment for civil society engagement in the EITI, the International Secretariat's Validation team has conducted a detailed assessment of the Philippines' adherence to the EITI Protocol: Participation of civil society.¹²

The assessment follows the Validation Guide, which defines guiding questions and related evidence that should be considered in cases where there are concerns about potential breaches of the civil society protocol.¹³ For contextual purposes, the Validation provides an overview of the broader enabling environment for civil society participation in the Philippines' extractive sector. The assessment seeks to establish whether legal or practical restrictions related to the broader enabling environment have in practice restricted civil society engagement in the EITI in the period under review. It focuses on the areas where there are concerns regarding adherence with the civil society protocol.

A call for stakeholder views on progress in EITI implementation was launched on 4 March 2021, in accordance with the Validation procedure. Civil society coalition Bantay Kita submitted on 31 March a report documenting developments in civic space in the period under review in the Validation.¹⁴ The assessment draws on the information provided in that report, the Stakeholder engagement file, and stakeholder consultations.

Overview of broader environment for civil society engagement

In general, civil society in the Philippines is robust and diverse. The Philippines fares better than most of its Southeast Asian peers on basic liberties.¹⁵ The legal framework, including the constitution, guarantees freedom of expression, assembly and operation.¹⁶ However, the period under review in this Validation (October 2017 to April 2021) has seen a marked decline in civic space in the Philippines. This is captured by indicators such as the CSO Sustainability Index, Freedom in the World reports¹⁷, Civicus Monitor¹⁸, and a report by the UN High Commissioner for Human Rights.¹⁹ Media freedom has also been curbed in recent years by both regulatory obstacles and threats of violence.²⁰ In the period under review, measures to ensure national security and cohesion appear to have been prioritised over safeguarding civic space.

¹² <https://eiti.org/document/eiti-protocol-participation-of-civil-society>.

¹³ <https://eiti.org/document/2021-eiti-validation-guide>.

¹⁴ A Rising Tide: Shadow Report on Civic Space in the Philippines:

<https://pheiti.dof.gov.ph/download/bantay-kita-shadow-report-on-civic-space-in-the-philippines/?wpdmdl=1976>.

¹⁵ See e.g. 2019 CSO Sustainability Index for Asia:

<https://www.fhi360.org/sites/default/files/media/documents/csosi-asia-2019-report.pdf>.

¹⁶ <https://www.icnl.org/resources/civic-freedom-monitor/philippines>.

¹⁷ <https://freedomhouse.org/country/philippines/freedom-world/2021>.

¹⁸ <https://monitor.civicus.org/country/philippines/>.

¹⁹ <https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>.

²⁰ Reporters Without Borders: <https://rsf.org/en/philippines>.

“Red-tagging”, the practice of labelling a person or an organisation as a supporter of communist terrorists, has been deployed by government actors to target individuals and organisations who are critical of government policies and practices. Coupled with impunity related to extra-judicial killings, this seems to have created an environment of fear among actors critical of the government and/or mining operations, especially when the interests of local government officials and extractive companies are aligned. Red-tagging is not a new phenomenon in the Philippines, but the practice appears to have become more common in recent years. High-level government officials have publicly undermined human rights defenders.²¹ According to Global Witness, the Philippines is one of the deadliest countries for environmental and land defenders, who were in many cases working on mining issues.²²

The Philippines has in recent years introduced a series of legal and regulatory tools that affect civic space, including the 2020 Anti-Terrorism Act (ATA). According to critics, the ATA’s ambiguity may lead to actors being associated with terrorism without due process. Similar concerns are related to Executive Order 70 from 2018. It seeks to bring the communist insurgency to an end, but has in practice often led to the red-tagging of individuals and organisations. SEC Memorandum Circular 15-2018 increased the SEC’s oversight of NGOs and introduced new reporting requirements. Memorandum circulars introduced by DILG in 2019 and 2021 define legitimate activities for CSOs to engage in at the local level and mandate them to seek accreditation from local authorities, including local police and armed forces. A more comprehensive review of these developments is available in the report submitted by Bantay Kita.

The full impact of these regulatory changes is yet to be seen. The trend of declining civic space appears to have accelerated in 2020. The Philippines’ rating in the 2021 Freedom in the World study on questions related to freedom of expression and assembly declined compared to the 2020 report.²³ Civicus Monitor downgraded the Philippines’ rating from ‘obstructed’ to ‘repressed’ in December 2020.²⁴

Expression

Civil society engaged in the EITI is actively expressing views on issues related to oil, gas and mining sector governance through statements and other publications and at MSG meetings. In particular, the civil society coalition Bantay Kita regularly publishes statements, many of which are critical of government and company policies and practices. Based on stakeholder consultations and available documentation, there do not appear to be topics within the EITI Standard that civil society were restricted to express their views on. However, a consulted stakeholder noted that their organisation had opted to leave out quarrying from the scope of a study related to subnational EITI implementation. The stated reason was that the quarry was owned by a congressman, whose “ability to kill is known”. In an environment where the highest levels of government have condoned extra-judicial killings, civil society activists substantially engaged in the EITI have felt particularly intimidated by threats from elected officials.

²¹ <https://www.omct.org/en/resources/reports/ill-kill-you-along-with-drug-addicts-president-dutertes-war-on-human-rights-defenders-in-the-philippines>; FIW 2021,

²² <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>.

²³ See questions D1, D4 and E1: <https://freedomhouse.org/country/philippines/freedom-world/2021>.

²⁴ <https://findings2020.monitor.civicus.org/rating-changes.html>.

In certain regions of the country civil society actors substantively engaged in the EITI feared reprisals following from expressing critical views related to the award and renewal of licenses (EITI Requirement 2.2) and the environmental impact of mining (EITI Requirement 6.4). At least one civil society actor on the MSG has been red-tagged as a result of mining-related activism. Local politicians had “lambasted” him for his views at election rallies. This had led to harassment and a fear for his family’s safety. According to the representative, armed men had entered his house. Bantay Kita provided additional examples of members of the coalition having been red-tagged within the period under review. In many cases organisations and individuals are engaged in different activities, and it is not possible to establish whether red-tagging is a consequence of expressing views related to topics covered by the EITI Standard.

However, for example, the OHCHR report confirms the red-tagging of activists critical towards mining projects. The Secretariat therefore finds it plausible that red-tagging of civil society actors engaged in the EITI may be related to expressing critical views about the award of mining licenses or the environmental impact of mining. In light of the overall context, it appears credible that red-tagging exercised by local government authorities represents a threat to the health and safety of some civil society actors engaged in the EITI and may have restricted free expression on topics related to the EITI. The lack of measures by central or local government officials to mitigate these risks is a concern. To date, there is no indication of civil society actors having been charged under the ATA as reprisal for expressing views or undertaking activities related to the extractive sector.

Consulted media representatives confirmed that there were sensitive topics related to the extractive sector, in particular beneficial ownership, relocation of communities and the role of indigenous peoples in extraction. However, it seems that the media does continue to cover these topics. Validation was not able to identify cases where a journalist or a media organisation had suffered reprisals following coverage of a topic related to the EITI Standard. However, the Secretariat recognises that the chilling effect of the killings of journalists and potential legal repercussions is difficult to measure. It is also challenging to establish whether reprisals are feared from the part of government or non-governmental actors such as companies and indigenous leaders.

Operation

At the central government level, there is no indication of civil society’s activities related to the EITI having been hindered by administrative, reporting or regulatory requirements. In 2019-2021, the government introduced new requirements related to NGOs’ reporting and funding (see pp. 19-21 in Bantay Kita’s report).

In February 2021, the Department of Foreign Affairs (DFA) issued Note Verbal 2021-0592, which requires foreign governments to direct funding to NGOs through the DFA. The note verbal is considered by civil society as potentially restrictive, especially in the context of other recent changes that increase government oversight of civil society. However, consultations with stakeholders suggest that this requirement is yet to be enforced. Bantay Kita and several of its members receive foreign funding from, for example, USAID.

However, requirements related to accreditation at the local level appear to have in some cases led to delays in EITI-related activities. In 2020, Bantay Kita member organisation CCAGG, which implements Project DATA in the Province of Abra, experienced denial from the local government unit to participate in establishing a subnational EITI process.

As described in more detail in the next section (*Association*), consulted stakeholders noted that organising EITI-related activities in mining regions, requires close coordination with local government officials. Stakeholders noted that this often required courtesy calls to relevant government officials and companies. At least on one occasion in 2018, Bantay Kita was declined such a courtesy call by the Mayor of Palawan. This had hampered Bantay Kita's ability to organise activities.

One MSG member also noted that their request to be accredited by the DENR had been delayed by three years. The representative suspected that this was because DENR preferred not to have a CSO with technical capacity join the Mine Monitoring Team. This claim has not been confirmed with DENR.

Several consulted civil society representatives noted that there was an ambience of fear among activists working on mining issues. There is no evidence of the government having provided protective measures to civil society actors engaged in the EITI, who experience threats related to, for example, red-tagging. When asked about this, a civil society representative noted: "We need protection *from* the government". Consulted stakeholders noted that local police were under that mayor's authority and as such aligned with the local government. This led to the local police being viewed as a threat, rather than a source of protection against retaliation by local office holders.

Consulted government stakeholders who are engaged in the EITI, were open to exploring if the central government could provide protection to civil society actors working on EITI-related activities. For example, DILG already partners with some civil society organisations. Consulted civil society actors noted that carrying a letter from a government agency helped avoid harassment from security forces. Currently, MSG members had no documentation to demonstrate their affiliation with the EITI.

Association

Bantay Kita facilitates communication among civil society actors on EITI-related matters. Civil society's communication and cooperation on the EITI appears to be active and effective. Bantay Kita has members from different parts of the Philippines. Civil society MSG members, who represent different regions, liaise with broader civil society through regular subnational consultations.

Consulted civil society representatives noted that Bantay Kita had ceased to hold mining-related events in certain regions due to security concerns. Consulted stakeholders noted that in these regions local authorities would collect the identities of participants, which would put them at risk. It was noted that organising meetings and activities in areas with mining operations (such as Bayog, Zamboanga del Sur and Carrascal, Surigao del Sur) required coordination with local

authorities, the mining company and local communities. During the current administration, the military had introduced stricter procedures.

Consulted civil society stakeholders noted that police and armed forces were sometimes present at subnational Bantay Kita events, which created a threatening atmosphere and affected the debate. At one of the Bantay Kita's orientations for Project DATA in San Jose, Dinagat Islands in November 2020, four police officers attended part of the event. Civil society participants suspected that they were observing whether the participants expressed views against mining or the government. According to civil society stakeholders, this had curtailed the discussion. After the police officers left, participants had participated in the discussion more openly.

Consulted stakeholders and the Bantay Kita shadow report noted that the surveillance of civil society actors involved in governance work had increased. According to civil society representatives, many had started to use encrypted applications for communicating with each other. However, there is no indication that this has affected civil society's communication or cooperation on EITI matters to date. Also, it was not possible to confirm that the government was monitoring the communications of civil society engaged in the EITI.

Engagement

Civil society actively participates in MSG meetings, technical working groups and EITI outreach. Bantay Kita uses EITI data for analysis and advocacy and organises its own outreach activities. MSG meeting minutes demonstrate that civil society is able to express its views freely at MSG meetings. Some consulted civil society representatives noted that the government and companies were not always willing to discuss challenges related to the local impact of mining at the MSG. However, there is no indication of civil society not being able to influence the EITI's agenda and work as an equal partner. Available evidence suggests that civil society has adequate technical and financial capacity to engage in the EITI. Further information about civil society engagement is available in the Stakeholder engagement file (see *Resources*).

Access to public decision-making

Civil society is leveraging EITI data for analysis and advocacy related to extractive sector governance. For example, Bantay Kita has used EITI data to analyse and communicate the impact of the TRAIN Law on mining revenues.²⁵ Consulted civil society representatives noted that the EITI was not actively used by the government as a platform for seeking stakeholder views on planned reforms related to the extractive sector. However, it appears that civil society is able to freely conduct advocacy towards the Congress. Consulted civil society stakeholders noted that access to information and decision-making was more challenging at the local level. In some areas, the local government favoured certain CSOs over other as members of consultative bodies. Stakeholders also noted shortcomings in the implementation of policies related to community consultations on extractive projects. Overall, civil society appears to be able to use the EITI process to promote public debate and to engage in activities and debates about natural resource governance.

²⁵ <http://www.bantaykita.ph/for-infographics/is-it-enough>.

Assessment

Civil society is actively engaged in the EITI, particularly through the Bantay Kita coalition. Civil society influences the scope of the EITI, uses EITI data for advocacy and analysis and actively participates in the MSG's work. PH-EITI and Bantay Kita have undertaken commendable efforts to ensure that stakeholders at the subnational levels have opportunities to engage in EITI implementation.

The enabling environment for civil society engagement in the EITI in the Philippines appears to be in flux. The impact of the Anti-Terrorism Act, local registration requirements and government oversight of foreign funding is still unfolding. Data from the period under review demonstrates that overall civic space has declined in the Philippines. Available evidence and stakeholder consultations suggest that this has had an impact on civil society's ability to work on EITI-related topics and undertake EITI-related activities. While evidence of this impact is mostly anecdotal, set against the broader picture of developments in the Philippines, it appears credible that there are obstacles to undertaking EITI-related activities in certain regions of the country, in particular on the island of Mindanao in areas with active mining operations. As demonstrated above, these obstacles appear to have had an adverse effect on the ability of civil society actors engaged in the EITI to express their views, operate and associate on issues related to the EITI process, in particular in regions with mining activities. This is partly related to the fact that in the Philippines, the EITI and the civil society constitution have actively reached out to stakeholders in extractive regions and sought to ensure their engagement in the EITI.

In accordance with Requirement 1.3, the Government of the Philippines is required to ensure that there are no obstacles to civil society participation in the EITI process. The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI.

The government should ensure that there are no obstacles for civil society to organise EITI-related activities, such as events and meetings, in any region of the country. Extractive companies engaged in the EITI are encouraged to express their support to civil society's freedom of expression and operation, also when engaging with local government officials.

The government is encouraged to undertake measures to prevent civil society actors from being red-tagged for expressing views related to oil, gas or mining governance. In the event that civil society actors engaged in the EITI experience threats or harassment for expressing views about the extractive industries or engaging in other EITI-related activities, the government is expected to undertake measures to protect these actors and their freedom of expression.

The government, in collaboration with the MSG, is encouraged to consider practical solutions for ensuring that civil society can engage in the EITI freely in all regions of the country. This could involve accreditation and supporting documentation from the government agencies involved in the EITI and raising awareness about the EITI among local government officials, the police and armed forces. In areas where civil society is refraining from organising events due to security concerns, the MSG could consider stepping up EITI outreach. The MSG is encouraged to regularly monitor developments regarding civil society's ability to engage in the EITI. The government, in

collaboration with the MSG, is encouraged to document the measures it undertakes to remove any obstacles to civil society participation in the EITI.

In accordance with the EITI protocol: Participation of civil society, civil society MSG members are encouraged to bring any ad hoc restrictions that could constitute a breach of the protocol to the attention of the MSG. The MSG is expected to document how it addresses these concerns.