ADVOCACY AND SUPPORT FOR THE INTRODUCTION OF EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI) IN THE PHILIPPINES

Philippines Poverty Environment Initiative
PPEI COMPONENT 3: EITI Advocacy Final Report

Philippines Poverty Environment Initiative (PPEI) promoting the Extractive Industries Transparency Initiative (EITI): a project of the DILG with support from the UNDP-Manila (2011)

By Donna Z. Gasgonia
EXECUTIVE SUMMARY

The Poverty Environment Initiative (PEI) is a joint project of the United Nations Development Programme and the United Nations Environment Programme (UNDP–UNEP). The Philippines PEI (PPEI) is being implemented by the Government of the Philippines through the Dept. of the Interior and Local Government with the Dept. of Environment and Natural Resources (DENR), and the Dept. of Finance (DOF) as responsible partners supported by the UNDP – Manila. PPEI supports poverty reduction and inclusive development by integrating pro-poor and environmental concerns into development planning and economic decision-making. Revenue collection enhancement and equitable/judicious sharing of national wealth benefits are being studied under the four components of PPEI.

PPEI Component 3 on EITI advocacy conducted lobbying and advocacy campaigns with the national and local governments and other key stakeholders, such as the Chamber of Mines of the Philippines (COMP) for the adoption and implementation of the Extractive Industries Transparency Initiative (EITI). The status and reasons for the delay in adopting EITI in the Philippines were analysed to determine strategies for its eventual implementation. Desk and field research, key informant interviews (KII), focus group and round table discussions (FGD, RTD) as well as participation in non-PPEI organized meetings and workshops were undertaken to gather information and share views about EITI and the general objective of poverty reduction in the context of achieving the MDG.

The delayed and oftentimes incomplete remittance of the local government units (LGU) share from mining and other extractive industry revenues were confirmed. This reduces the capacity of LGUs to provide basic services to their constituents. More importantly it debilitates the capacity of LGUs for disaster preparedness, rescue and relief operations. Although more creative and enterprising LGUs found alternatives to respond to the development needs of their communities, the immediate and accurate release of the LGU share in the national wealth would improve LGU performance in poverty reduction to achieve the MDG. Lessons learned from failed or closed mining operations have emphasized the need for sustainability, now recognized as an essential element for development planning by LGU officials. An emerging concern of LGUs hosting mining operations is the increasing population attracted by relatively good employment opportunities, directly and indirectly connected with mining.

Previous and continuing efforts of the DENR, especially its Mines and Geoscience Bureau (MGB) with the COMP fell short of the issuance of the unequivocal statement to implement EITI by the Philippine President. However, administrative measures have been put in place to increase transparency in the valuation and collection of mining taxes and facilitate the release of the LGU share. International linkages through past and current officials of the Dept. of Foreign Affairs and the UNDP–UNEP have maintained a bridge for eventual EITI implementation in the Philippines.

Civil society organizations (CSOs) at the national level have been largely critical of the mining industry and openly advocate for a total ban on mining. In contrast, civil society organizations at the local level, especially community-based organizations located in the mining impact areas, have acknowledged the significant role of the mining operations in generating socio-economic benefits, mostly from the MGB required Social Development Management Program (SDMP) of mining companies and the increased family income and employment.

EITI is perceived as a tool for poverty reduction that links poverty and environment concerns through transparency and governance. Its immediate adoption and implementation through a Presidential Order complies with the EITI Sign-Up requirements and simultaneously installs the mechanism in the government bureaucracy. The national government agencies, led by the DENR and the DILG, the LGUs led by those hosting
mining operations, the private sector led by COMP and the CSOs led by local CSOs and possibly the PBSP look forward to EITI in 2012.

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ACKNOWLEDGMENT

This report would not have been possible without the support of the UNDP, DILG, DENR and COMP and the many individuals, who in their private and public capacities, shared their wisdom, experiences and time.
1. BACKGROUND

1.1 Mission Statement for Component 3

Enabling conditions at the national level are developed to promote the identified opportunities for sustainable resource and environment management for poverty reduction.

1.2 Objectives

General Objective

To bring about the introduction/implementation of the Extractive Industry Transparency Initiative (EITI) in the Philippines

Specific Objective

To conduct lobbying and advocacy campaigns with the national (executive & legislative) governments and local governments, and other key stakeholders, particularly with the Chamber of Mines of the Philippines (COMP) which has advocated for the installation of the EITI in the Philippines since 2005, and energy industry players.

In the conduct of lobbying and advocacy campaigns, a framework for the operationalization and institutionalization of the EITI and transparency in governance will be presented for discussion.

1.3 Philippine Poverty Environment Initiative - PPEI

The Poverty Environment Initiative in the Philippines (PPEI) supports poverty reduction and inclusive development by integrating pro-poor and environmental concerns into development planning and economic decision-making. PPEI is not designed as a stand-alone project as such, but rather it aims to provide a programmatic framework for targeted support to national and local level planning, budgetary and economic decision-making processes through on-going UNDP supported programmes. Revenue collection enhancement and equitable/judicious sharing of natural wealth benefits are being studied under the four components of PPEI.

The analysis and recommendations are intended to demonstrate how the resources of the Government of the Philippines (GOP) are currently used, and how to improve resource utilization to achieve sustainable development. The exercise will serve as a tool to enable the GOP to improve the prioritization, efficiency, and effectiveness of all public resources to support the environment sector.

Environmental degradation in the Philippines is hugely damaging to poor people’s livelihoods, as well as to the economy as a whole. The Department of Environment and Natural Resources (DENR) has declared that the Philippines suffers from severe deforestation, declining fish production and overflowing solid waste in urban areas. The poor notably suffer disproportionately more from exposure to indoor and outdoor pollution, especially, water
pollution. The Philippines continues to suffer from environmental hazards such as floods, typhoons, and climate change, which also affect poor groups disproportionately. This has a potential negative impact on agricultural productivity.

The challenge is to reverse the persistent poverty situation and turn the country’s environment and natural resources as capital for poverty reduction through equitable benefit sharing from the sustainable management of environment and natural resources (ENR).

Governance factors largely explain the continuing presence of both poverty and environmental problems. From the perspective of poor people, governance deficits mean that – irrespective of the quality of environmental assets to sustain livelihoods, or of the particular threat posed by environmental hazards – the poor usually lose out on a proportionate share of benefits from natural resource wealth. This is exacerbated by the ‘capture’ of these resources (and associated claims and markets) by local elites as well as by corporate entities. And even of the national government itself, at the expense of LGUs.

For instance, the general experience in extractive industries in the Philippines proved quite detrimental to local areas and communities, leaving behind only a degraded environment and limited development impacts. The GOP imposed a social tax from ENR exploitation proceeds that have contributed to improving some local infrastructure but generally not towards activities to promote sustained economic growth of the local areas. Consequently, once operations decline, town centers resemble ‘ghost towns’ where the local communities have few remaining economic opportunities. This could be addressed by a stronger policy on benefit-sharing of revenues now through a review of the social development management plans (SDMP) or corporate social responsibility (CSR) actions of corporations without waiting for the rehabilitation plan to be implemented when their operations cease. The SDMP is already imposed when the mining operation starts. The Mine Rehabilitation Fund is created after that.

One of the primary objectives of the SDMP is to prepare the community for the eventual demise of the mine. Thus, the livelihood programs should not be dependent on the mining operations. Lessons learned from the past showed that if these livelihood projects are dependent on the mining operations as the sole market of the goods and services, then there would be no sustainability.

There is need to ensure that the revenues generated from existing projects are equitably shared with communities and invested back to preserve social and natural capital, while effectively enforcing regulatory measures to prevent and minimize the environmental impacts of the extractive industry, particularly, mining. For both mines and other sources of natural resource revenues, there is debate as to what extent these revenues have been effectively used for poverty reduction.

The Extractive Industries Transparency Initiative (EITI) is a global voluntary initiative which aims to support good governance and transparency in extractive industries like mining. Donors have been talking to the DENR about EITI sign up since 2005. The Chamber of Mines of the Philippines (COMP) has also been strongly supportive of EITI. At the time, the World Bank actively pursued the participation of the Philippine government in the EITI.
There was a misconception that the Rapu-Rapu incident slowed down progress in introducing EITI in the Philippines. However, the delay in the introduction of the EITI in the Philippines was mainly due to the realization that the EITI action required the support and cooperation of other government agencies, primarily the Department of Finance (DOF Bureau of Treasury/Btr and Bureau of Internal Revenue/BIR) rather than the opposition to mining in Rapu-Rapu published in newspapers. Agencies, other than the DENR, had the data needed for EITI action.

In 2007, technical assistance for a pilot project on the EITI was provided by the USAID project EMERGE\(^3\) for the improvement of transparency of payments and receipts of mining taxes and other payments. The project’s objectives were: (1) to develop a template for conducting an EITI-aligned audit of tax payments by mining companies; and, (2) to stimulate the audit and reporting process for a single mining operation. The Philex Mining Company’s Padcal mines in Ictogon, Benguet and the Rio Tuba Nickel Mining Company’s operations in Bataraza, Palawan were selected as case studies.\(^4\)

More recently, a number of government departments agreed to support EITI. However, the process has been delayed by some legal and other technicalities about putting mining revenue information in the public domain. There is a need for some lobbying and advocacy of relevant government departments to ensure that these final outstanding issues can be overcome so that EITI can be formally introduced in the Philippines.

### 2. SCOPE OF WORK

#### 2.1 Outputs

Component 3 has three outputs:

- **Inception Report**
  - current status of EITI in the Philippines
  - reasons for delay in its approval and introduction
  - Sources – DENR and Chamber of Mines of the Phil (COMP)

- **National Road Map - NRM**
  - Draft Advocacy strategy to introduce EITI; addressing the reasons for delay; building on strengths and gains of previous EITI activities
  - Workshop leading to an ad hoc Multi-Stakeholder Group that inputs to draft and affirms NRM

- **Implementation strategy to support NRM**
  - RTD/FGD to draft Work & Financial Plan to implement NRM
  - DENR, DOE for National Government; DILG for LGUs
  - COMP for industry to bring in energy industry
  - NAPC for Core Civil Society Orgs (CSOs); integrate with NGAs/LGUs

#### 2.1.1 Inception Report –

The Inception Report described the current status of EITI in the Philippines and identified the reasons for the delay in the approval and introduction of the EITI. This involved research, analysis and compilation of data with key informant interviews (KII) of officials of the DENR/Mines and Geosciences Bureau (MGB) and officers of the COMP, who had been actively advocating for the introduction of EITI in the Philippines.
2.1.2 National Road Map –

The National Road Map (NRM) described the advocacy strategy for the introduction of EITI in the Philippines in order for it to become an EITI Candidate Country. It was formulated with key decision-makers leading to the formation of an ad hoc Multi-Stakeholders Group (MSG). A background paper for the NRM was prepared by the consultant.

The forum for gathering these key players was a workshop that presented EITI as a tool for good governance, transparency and poverty reduction. Although the DENR/MGB and the COMP designed the workshop with the consultant, it was hosted by the Department of the Interior and Local Government (DILG) to bring in the important players for the road map construction: DOF (Treasury and BIR), Department of Budget and Management (DOF) for the actual disbursement of funds, DILG-BLGF (Bureau of Local Government Finance), and the various LGU leagues.

A focus group discussion and key informant interviews followed the workshop to fine tune the NRM. The views from other government agencies, such as the National Anti-Poverty Commission (NAPC) and the National Commission on Indigenous Peoples (NCIP), as well as key industry players were gathered then.

Due to time constraint, the NRM could not be accommodated for discussion at the Local Government Code Anniversary on 10 October 2011.

2.1.3 Work and Financial Plan for the implementation of the National Road Map –

The Work and Financial Plan (WFP) for the implementation of the NRM identified the strategies to meet the objectives indicated in it leading to the introduction of the EITI. It charted a series of recommended activities to comply with the Sign-Up Requirements for the Philippines to become an EITI Candidate Country. The National Road Map and a draft WFP was presented in a Round Table Discussion (RTD) on 15 December 2011 at the University of Asia and the Pacific (UA&P)5.

The RTD generally validated the proposed NRM and WFP. Moreover, the resource person, Dr. Bernardo Villegas, Vice President of the UA&P, injected a fresh perspective in the advocacy for EITI – the importance of micro-economic analysis of the impact of extractive industries in the poverty situation of communities.

An EITI entity – whether it be the Philippine EITI Secretariat, Office, or Multi-Stakeholder Group (MSG) emerged as a key element for EITI implementation in the Philippines. Once more, due to time constraint, the RTD participants could no longer be formed into an ad hoc EITI Multi-Stakeholder Group (MSG).

The RTD aimed to get the favourable endorsement or commitment of the three LGU officials to champion the introduction of the EITI among LGUs, and in their respected Leagues.5 Another goal of the RTD is to convince the LGU officials to become part of the ad hoc MSG, and eventually the formal MSG in accordance with the Sign-Up Requirements. Since only a representative of the Governor of Benguet province was able to attend the RTD, the consultant had to conduct a site visit to get the sentiment of local government officials, a specific mining company and the people. The selected site was Toledo City, Cebu.
2.2 Process, Duties and Responsibilities

The consultant was guided by the following process:

Identify the current status of EITI in the Philippines and the reasons for the delay in its approval and introduction.

a. Facilitate the development of a National Road Map for the introduction of the EITI, with the DENR and the COMP as the initial champions of the government and business sectors, respectively

b. Work with the DENR, COMP, and other key players for Government-Business-Civil Society collaborations or Public-Private-Partnerships (PPP) to develop an advocacy strategy through a National Road Map for the introduction of the EITI

c. Facilitate multi-stakeholder actions, led by the DENR and COMP, to undertake the National Road Map for the issuance of a public statement by the GOP that the GOP intends to implement the EITI and make the Philippines an EITI Candidate Country; the public statement to be endorsed by an ad hoc Multi-Stakeholder Group

In the delivery of these outputs, the consultant’s duties and responsibilities are:

d. To report directly to the DENR, supported by the COMP, DILG-BLGD PPEI project team and UNDP

e. To design workshop activities, facilitate, synthesize and provide approaches to key stakeholders in agencies and relevant public sector agencies, private sector (especially service providers), and civil society representatives

f. To organize a seminar/workshop and a round table discussion (RTD) or focus group discussion (FGD) at key stages in the process to facilitate public-private support for EITI introduction in the Philippines

g. To use a significant element of quantitative analysis, evidence-based findings and an emphasis on making clear recommendations based on a thorough, objective analysis with a clear definition of the environment sector used in the analysis

2.3 Duration

The period of consultancy was originally for three months, 15 August 2011 to 9 November 2011. However, due to unforeseen events the period was extended up to 31 December 2011.
2.4 Activities and Time Table

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<td>Research, compilation and analysis of relevant materials with Key Informant Interviews/KII</td>
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<td><strong>Inception Report</strong> with Current Status of EITI and reasons for delay in its introduction</td>
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<td><strong>Background Paper/EITI Advocacy Strategy</strong> as reference material for the Workshop towards drafting an advocacy strategy for EITI implementation</td>
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<td><strong>Workshop/Conference</strong> on Good Governance, Transparency and Poverty Reduction: introducing EITI in the Philippines prior to LGC Anniversary. <strong>Output: National Road Map</strong></td>
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<td><strong>KII or Focus Group Discussion/FGD</strong> for an ad hoc Multi-Stakeholder Group (MSG) endorsing/owning the NRM inputs to <strong>draft Implementation Strategy WFP</strong></td>
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<td><strong>Round Table Discussion/RTD</strong> to validate the National Road Map indicating the Implementation Strategies for 201 with a Work and Financial Plan</td>
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<td><strong>Focus Group Discussion/FGD</strong> on-site on ad hoc MSG and key LGUs regarding the draft Implementation Strategy WFP</td>
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<td><strong>Implementation Strategy</strong> for EITI referring to Sign Up requirements for the Philippines to become an EITI Candidate Country</td>
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<td><strong>Terminal Report</strong></td>
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2.5 Coordination, Assistance, Reporting

The consultant reported to, was guided and assisted by the following officials:

**From the DENR**

- Secretary Ramon J.P. Paje
- Director Edwin Domingo, Foreign Assisted and Special Projects Office
- Director Leo Jasareno, Mines and Geosciences Bureau
- Chief Manuel Banaag, MGB Mineral Economics, Information and Publication Division
- Teresa Mañalac, MGB Mineral Economics Section
- Assistant Secretary Marlo Mendoza, Special Projects
- Assistant Secretary Roberto Oliva, Lands
- Director Loreto Alburo, MGB-Region 7
- Eduardo Mayahay, MGB Region 7

**From the DILG**
Director Manuel Q. Gotis, Bureau of Local Government Development (BLGD)
Assistant Director Anna Liza, BLGD
Chief Rosanna Bautista, Local Fiscal Resource Development Division
Belinda Castro
Esperanza

From the Chamber of Mines of the Philippines

Nelia Halcon, Executive Vice President
Ambassador Delia Albert, former Philippine ambassador to Germany

From the PPEI Management Office

Paul John Barrosa, Project Management Officer

From Carmen Copper Corporation for the Site Visit

Josue Bordon, Assistant Vice President, Administration
John Salcedo, Community Relations

The consultant reported to:

Director Manuel Gotis, DILG-BLGD
Director Edwin Domingo, DENR-FASPO
EVP Nelia Halcon, Chamber of Mines of the Philippines
Team Leader Corazon Urquico, UNDP Poverty Reduction and Support for the MDGs
3. EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

3.1 Concept of EITI

Launched in 2002, EITI is a global standard for transparency in the extractive sector. It involves the reconciliation of company payments with government receipts by an independent administrator and the disclosure of that information to the public.

The objective of the EITI is to ensure that accurate figures about revenues are publicly available. Specifically, it will (i) identify potential discrepancies between payments and receipts, and (ii) investigate and address the underlying causes.

The process is managed by government, company and civil society stakeholders.

As of October 2010, there are 33 EITI implementing countries (28 candidate countries and 5 compliant countries).
EITI is managed globally by three bodies:

- **EITI International Board** which consists of representatives from EITI implementing country governments, extractive companies, civil society groups, investors, and supporting country governments.
- **EITI International Secretariat** based in Oslo, Norway which is responsible for turning policy decisions of the EITI International Board into action and coordinating efforts to implement EITI globally (including support to stakeholders in implementing countries and monitoring progress).
- **EITI Members Meeting** at the EITI International Conference which is the highest governing body; the last conference took place in Paris in March 2011.

### 3.1.1 Global roots

**Publish What You Pay** 10 (PWYP) is a global network of civil society organizations campaigning for transparency in the extractive industries. Their website heading declares that “[s]ecretcy in the energy and mining sectors has put the brakes on development in resource-rich countries around the world.”

PWYP was a result of an exposé of the complicity of the oil and banking industries in plundering the state assets of Angola during its 40 year civil war. The exposé was published as a report entitled “A Crude Awakening” in December 1999 by the Global Witness. The report issued a call for oil companies in Angola to “publish what you pay.” Early founder-members were mostly UK-based groups. Among them were CAFOD, Open Society Institute, Oxfam GB, Save the Children UK and Transparency UK. They were joined later by the Catholic Relief Services, Human Rights Watch, Partnership Africa Canada, Pax Christi Netherlands, and Secours Catholique/CARITAS France.11

PWYP advocacy focuses on EITI and extractive industry contracts, among others. Reported achievements include:

- 2010 US legislation requiring US-listed oil, gas and mining companies to publish what they pay to all governments
- European Parliament endorsement of PWYP’s call for a new international accounting standard for extractive industry transparency
- Increasing participation of CSOs in national discourse on the management and use of natural resource revenues, with the establishment of EITI as an example

The Open Society Foundations, founded by investor philanthropist George Soros, hosts the international secretariat of PWYP at its London office. Funding is provided by CAFOD, CARE International UK, Christian Aid, Global Witness, NIZA, Oxfam Novib, Open Society Institute, Oxfam GB, Pax Christi NL, Revenue Watch Institute, Save the Children UK, and Secours Catholique.

PWYP International welcomed the appointment of Rt. Hon. Clare Short as Chair of the EITI Board, together with the other representatives of governments, civil society and the industry, for the period 2011 to 2013.12
On 29 February 2008, the Asian Development Bank endorsed the EITI to encourage its developing member countries to adopt it.

3.2 STATUS of EITI in the PHILIPPINES

Sign on to the Extractive Industry Transparency Initiative (EITI) in order to practice and implement transparency and accountability among mining companies operating in the country

- Philippine Development Plan 2011 – 2016

Consistent with Philippine Agenda 21, the Philippine Development Plan 2011 – 2016 identified the “improved conservation, protection and rehabilitation of Natural Resources” as its first goal in the chapter on Environment and Natural Resources. Pursuant to this goal, the adoption of EITI is listed as one of the activities for more equitable utilization of mineral resources as clearly stated in the above quoted declaration.¹³

EITI Chair Clare Short wrote a letter to President Simeon Benigno Aquino on 5 August 2011 asking him to consider announcing his intention to join the EITI at the UN Summit in September.¹⁴ Unfortunately, no announcement was made at the UN Summit.

Instead, on 14 September 2011, Executive Secretary Paquito Ochoa in his speech at the Mining 2011 Conference and Exhibit at Sofitel, Manila said:

We may have to consider beginning the process for Philippine participation in the Extractive Industry Transparency Initiative or the EITI – a global initiative on transparency in revenue management derived from extractive industries, like mining, oil, and gas.

The EITI requires extractive industry companies to publish what they pay and for governments to publish what they receive.

Besides being a key element in the strategic framework for environment and natural resources under Chapter 10 of the 2011-2016 Philippine Development Plan, the president is aware that participation in the EITI has been championed by the Chamber of Mines of the Philippines and the DENR since 2005.

The country’s EITI candidacy and subsequent membership is consistent with the administration’s vision of good governance. It will be a strong manifestation of transparency if the payments and revenues received by the government from the development of the country’s mineral resources and how these are utilized, are made public.

Such a development should help address the issues plaguing the national government, local governments, communities and other stakeholders.

Secretary Ochoa acknowledged the efforts of the Chamber of Mines of the Philippines (COMP) and the DENR to join the EITI global network.¹⁵ What remains now is for President Benigno Simeon Aquino to issue a public and unequivocal statement that the government intends to implement the EITI¹⁶ preferably in the form of an Executive Order or a Memo Circular.
3.2.1 Mining Industry

On 14 April 2005, Mr. Benjamin G. Romualdez, President of the Chamber of Mines of the Philippines (COMP) wrote a letter to President Gloria Macapagal-Arroyo (PGMA) asking her to “consider the adoption of EITI as an implementing mechanism in addressing the interest of government, industry and civil society towards the revitalization of the mining industry.”17

The COMP sentiment advocating for the EITI was expressed in the letter’s following paragraphs:

“With the on-going revitalization of the mining industry and with several projects expected to take off within the year, the development of a framework to promote transparency of payments and revenues in the mining, oil and gas industries will mitigate the concerns of civil society and NGOs in strengthening accountability and good governance. This will also ensure the prudent utilization of natural resource wealth that will provide the basis for sustainable economic growth and social development particularly in the rural areas where the projects are located and where majority of our poor people live.”

“With the strong clamor by the local government units in getting their share of mining, oil and gas revenues provided for in the Local Government Code, it will be beneficial for the government to implement this transparency initiative as this will encourage LGUs to manage revenues efficiently thereby enhancing the delivery of basic services to the people. It will also encourage LGUs to implement developmental projects that would yield substantial benefits to their constituencies.”

The COMP conducted pilot studies in two mining areas with technical assistance from USAID through the EMERGE project. The studies reported the following findings:

- LGUs received shares lower than their statutory shares
- LGU shares were received two to three years late

These findings were discussed by the Minerals Development Council18 (MDC) composed of fourteen (14) government agencies and the Chamber of Mines of the Philippines. Tasked with the adoption of EITI in the Philippines, the DFA requested comments from MDC members.

On 15 June 2011, the Consolidated Position Paper on Mineral Resources Development19 was issued during the Australia-Philippines Ministerial Meeting Business Dialogue in Canberra that endorsed the implementation of the EITI. The paper specifically noted that:

*The Extractive Industry Transparency Initiative can be initiated on two grounds: Developing the implementation strategy based on the results of a project undertaken by the Chamber of Mines where templates have been established in disclosing tax payments and receipts from the industry by both the mining companies and the local government units. Technology sharing and capacity building in tenement and permit management could*
be initiated, a follow on activity from Australia’s assistance through the ASX to the development of the Philippine Minerals Reporting Code.

3.2.2 DENR/MGB

In response to the DFA’s request for comments on the adoption of EITI, DENR Secretary Jose L. Atienza, Jr., expressed the DENR’s support to the proposed participation of the Philippines in the EITI on 28 November 2007. The endorsement recommended a study of the “private sector’s cooperation and commitment in paying the appropriate taxes, fees and shares that should accrue to government and other stakeholders like the indigenous peoples and the community.”

Independent of EITI action, the DENR has already made significant disclosures of ENR data. The DENR website and MGB link provide the following information:

- Mining tenement applications
- Exploration Permit Holders
- Mining Production Sharing Agreements
- Mining Permit Fees and Charges collected as of a specific date
- Mining Royalties expected from the Gross Profits reported by Large Scale Mining companies

3.2.3 DOF/BIR

In response to the DFA’s request for comments on the adoption of EITI, the Bureau of Internal Revenue (BIR) expressed reservations based on the confidentiality of reported tax payments by companies. Due to the BIR position on EITI, the unequivocal statement by then President Gloria Macapagal Arroyo was not issued. Thus the Philippines could not join the EITI global network because the first sign-up requirement was not complied with.

BIR’s reservations on the introduction of EITI are based solely on sec. 270 of the National Internal Revenue Code:

Sec. 270. Unlawful Divulgence of Trade Secrets. – Except as provided in Sec. 71 of this Code and Sec. 26 of R.A. 638821, any officer or employee of the Bureau of Internal Revenue who divulges to any person or makes known in any other manner than may be provided by law information regarding the business, income, or estate of any taxpayer, the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000), or suffer imprisonment of not less than two (2) years but not more than five (5) years or both.
According to the BIR, the pertinent phrase “who divulges to any person or makes known in any other manner than may be provided by law” required legislation before the BIR can comply with the revenue disclosure requirement of EITI.

This was reiterated recently in the speech of BIR Commissioner Kim Henares who was invited to speak at the Mining Philippines Conference 2010. The speech read by Assistant Commissioner Zenaida Garcia, is partly quoted as follows:

“Thru our then Commissioner Lilian B. Hefti, we manifested to the DFA in January 2008 that we may participate in the initiative. However, we emphasized that we may not be able to fully comply with the initiative’s transparency requirement with respect to the submission of revenue collection reports, more particularly on the tax payments made by each mining company. Understandably, this prohibition by our tax laws to disclose about the taxpayer’s information is for the protection of the taxpayer. Yet, recognizing the benefits that we can derive from the initiative both for the government and the mineral industry and for our country as a whole, there is a need for us now to re-evaluate the provisions of the National Internal Revenue Code and to re-think the country’s policy on this. However, this is beyond the powers of the BIR and will require the action of the legislative body.”

3.2.4 DELAYED EITI ADOPTION/Joint Circular No. 2009-01

Based on Sec. 290 of the Local Government Code, the COMP and the Minerals Development Council worked for the issuance of a joint order among the DOF, DBM, DILG and DENR prescribing updated guidelines and procedures on the release of the LGU share from collections derived by the national government from mining taxes.

Joint Circular 2009-01 dated 31 March 2009 sought to achieve the following objectives:

2.1 to expedite the processing and release of the LGUs’ allocable shares from the mining taxes thru a simplified process with timeframe requirements.

2.2 to enhance the correctness and accuracy of mining tax collections for purposes of ensuring that the full benefits from these tax collections will be received by the concerned LGUs.

2.3 to clarify the roles and responsibilities of all the national government agencies involved in the implementation of this Circular.

2.4 to amend the provisions of DBM-DOF-DENR-DOE Joint Circular No. 2006-01 relative to the guidelines and procedures on the release of the shares of LGUs from the development and utilization of national wealth, particularly collections of mining taxes.
The data sharing process under JC 2009-01 reflected a manageable but circuitous flow chart that conformed to the mandated functions of the concerned agencies.

A joint certification of actual collections from mining taxes and the share of the beneficiary LGUs by the Bureau of Internal Revenue and the Bureau of Treasury is required before the DBM releases the LGU share.

3.1 Dept. of Finance – Bureau of Internal Revenue (BIR) shall

3.1.1 Submit to the Department of Budget and Management (DBM), in coordination with DOF, for budget preparation purposes, the estimated or projected mining tax to be collected for the current year and the corresponding forty percent (40%) share of the LGUs on or before March 15 of every year. The said estimated or projected mining tax collection shall be equivalent to the amount of excise tax from the mining industry allocated from the total revenue target of the BIR.

3.1.2 Prepare and approve a Joint Certification with the Bureau of Treasury (BTr), for budget execution purposes, the actual collections from mining taxes during each calendar quarter and the schedule of the corresponding shares of the beneficiary LGUs. The said certification shall be transmitted to the BTr, for validation and approval purposes, within seventy five (75) days immediately after the end of the calendar quarter. Xxx

3.1.3 Determine the correct mining taxes paid and collected during the immediately preceding year based on the estimated and actual volumes and values of the mineral products submitted by the MGB.

On the other hand, the DENR/MGB shall:

3.3.1 Furnish the BIR not later than the end of February, the estimated annual volumes and values of metallic mineral production of mining companies for the current year.
3.3.2 In order to assist in the enhancement of the mining tax collections, furnish the BIR not later than the end of March, the actual volumes and values, on a per project basis, of metallic minerals produced during the immediately preceding year. For non-metallic minerals, the actual volumes and values of production, on a per permittee/project basis during the immediately preceding year, shall be furnished to the BIR not later than the end of October of the ensuing year.

3.3.3 Provide the BIR, within 60 days after the end of each quarter, the list of new metallic permittees, actual volumes and values of their respective production and extraction sites.

Thus, although the adoption of EITI in the Philippines has been delayed, the objective of setting up a system to facilitate the release of the LGU share of the national wealth was responded to by the national government through the joint circular. Whether or not the joint circular was effective remains to be seen based on the 2009 collections and timely payments to LGUs.

Under DBM-DOF-DENR-DOE Joint Circular No. 2006-01\textsuperscript{24}, referred to in JC 2009-01, the requests for the release of the LGU shares of the national wealth are forwarded by the DENRMGB and the BIR to the DBM, which refers them to its Regional Offices.

The difference between the two joint circulars lies in the certification requesting for the release of LGU shares. The later joint circular gives the sole responsibility to DOF-BTr/BIR to submit the joint certification to DBM.

3.2.5 CSO activities relevant to EITI/Publish What You Pay (PWYP)

In the Philippines, the members of PWYP\textsuperscript{25} are:

- Action for Economic Reforms (AER)
- Philippine Rural Reconstruction Movement (PRRM)
- Alyansa Tgit Mina (ATM; English translation: “alliance to stop mining”)
- Ateneo School of Government
- Kinaadman Research Center, Xavier University
- Marinduque Council for Environmental Concerns (MACEC)

The name of one of the members, “alliance to stop mining” seemed to characterize all the members. This is perceived as an obstacle for this civil society group to move forward in advocating for EITI considering that the mining companies are major stakeholders in the transparency initiative. Ironically, in the Philippines, the mining companies have taken the lead in advocating for EITI adoption yet the “alliance to stop mining” took a confrontational position for the abolition of mining in the country.

Philippine CSOs gained interest in the EITI from two perspectives: (1) staunch anti-mining stand based on previous experience of mining disasters and violations of human rights attributed to mining operations; and (2) links with international CSOs and CSO-led actions, such as PWYP. Local CSO activities were either pursuant to the advocacy to stop mining in the Philippines or participation in international fora on extractive industries.
Action for Economic Reforms (AER) reported in November 2009 that the Philippine equivalent of PWYP was being organized through a two-day workshop for form a network to advocate for transparency of contracts and revenues in the extractive industries. Excerpts of the AER report summarize the general status of EITI in the Philippines relative to the PWYP and Philippine CSOs:

“Given the pressing concerns, the composition of the group, and the resource constraints, the focus of the advocacy, at least on the early stage, is mining. ... thirty-two (32) representatives, representing 19 organizations participated in the two-day workshop. The participating individuals and organizations came from different sectors. Some are environmental groups; others focus on transparency issues. A few individuals or groups work on economic issues (e.g. taxation). And a significant number are groups opposed to or critical of the way extractive industries are being done in the Philippines.”

Dubbed “Bantay Kita” (English translation double meaning – Revenue Watch or “I’m watching you”), the network announced three goals:

- Institutionalize transparency in the extractive industries, contributing to good institutions, which are a *sine qua non* to sustainable and development-oriented resource extraction
- Maximize people’s benefits, especially revenue gains, from the extractive industries
- Build the capacities of communities and civil society organizations in engaging the extractive industries at each stage of the value chain

Focused on the mining industry, the group’s task is “to reverse fiscal policy on fiscal incentives that are redundant at least in relation to the mineral industry. The incentives are unnecessary because the investors will anyhow invest because they want the resources. In other words, incentives in resource-seeking industries are undesirable. In this regard, the network will support the legislation that will rationalize fiscal incentives in the Philippines.”

With regard to the EITI, the group firmly resolved to be the vehicle for the participation of NGOs and civil society in the EITI process. The statement is quoted as follows:

“Last but not least, Bantay Kita will prepare for any eventuality that the EITI (Extractive Industries Transparency Initiative) will be formed in the Philippines. Bantay Kita will be the vehicle for the participation of NGOs and civil society in the EITI process.”

Alyansa Tigil Mina (ATM) was formed to counter the Arroyo administration campaign to revitalize the mining industry in the Philippines. After NGOs and people’s organizations (POs) disengaged from consultations being conducted by the DENR seeking endorsement from the Philippine Council for Sustainable Development (PCSD) for a draft Executive Order to revitalize the mining industry, a loose coalition resulted. From July to November 2004, a series of meetings were convened by the Environmental Broadcast Circle (EBC) supported by the Maximo T. Kalaw Institute for Sustainable Development (MTKISD). Participants came from environmental groups, IP-support organizations, anti-mining advocates, and other NGO/POs. Haribon, a convenor of ATM, hosts its National Secretariat. Concerns were aired against mining in the following sites:

- Rapu-rapu in Bicol
ATM is exclusively opposed to large-scale mining. Statements against the environmental destruction caused by small-scale mining and its lack of transparency in revenue collection and spending are not known.

Bantay Kita, having been formally organized, posted the following statement about EITI on its website:

“The lack of transparency that pervades mining ventures has hindered people’s organizations and concerned citizens from holding the government and mining companies accountable for damages and or the absence of development results from these projects...”

AER is the secretariat of Bantay Kita. AER/Bantay Kita participated in the Workshop on “Hydrocarbon and Minerals Extraction in the Southeast Asia: Impact, Consequences and Challenges for People’s Prosperity” at the 7th ASEAN People’s Forum organized by the SEA Extractive Industry Watch and the Institute for Essential Services Reform (IESR) held on 3-5 May 2011 in Jakarta. The workshop summary described the Philippines situation as follows:

“[He] highlighted the flawed legislative and fiscal regime that currently undermines the Government’s vision for ‘responsible’ mining in the Philippines. This has led to a process of awarding contracts and permits that has frequently violated the rights of the indigenous peoples living there. There is no free, prior and informed consent for communities – which has led to increasing opposition to mining at the local level from local authorities and communities alike.”

The objectives of the workshop were:

- To share information on the state of the art of hydrocarbon and minerals (extractive industries) trade and investment in the ASEAN region
- To identify and understand impact, consequences and challenge of extractive industries activities in the region
- To exchange ideas on relevance of EITI in ASEAN and the possibility of the ASEAN Framework on the Extractive Industries as harmonizing tool for trade and investment in hydrocarbon, minerals, coal, etc., for the ASEAN member countries

The Workshop Summary listed four recommendations:

- ASEAN has to make the operations of extractive industries transparent and accountable across all stages of the extractive decision-chain.
- ASEAN should adopt internationally recognized standards of good governance and transparency for extractive industries would be a first step toward building the type of institutions that are needed.
- Furthermore embracing a multi-stakeholder initiative for transparency such as the EITI, would help to create the enabling environment for civil
society to participate in this process. Strong and meaningful participation of civil society is essential at all stages in the extractive industry process.

- ASEAN should adopt a comprehensive Framework to ensure extractive industry transparency. This framework could serve as the basis for the harmonization of policies and practices of oil, gas and mineral of the member countries of ASEAN, thus ensuring that the existing internationally recognized standards pertaining to human rights, the environment are upheld, and the benefits generated by the extractive industries extend to all citizens in the ASEAN, now and in the future.

Recently, AER conducted a seminar with EITI Norway. (Information from Engr. Manuel Banaag that Maita Gomez organized a workshop, request for more details. No information is posted on the Bantay Kita website.)

In May 2010, at the Expert-Practitioners Meeting of the Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA-EAP) announced a program to use a Social Accountability Framework seeking resource partnership with Revenue Watch Institute. EITI was one of the global standards included in the program together with the Equator Principles, the Voluntary Principles of Security and Human Rights, and Global Reporting Initiative. The ANSA-EAP Operations Team in the Philippines is in the Ateneo School of Government.

### 3.2.6 Local government position

The complaints of local government units about the non-remittance or unreasonable delay thereof were the main drivers for the action to introduce EITI in the Philippines. These were expressed in various public forum and dialogues. However, these were not as publicized as the specific position of LGUs carried by broadcast and print media.

#### 3.2.6.1 Bicol

**Albay** Governor Joey Salceda decried the measly 3% (Php 40 million) share of the Bicol Region from the almost Php 800 million in taxes paid by the Rapu-Rapu Polymetallic Project (RRPP) operated in Rapu-Rapu town by a Korean-Malaysian-Filipino consortium. The Mines and Geosciences Bureau (MGB) reported that Php 11.4 billion worth of gold, silver, copper and cement ware produces, with Php 782.6 million taxes paid to the national government. In March 2011, Gov. Salceda signed the provincial board resolution strongly opposing any future mining activity in the province.³⁴

#### 3.2.6.2 Palawan

Puerto Princesa City, Palawan radio commentator Gerardo Ortega was shot and killed by a lone gunman on 24 January 2011. He was promptly referred to as an “Anti-Mining Broadcaster” by the Alyansa Tigil Mina.³⁵ The Chamber of Mines of the Philippines published an article to answer the allegations of ATM that the murder of Ortega was related to anti-mining advocacy. Instead, COMP pointed to the more cloudy Malampaya natural gas revenues, as the immediate focus of Ortega’s exposé prior to the murder.

#### 3.2.6.3 South Cotabato
South Cotabato Governor Arthur Pingoy confirmed meetings with Xtrata Copper/Sagittarius Mines Inc. regarding the environmental impact statement of the Tampakan copper-gold project relative to the provincial ban on open-pit mining.\textsuperscript{36}

General Santos City Mayor Darlene Antonino-Custodio, as chairperson of the Regional Development Council (RDC) 12, covering the provinces of South Cotabato, Sarangani, Sultan Kudarat and Cotabato, and the cities of Kidapawan, Tacurong, Koronadal, Cotabato and General Santos, expressed support for the proposed US$ 5.9 billion Tampakan copper-gold project. The RDC issued Resolution No. 73 asking President Aquino to intervene to settle the issue regarding the ban on open-pit mining by virtue of an ordinance passed by the South Cotabato provincial government. Open-pit mining is allowed under the Philippine Mining Act.\textsuperscript{37}

3.2.6.3 Surigao del Sur

Surigao del Sur Cantilan Mayor Genito Guardo denied the application of Marc Ventures Mining Development Corporation (MMDC) for a business permit citing irregularities in the documents it submitted.\textsuperscript{38}
4. **RECOMMENDATIONS BY THE DENR AND COMP**

The DENR and COMP made the following primary recommendations in 2010:

- Position EITI as a voluntary initiative of the mining and mineral resource development industry
- Participating company is encouraged by the benefits of a seal of good housekeeping provides similar to ISO-type certification
- A communications tool to impart to stakeholders the company’s achievements in corporate social responsibility
- Will help bureaucracy in their regulatory function
- Package the adaptation of EITI as joint government, NGO and private sector initiative
- Formulate the process involving key stakeholders with: (a) government as regulatory entity, primarily the DENR; (b) government as investment promoter, led by DTI and BOI; (c) NGO as alternative regulator; (d) Industry as cooperating sector
- Manage the EITI via a dedicated private sector secretariat advised by a joint Government-NGO-Industry Advisory Council where (a) the Secretariat ensures work being done on schedule under an environment of transparency and built to benefit all the stakeholders; and (b) joint Advisory Council is proposed to be designed as a function like a board of directors providing strategic guidance, ensure good governance and facilitate inputs from different stakeholders
- Explore the pros and cons of launching the EITI via a DENR Administrative Order

And the following supplemental recommendations:

- Improve releases of revenues from national to local government (have yet to see outcome of JMO 2009)
- Capacity building of LGUs
- Monitoring actual mine production
- Assessing the effectiveness of mitigating measures and development funding by mining companies
- Assessing the effectiveness of environmental monitoring and management funds

The above recommendations may be categorized as follows:
**Category 1** – participatory process

- involves key stakeholders with: (a) government as regulatory entity, primarily the DENR; (b) government as investment promoter, led by DTI and BOI; (c) NGO as alternative regulator; (d) Industry as cooperating sector
- professionally managed by a dedicated private sector secretariat
- tripartite Advisory Council: GOP-CSO-Industry with GOP regulatory and promotion functions; CSO as alternative regulator; Industry as cooperating sector

**Category 2** – as GOP integrated action for transparency and good governance

- Supports regulatory function
- Promotes Public-Private-Partnerships; tripartite GOP-Business-Civil Society initiative
- Improves releases of revenue shares from national government to LGUs
- Capacity building of LGUs

**Category 3** – as Business CSR

- Mining industry initiative
- Seal of good housekeeping similar to ISO certification
- Communications tool from mining company to external stakeholders

**Category 4** – as Civil Society tool for GOP transparency and accountability

- Monitoring actual mine production
- Assess effectiveness of mitigating measures and development funding by mining companies
- Assess environmental monitoring and fund management
5. REASONS FOR THE DELAY

Two major obstacles prevented EITI introduction in the Philippines: (1) reservations of the Bureau of Internal Revenue (BIR); and (2) high profile campaign of anti-mining CSOs.

5.1 BIR Reservations

The BIR opposed the EITI by invoking sec. 270 of the National Internal Revenue Code as prohibiting the disclosure of taxes collected from mining companies. The provision is quoted once more below for easy reference, with the obstructive phrase highlighted:

Sec. 270. Unlawful Divulgence of Trade Secrets. -- Except as provided in Sec. 71 of this Code and Sec. 26 of R.A. 6388, any officer or employee of the Bureau of Internal Revenue who divulges to any person or makes known in any other manner than may be provided by law information regarding the business, income, or estate of any taxpayer, the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000), or suffer imprisonment of not less than two (2) years but not more than five (5) years or both.

Without statutory protection, BIR officials risk criminal conviction for disclosing revenue collection from extractive industries to the general public.

5.2 Anti-Mining CSOs

When the DENR and COMP moved for EITI introduction in the Philippines, anti-LARGE SCALE mining CSOs launched a high profile media campaign against the mining industry while simultaneously presenting themselves as the EITI supporters for the Philippines in the global NGO community. The CSOs oppose LARGE SCALE mining. What is noteworthy about the opposition from ant-mining CSOs is their apparent financial capacity to launch a high-profile nationwide media campaign against LARGE SCALE mining that is persistent, consistent and increasing.
5.3 Analysis of the Reasons for the Delay

5.3.1 On the legal prohibition for BIR officials to disclose information based on the Revenue Code

The BIR reservation has solid basis. The prohibition, crime and punishment are clear. Any transgression will result in the immediate application of the law. The BIR officials, up to the Commissioner, involved in the collection and disclosure will be sued in court and convicted. No defense is available to them under Philippine law. No BIR official will take any action that will disclose revenue collection from any company or person knowing fully well that disclosure without legal authority, and in this case, with clear injunction to keep the confidentiality of company revenue payments, would result in a conviction.

A strict interpretation of Sec. 290 would require legislation by Congress if any BIR official is to be directed to make the disclosure. An executive order, even a joint issuance of several departments, much less a department order, would not suffice to create an exemption to guarantee that the BIR officials will not be prosecuted.

However, since the law identifies BIR officials only, the same strict interpretation creates a window for other government officials, such as the Department of Finance Undersecretaries or the Secretary, or the National Treasurer, to make the disclosure. These higher officials receive the information about revenue collection from the BIR in the course of performing their regular functions. They are not covered by the prohibition. Thus, where the law creates no crime, its application cannot create a prohibition (...). The possibility becomes bigger when there is consent given by the paying company.

For purposes of discussion, consider a department order issued by the DOF Secretary for an Undersecretary or a Committee that does not include any BIR official, to receive the required information from the BIR and to disclose that data pursuant to EITI, provided the company paying the revenue gives its formal consent for such disclosure.

5.3.2 On the anti-mining CSOs

Although the CSOs have not issued a categorical statement to support SMALL SCALE mining, their lack of any statement about it raises suspicion that their advocacy is not about the environmental degradation caused by mining operations but simply the “struggle” between large-scale business investments and local stakeholders:

- Catholic Church - bishops, priests and nuns,
- Local officials - governors, mayors and barangay officials
- Local businessmen – financiers and operators involved in gold and silver small scale mining, and quarrying

It is known that several bishops have invested in large scale mining companies – presumably those that have gained a reputation for “responsible mining”. The link between opposition bishops, local officials and small scale miners or quarry operators, though widely talked about, has yet to be established.

Opposition CSOs may be asked to clarify whether their position is about the environmental degradation caused by mining per se, or simply against LARGE SCALE mining versus SMALL SCALE mining. This clarification would separate the environmental concerns from economic concerns.
With regard to economic development at the grassroots level, the Social Development Management Plan (SDMP) of large scale mining companies may be considered. The SDMP is a mechanism envisioned by the DENR to ensure that socio-economic benefits accrue to the local communities separate from and independent of mining taxes and royalties.

5.3.3 On local government units

The local government perspective poses a legal dilemma. The dismal record of the national government in releasing the LGU share of the national wealth is only one of several reasons for local officials to prefer small scale mining over large scale mining. Nevertheless, the other components of PPEI focuses on this issue and their outputs are expected to offer a solution.

Local government officials, governors in particular, have power over the issuance of small scale mining permits but do not have any participation in the evaluation and approval of large scale mining permits, especially those with foreign funded Financial and Technical Assistance Agreements (FTAA). Unless the economic benefits from large scale mining are assured, local government officials would take action to ensure revenues from small scale mining and quarrying. Quarrying is not allowed inside areas covered by mineral agreements or FTAAs.

Small scale mining requires the consent of the FTAA holder. An ordinance banning large scale mining is a logical choice.

LGUs disclose budgets and expenditures pursuant to DILG regulation. Among the reports to be posted is the LGU Statement of Receipts and Expenditures which provide “information detail to the level of particulars of beginning cash balance, receipts of income on local receipts or income on local sources (e.g., tax revenue, non-tax revenue), external sources, and receipts from loans and borrowings, surplus of prior years, expenditures on general services, economic services, social services and debt services, and total expenditures (Source Document – Local Budget Preparation Form No. 3, titled, Statement of Receipts and Expenditures).

5.3.4 On ancestral lands of indigenous peoples

Indigenous cultural communities directly affected by mining operations are likely to support large scale mining since they receive mining royalties directly. They will likely support the EITI as well. However, indigenous cultural communities outside the impact areas of mining operations, especially those located far from any of the linked activities and presumably far from the support services derived from mining operations, will oppose large scale mining.

There is an internal debate among indigenous peoples, where the more articulate groups located in the lower slopes with links to anti-mining groups insist on representing the indigenous communities living in or near the mining operations, which are in the higher slopes or more remote areas. The general situation is that the indigenous communities in the higher slopes, given the support services from mining benefits, have asserted their right to represent themselves and have rejected the representation imposed by the organized indigenous groups from the lower slopes, especially those based in urban centers like Metro Manila and Metro Davao. The question now is whether or not to recognize the indigenous people’s organizations aligned with ATM or Bantay Kita who have expressed their intent to be involved in EITI; and/or to recognize the local indigenous people’s organizations who are not yet aware of EITI but have directly benefited from mining operations.
6. COMPLETED ACTIVITIES

Activities completed under PPEI Component 3 on EITI advocacy were as follows:

- PPEI-EITI exhibit booth at the Mining 2011 Conference and Exhibit on Sept. 13-15, 2011, Hotel Sofitel, Manila
- Workshop on the EITI National Road Map on 6 October 2011 at the Conference Room of the Office of the Secretary, DILG, Quezon City
- Round Table Discussion on the National Road Map: Strategies for EITI Implementation and 2012 Work and Financial Plan on 15 Dec. 2011 at the Telengtan Hall, 5/F APEC Communications Bldg., University of Asia and the Pacific, Pearl Drive, Ortigas Center, Pasig City
- Site visit to Toledo City, Cebu where the mining operations of Carmen Copper Corporation is located, on 19-20 Dec. 2011
- Meetings, events outside the PPEI organized activities

6.1 PPEI – EITI exhibit booth at the Mining 2011 Conference and Exhibit

PPEI set up an exhibit booth at the Mining 2011 Conference and Exhibit to highlight the joint efforts of the COMP and the government, mainly through the DENR and currently supported through the DILG. Delegates and attendees expressed support for the adoption of the EITI by affixing their signatures to the signature sheets placed in the booth. The PPEI-DILG manned the booth and established links with the other exhibitors, especially the Philippine Mine Safety and Employment Association (PEMSEA). 47

6.2 Workshop on the EITI National Road Map

With the encouraging pronouncement of Executive Secretary Ochoa at the mining conference, a Workshop on the EITI National Road Map was designed in a meeting with DENR FASPO Director Edwin Domingo, Ms. Nelia Halcon and Mr. Emy Dalandan of the Chamber of Mines of the Philippines on 29 September 2011.

The Workshop was approved by the DILG. It was held at the Conference Room of the DILG Office of the Secretary on 6 October 2011. 48 Strategies for the introduction and implementation of EITI in the Philippines were discussed. The workshop focused on the previous efforts of the EITI champions, particularly the data sharing process under JC 2009-01 49 and the suggested actions 50 made by the DENR and the COMP in 2009.

The BIR delegation in the workshop reiterated the bureau’s reservation about the EITI requirement for the public disclosure of tax collections from specific mining companies. This reservation was based on the risk of criminal liability because the introduction of EITI will result in a violation of sec. 270 of the National Internal Revenue Code. According to the BIR, the pertinent phrase “who divulges to any person or makes known in any other manner than may be provided by law” requires legislation before the BIR can comply with the revenue disclosure requirement of EITI.

A draft National Road Map with proposed 2012 Work and Financial Plan (WFP) was circulated after the workshop. It was approved by the DENR for presentation at the Round Table Discussion on 15 December 2012.
6.3 Round Table Discussion on the National Road Map and Work and Financial Plan for 2012

The Round Table Discussion (RTD) on the strategies for implementation of EITI in the Philippines reflected in the National Road Map and proposed 2012 WFP was held at the University of Asia and the Pacific (UA&P), a private university. The RTD began with a brief overview of the PPEI project.

After the overview and as a backdrop for analysis, Ms. Sharina Domingo, FILMINERA Chief Communications Officer, presented the company’s US $ 250 million Gold Project in Aroroy, Masbate, covering 15,000 hectares, representing the single largest investment in the island province. Some of the company’s environmental achievements were: (a) 546,000 trees planted as of August 2011 covering 213 hectares; (b) studies on storm water runoff, mangrove, coastal/marine limnology; (c) 5.6 million LTI free; (d) rehabilitated Libra West Pit; (e) Social Development Plan (SDMP) for livelihood, electricity, water, roads and infrastructure, education, health and sanitation, culture and sports development. Ms. Domingo then introduced the main resource person for the RTD, Dr. Bernardo Villegas, UA&P Vice President.

Dr. Bernardo Villegas, set the tone for the RTD with a discourse on the role of economists in influencing policy makers and public perception of development. Dr. Villegas encouraged diligence in ascertaining facts. He urged for sobriety and cautioned against motherhood statements and half-truths especially those issued by economists from the academe. Most of all, micro-level economic analysis should not be overlooked because it is at this point that solid facts and concrete situations are found. He then discussed a case study of the socio-economic impact of FILMINERA in Aroroy, Masbate. He ended with a recommendation for the RTD participants representing the extractive industries to embark on a communication plan so that more people will know what is happening in their areas.

Ms. Corazon Urquico followed with a presentation of the PPEI Component 3 on EITI advocacy. She oriented the participants about the poverty-environment link within poverty reduction efforts to achieve the Millennium Development Goals (MDG); a partnership of the United Nations Development Programme and the United Nations Environment Programme (UNDP-UNEP). She said that the Philippines has fallen behind her ASEAN neighbors in reducing poverty. Transparency may be able to facilitate the immediate release of the LGU share in the national wealth. In turn, it is hoped that the LGUs which are at the forefront in addressing poverty, will have greater capacity to help achieve the Philippines MDG.

After the open forum, Director Edwin Domingo, DENR-FASPO, summed up the discussion validating and approving the strategies reflected in the National Road Map and ended the RTD with the following recommendations:

- The President must be briefed as soon as possible about the importance of issuing the unequivocal statement to implement EITI. This can be done through: (1) a meeting with him or the Executive Secretary; (2) a Cabinet Cluster official advocating the cluster to consider it as priority; (3) a meeting with the group of Ms. Sering, Ms. Gozun and Mr. Acosta tasked by the President to prepare his Mining Policy.
- The unequivocal statement must be in the form of an Order that will install the EITI mechanism in the government bureaucracy. A draft Order should be prepared and circulated immediately.
- The EITI Multi-Stakeholder Group or its equivalent must be set up immediately. Its functions and responsibilities should consider the previous or current efforts, such as...
those resulting from JC 2009-01, the Climate Change Commission and the abolished Minerals Development Council. A draft Order, which could be the same Order for the installation of the EITI mechanism, should be prepared and circulated immediately.

- The donors’ forum for EITI should be set within the first quarter of 2012 to draw in support from the international community, the private sector and civil society organizations.

6.4 Site visit to Toledo City, Cebu

As suggested during the RTD, Toledo City, Cebu where the mining operations of Carmen Copper Corporation (CCC) was selected for a site visit. The trip was organized in coordination with Director Loreto Alburo of the DENR-MGB Region 7 and officers of CCC, primarily Mr. Josue Bordon, CCC Assistant Vice President for Administration. The objective of the site visit was to observe the local situation and conduct Key Informant Interviews (KII) and Focus Group Discussion (FGD) with local government officials, company staff and residents.

6.4.1 Significant findings:

- Toledo City owed its existence to the mining operations of Atlas Consolidated Mining Development Corp. which operated for more than 40 years.
- The closure of ACMDC in 1994 for 12 years almost turned Toledo City into a ghost town.
- The revival of mining operations in 2007 through Carmen Copper Corporation is largely welcome but safety measures and more caution is now evident to ensure sustainability and diversification.
- Toledo City has Php 23 million unremitted share from the national gov’t; 2010 share was only partially released by DBM; No 2011 share release

Not surprisingly, the LGUs of Toledo City and Barangay Don Andres Soriano (DAS) have not received their shares in the national wealth from the national government on time. The remitted shares were also incomplete. The amount of some Twenty Three Million Pesos (Php 23M) was still due and unremitting by the DBM. On the contrary, the CCC SDMP appeared to be a more efficient source of development benefits for them.

Both LGUs have also been creative in generating revenues. Barangay DAS invented a chemical process of incorporating mine waste and solid waste for fertilizer production. The City Government has envisioned “Industrial Tourism” because of the growing influx of visitors to the mine. Attractions include a mines view park and a mine heritage tour.

Mining also became a magnet for poor people from outside the city or barangay seeking jobs or engaging in trade. Barangay DAS hosts Forty Thousand (40,000) people daily. Toledo City sees the opportunity to harness this growing human resource but also recognized that the basic needs of these transients or migrants have to be addressed by the LGUs.

6.4.2 Recommendations at the FGD with Toledo City Officials

1) Retain the LGU share in the city treasury and make a paper remittance only of the 40% share together with the actual 60% share of the national government.
2) Remove the requirement of a Joint Certification under JC 2009-01. Make the Bureau of Internal Revenue issue the certification of tax collected based on the report of the DENR Mines and Geosciences Bureau. If there is any discrepancy between the records of the BTr and the BIR, make the reconciliation the responsibility of both bureaus. In any case, the reconciliation of the discrepancy should not be used as an excuse for the delayed release of the LGU share. The two bureaus are under one department, the Department of Finance which can immediately issue the necessary order or circular that as soon as the BIR issues the certification of tax collected, the certification is sent to the DBM for the issuance of the Notice of Cash Allocation or Notice of Funding Check to the LGU reflecting its full share of collected excise tax.

3) Streamline the process further so that the LGU officials can focus on one department, either the DBM or the DOF. At present, because of the circuitous process, the City Budget Officer has to go to the DBM Regional Office to follow up the release and the City Treasurer has to go to the DOF Central Office BTr and BIR to follow up the Joint Certification. By the time the LGU share is partially released, the LGU has spent a lot of money for the travel and lodging expenses of its officials, who in turn had to spend time travelling and following up officials at the DOF/BTr/BIR Central Office.

4) Population migration is increasing in the city because the mining operations became a magnet for employment with attractive benefits. The LGU has to shoulder the disproportional basic needs of all persons within its jurisdiction, whether residents or transients – water, food, roads, health facilities, education, disaster preparedness and rescue capacity. Barangay Don Andres Soriano caters to forty thousand (40,000) people daily. Although the LGU has learned its lesson when Atlas Mines closed and is now diversifying its sources of revenues, the excise tax immediately released in full would raise its capability to address the ever increasing basic needs of the people.

6.4.2 Documents collected:

3. DBM Regional Office No. VII – Notice of Funding Check Issued – to Barangay Don Andres Soriano, dated 16 Nov. 2009 – provided by Brgy. Capt. Marlon Sayson
4. Aerial photograph of Barangay Don Andres Soriano – provided by Brgy. Capt. Marlon Sayson
5. DAS Village Multi-Purpose Cooperative DASVO RUBBER Profit and Loss Statement period of January to October 2011 – provided by J.Q. Santillan, DASV MPC President
6. Photographs of furniture made by DASV-MPC – provided by J.Q. Santillan, DASV MPC President
7. Toledo City Eco-Tourism Master Plan – provided by Councilor Alfonso Merado, Jr.
8. Excise Tax Return of CCC – quarter ending 31 March 2011 – copy provided by Toledo City Treasurer
9. Excise Tax Return of CCC – quarter ending 30 June 2011 – copy provided by Toledo City Treasurer
10. History of ACMDC – provided by John Salcedo, CCC Community Relations Officer

6.5 KII, FGD, workshops and meeting outside PPEI set activities
6.5.1 Mining industry

Philex Mining Corporation (PHILEX) and Nickel Asia Corporation (NAC) have embarked on a media campaign to change the growing negative public perception about large-scale mining. PHILEX used broadcast and print media in a nationwide awareness campaign about its social responsibility to educate the youth and rehabilitate the environment. It received the Gawad Kalasag Award from the National Disaster Risk Reduction and Management Council last January, 2011. For its part, NAC officers actively participated in conferences, summits and assemblies and engaged in dialogue with the participants there.

In line with the PHILEX information campaign, a meeting was arranged by Ms. Angeline Bondad, Philex Community Relations Manager on 10 Oct. 2011 to explore the possibility of linking the PPEI-EITI 2012 activities with the proposed 2nd Sustainable Countryside Development Summit on 17 February 2012. The DILG is mandated to attend to the observance of February as the Countryside Development Month by Presidential Proclamation No. 212, dated 1 August 2011.

On 11 Oct. 2011, assisted by the Philippine Mine Safety & Environment Association (PMSEA), former Ambassador Delia Albert hosted a luncheon for “women in extractive industries” to champion the cause of community empowerment, gender and cultural sensitivity, transparency and stakeholders dialogue in natural resources development. Amb. Albert lamented that although the Philippines was among the first countries to signify interest in the EITI during her stint as Ambassador to Germany, it has since been overtaken by other countries, especially in Southeast Asia. The women expressed interest in providing support for the PPEI-EITI.

6.5.2 NAPC and the Office of the President

At the National Workshop on Local Convergence Model organized by the National Anti-Poverty Commission (NAPC) on 21 Oct. 2011, the role of LGUs in delivering basic services, monitoring development and ensuring transparency was recognized. Though the case studies focused on health, education and water only, the workshop participants confirmed that local convergence promised favourable results. More importantly, the role of the President, as Chairperson of the NAPC, and the NAPC itself, with its legal mandate, emerged as the focal point for poverty reduction efforts. The link to environment programs and projects follows as a consequence of these efforts. Previous PPEI seminars and workshops have also considered the NAPC as the logical host government agency for the EITI Multi-Stakeholders Group that will monitor EITI implementation.

NAPC Lead Convenor - Secretary Joel Rocamora mentioned two possible entry points for a NAPC PPEI-EITI action plan for 2012: (a) NAPC commitment on the community organizing component of the DENR National Greening Program; and (b) advocacy support to guarantee jobs for victims of disasters and calamities. NAPC Undersecretary Florencia Dorotan and Director Sem Cordial have been involved in realizing NAPC’s role in the PPEI though its major activities indicated that NAPC action will most probably have to be undertaken in 2012.

DILG Undersecretary Austere Panadero reminded the participants in the convergence workshop that there are many development plans that LGUs have to prepare. These development plans should be considered in relation to the National Cash Allocations (NCAs) to determine if the required funds reach the LGUs in time for the effective implementation of
the development plans. He said that lessons may be learned from LGUs who have graduated from poverty (the so-called Club 20).

6.5.3 LGU frustration in accessing mining revenues for local development

Both during the DILG workshop on the National Road Map and in the NAPC Workshop on Local Convergence Model, Governor Nestor Fongwan of Benguet and other LGU officials, reiterated their frustration in accessing revenues from extractive industries for local development. The non-remittance and/or unreasonable delay in the release of the LGU share of the national wealth continue to be the main drivers for LGU action to introduce EITI in the Philippines.

6.5.4 EITI International Secretariat

Paul Steele, Environment Adviser – PEI, UNDP Asia-Pacific Regional Centre in Bangkok, provided valuable advice on EITI implementation in the ASEAN. He also encouraged international networking. He met the consultants twice prior to joining and sharing his inputs in two workshops in the Philippines. He has persistently advocated for EITI implementation in the Philippines.

Sam Bartlett, Technical Regional Director (Asia), EITI International Secretariat shared EITI documents about guidelines and procedures. He shared views on how other countries have adopted and implemented EITI, as well as previous communication between the EITI International Secretariat and the Government of the Philippines. A phone conference was held with him by Ms. Corazon Urquico and Mr. Fernando Antolin and the consultant at the UNDP Manila Office on 21 Dec. 2011.
7. NATIONAL ROAD MAP

Based on the completed activities, the following strategies and outputs for PPEI-EITI 2012 are suggested:

- **OUTPUT 1: STUDIES in support of EITI**
- **OUTPUT 2: CONFERENCES, WORKSHOPS, SUMMITS**
- **OUTPUT 3: EITI SIGN-UP REQUIREMENTS & CAPACITY-BUILDING**

**OUTPUT 1: STUDIES in support of EITI**

Three studies are suggested in order to resolve the issues brought about by the lack of sufficient information on certain matters: (a) whether or not BIR officials may be criminally liable for the public disclosure of tax collections under EITI; (b) whether or not the data-sharing process pursuant to JC 2009-01 resulted in the more efficient and correct release of LGU shares in the national wealth; and (c) whether or not the SDMP is an effective tool for poverty reduction at the community level.

7.1 A study on the legal implications of Sec. 270 of the National Internal Revenue Code is proposed for 2012. Lady lawyers in the group formed by Amb. Albert noted that legislative reform may not be the only recourse for the BIR to make the public disclosure contemplated under the EITI. It is suggested that the legal study be done through the COMP to channel the willingness of the lady lawyers to be involved in it. The study may also consider the pertinent provisions of the Local Government Code regarding the LGU share in the national wealth: sections 290 – 292, R.A. 7160.

7.2 A study on the output of the concerned agencies based on JC 2009-01 is proposed for 2012. The study is similar to a performance audit and could include other related joint issuances, such as Joint Circular No. 2010-01 on Mineral Reservations which appears to have a simpler process. The DILG is the suggested host agency for the study with the possibility of coursing the study through the Coordinating Committee on Decentralization which is chaired by the DILG Secretary. There is a suggestion for USEC Panadero to convene the group in the first quarter of 2012. Note also that two agencies – the DOF and the DENR - have two bureaus each with distinct responsibilities in the JC. The study may look into how these bureaus can streamline their outputs within their respective departments.

7.3 A compilation of all Social Development Management Plans (SDMP) of mining companies is proposed for 2012. The compilation may be lodged at an academic institution, such as the University of Asia and the Pacific. The compilation will include a Benefit-Cost Analysis of the Mining Industry with respect to the following categories: (1) mining companies fully implementing SDMPs; (2) mining companies partially implementing SDMPs; (3) mining companies not yet implementing SDMPs; (4) small scale miners; and (5) illegal mining operators.

The target completion date for the three studies is July 2012.

**OUTPUT 2: CONFERENCES, WORKSHOPS, SUMMITS**
Nine activities are suggested to increase public awareness about PPEI and increase stakeholder participation in the initial implementation of EITI. The suggested activities are positioned in line with existing or mandated group actions to optimize opportunities for greater public participation and ownership by potential EITI champions.

7.4 A Donors Forum on PPEI in February 2012 is proposed. The donors’ forum may be incorporated as an activity in a mandated or scheduled DENR/COMP/DILG activity with local government chief executives (governor, mayors and barangay captains). A presentation of the PPEI-EITI would increase awareness among LGUs about its potential for accessing revenues for poverty reduction. Support funds for transparency and governance, especially the Multi-Donor Trust Fund (MDTF) for EITI implementing countries managed by the World Bank, may be tapped to fund the 2012 activities.

7.5 Participation in the “anticipated” National Greening Program (NGP) Second Consultative Summit in April 2012, which may coincide with the celebration of Earth Day is recommended. A presentation of potential PPEI-EITI basic sector-LGU partnerships may be included; either an existing partnership or a proposed model partnership. Although this is a DENR activity, it is suggested that the NAPC oversee the presentation of the “model partnership” since it is the agency mandated to support basic sector participation in the NGP. The NAPC also counts the League of Municipalities of the Philippines (LMP) as a member, complimenting NAPC’s intention to implement its Local Convergence Framework in six hundred (600) municipalities. This activity may be a joint collaboration of the NAPC and the DENR pursuant to the Memorandum recently signed by the two agencies on the NGP. The COMP is also expected to be actively involved in the NGP 2nd Consultative Summit as it already claimed that the private sector actually out-performed the national government in planting trees to rehabilitate denuded forests. For its part, the DENR is consistently encouraging private sector participation in the NGP.

7.6 Holding of regional and/or sectoral Workshops for NGA/LGU/Basic Sector convergence on “PPEI” as an application of the Local Convergence Framework. The workshops to be led by the NAPC will follow the April summit to focus on the Multi-Stakeholder Group (MSG) requirements of EITI. June is the target month to begin the workshops. A formal MSG may be established by November 2012, following the workshops/seminars. The Philippine Business for Social Progress (PBSP) may take the ad hoc lead role in convening civil society organizations (CSOs) together with the CODE-NGO in coordination with the NAPC. The CSOs working in the 600 municipalities where the DENR-NAPC NGP convergence is located may be initially targeted for the workshops. This would also establish a channel to the main poverty reduction program of the government which is the 4P’s/Conditional Cash Transfer program of the Department of Social Welfare and Development (DSWD).

7.7 Participation in the World Indigenous Peoples Day on 9 August 2012 to be led by Indigenous Peoples communities hosting mining operations to showcase how revenues from extractive industries, timely received and properly accounted for, contribute to poverty reduction. This activity may be a joint collaboration of the NAPC, the DENR and the National Commission on Indigenous Peoples (NCIP). A formal declaration by IP leaders on this day about PPEI/EITI may be considered.
7.8 **Participation in the Mining 2012 Conference and Exhibit** in September 2012 with a presentation of the PPEI-EITI developments in a conference session. The COMP is suggested to be in charge of this activity. A *consolidated presentation* of the three studies may be considered. This presents an excellent opportunity to declare what has been achieved after the pronouncement of Executive Secretary Ochoa in the previous year’s conference.

7.9 **Participation in the Local Government Code Anniversary** in 10 October 2012 with the *awarding* of the “PPEI LGU Model” to be handled by the DILG.

**OUTPUT 3: EITI SIGN-UP REQUIREMENTS & CAPACITY-BUILDING**

On 20 Sept. 2011, at the launch of the Open Government Partnership in New York, U.S. President Obama made the following declaration:

“We’re continuing our leadership of the global effort against corruption, by building on legislation that now requires oil, gas, and mining companies to disclose the payments that foreign governments demand of them. Today, I can announce that the United States will join the global initiative in which these industries, governments and civil society, all work together for greater transparency so that taxpayers receive every dollar they’re due from the extraction of natural resources.”

Philippine President Aquino should not be far behind in making a similar pronouncement.

The EITI Sign-Up Requirements create enabling conditions for the capacity building of the EITI multi-stakeholders, namely, national government agencies (NGAs), local government units (LGUs), private sector composed of the companies in the extractive industry and the civil society organizations.

7.10 **Strengthening existing inter-agency coordination** through the Coordinating Committee on Decentralization chaired by the DILG Secretary to monitor, evaluate and improve on the inter-agency process for the release of the LGU share from the national wealth under JC 2009-01.

7.10 **Establish the EITI Secretariat and Multi-Stakeholder Group** to build on previous and current efforts at transparency and governance for poverty reduction beginning on the release of the LGU share in the national wealth generated from the use of natural resources by extractive industries.

7.11 **Establish an Association of LGUs** hosting the mining operations or extractive industries so that the LGUs can share and address their common issues, responses and identify best practices. The LGUs recommended the COMP to lead the formation of the association of LGUs and coordinate its initial activities.

Suggested activities to comply with the EITI Sign-Up Requirements are as follows:
<table>
<thead>
<tr>
<th>EITI SIGN-UP REQUIREMENTS</th>
<th>Proposed activities</th>
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<tbody>
<tr>
<td>1. The government is required to issue an unequivocal public statement of its intention to implement the EITI.</td>
<td>1.a) Close coordination with the Office of the President, as a follow up action to Executive Secretary Ochoa’s speech at the Mining 2011 Conference and Exhibit. 1.b) A letter signifying renewed interest in the EITI may be issued by DFA Secretary Albert Del Rosario and sent to the EITI International Office in Oslo; or the DFA Secretary may simply transmit President Aquino’s statement to EITI Oslo.</td>
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<tr>
<td>2. The government is required to commit to work with civil society and companies on the implementation of EITI.</td>
<td>2.a) President Aquino’s unequivocal statement in the form of an E.O. or Memo Circular will not only contain a commitment to work with civil society and companies but immediately install the EITI mechanism in the government bureaucracy. 2.b) The COMP (representing the private sector) and possibly the Philippine Business for Social Progress (representing civil society) may consider issuing a joint statement to support the President’s pronouncement.</td>
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<tr>
<td>3. The government is required to appoint a senior individual to lead on the implementation of the EITI.</td>
<td>3) President Aquino appoints a Senior Individual to lead the EITI implementation. The appointment may be announced simultaneously (included in the E.O./Memo Circular) or after the unequivocal statement to implement EITI.</td>
</tr>
<tr>
<td>4. The government is required to establish a multi-stakeholder group to oversee the implementation of the EITI.</td>
<td>4) The Philippines EITI Multi-Stakeholder Group (MSG) is recognized by President Aquino at a formal event. For consideration are the following events: Earth Day in April 2012, Mining 2012 Conference in September 2012; or any event organized by the DILG, DENR or the NAPC under PPEI.</td>
</tr>
<tr>
<td>5. The multi-stakeholder group, in consultation with key EITI stakeholders, should agree and publish a fully costed work plan, containing measurable targets, and a timetable for implementation incorporating an assessment of capacity constraints.</td>
<td>5) The EITI MSG will meet to formulate its work and financial plan. Upon approval of the WFP, the same will be published. *Attached are a sample WFP and a copy of the Timor-Leste EITI Workplan for reference.*44</td>
</tr>
</tbody>
</table>
ENDNOTES

1 Background, Terms of Reference for consultants of the Philippine Poverty Environment Initiative (PPEI), DILG/UNDP Project Management Office, July 2011.

2 PPEI four components: Component 1: Review of collection and distribution of revenues from natural resources; Component 2: Public environmental expenditure review at national and local levels; Component 3: Advocacy and support for the introduction of the Extractive Industry Transparency Initiative (EITI) for the mining industry in the Philippines; Component 4: Review of utilisation of revenues from natural resources and application of best practices and media strategy

3 Economic Reforms and Governance Enhancement (EMERGE) contributes to the USAID/Philippine Strategic objective 2 – Investment Climate Less Constrained by Corruption and Poor Governance. Its purpose is to provide technical assistance to support economic policy reforms that will cause sustainable economic growth and enhance the competitiveness of the Philippine economy by augmenting the efforts of Philippine pro-liberalization partners and stakeholders. Source: Quarterly Performance Report, CARANA Corp./Nathan Associates Inc., available on the internet.


5 Round Table Discussion on EITI National Road Map and 2012 WFP, 15 December 2011, 8:30 a.m. – 12:00 noon, Telengtan Hall, 5/F APEC Communications Bldg., University of Asia and the Pacific, Pearl Drive, Ortigas Center, Pasig City

6 League of Provinces of the Philippines (LPP), League of Municipalities of the Philippines (LMP), and Liga ng mga Barangay (Liga)

7 EITI logo from the EITI website, www.eititransparency.org

8 Glenn Noble, powerpoint presentation at the PPEI Orientation Workshop, ---, citing data from the EITI website

9 Map of EITI implementing countries from the EITI website

10 Publish What You Pay website: http://www.publishwhatyoupay.org

11 PWYP website, id.

12 “Extractive Industries Transparency Initiative – The Next Two Years: Opportunities for Ensuring the EITI is Robust and Meaningful,” PWYP International, 3 March 2011; PWYP website/newsroom

13 Philippine Development Plan 2011 – 2016, Chapter 10 Conservation, Protection and Rehabilitation of the Environment and Natural Resources; subheading “Manage a more equitable utilization of mineral resources”, p. 328

14 Annex A – Letter of EITI Chair Clare Short to Pres. S.B. Aquino dated 5 Aug. 2011

15 Annex B - Details of the COMP/DENR efforts.

16 See discussion on EITI Sign-Up Requirements on pages 8 and 9.

17 Annex C - Letter of Mr. Romualdez, COMP President, to Pres. Gloria Macapagal-Arroyo dated 14 April 2005

21 Election Code
22 Sec. 290, RA 7160. Amount of Share of Local Government Units. – Local government units shall, in addition to the internal revenue allotment, have a share of forty per cent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.
25 Philippine CSO members as of 21 March 2011, PWYP website, Id.
26 “Group Transparency in the Mining Industry to be Formed” by Action for Economic Reforms, 17 November 2009, posted on the AER website http://www.aer.ph
27 AER website, Id.
28 AER website, Id.
29 Alyansa Tigil Mina website http://www.alyansatigilmina.net
30 Bantay Kita website http://www.bantaykita.com. Full statement of Bantay Kita on EITI may be accessed from the website; also attached as Annex E.
31 Filomeno Sta. Ana of AER/Bantay Kita attended the forum/workshop. The workshop summary statement was attributed to Mr. Sta. Ana.
32 SEA Extractive Industry Watch website http://www.eiwatch.net
34 “Albay bans future mining activities,” Mar S. Arguelles, Inquirer Southern Luzon, 27 March 2011; also posted in the Alyansa Tigil Mina website, Id.
35 “Anti-Mining broadcaster slain in Palawan” by atm admin posted 25 January 2011 on the Alyansa Tigil Mina website, Id.
36 “SMI, LGUs hold consultations on Tampakan”, Riza T. Olchondra, Philippine Daily Inquirer, 15 June 2011
38 “Surigao villages oppose mining ops, sign manifesto”, Farah Sevilla, The Mindanao Examiner, 16 August 2010; also posted on the Alyansa Tigil Mina website, Id.
39 Glenn Noble, Id.
40 P.D. 1158, as amended
41 Election Code
42 PPEI Component 1 is; while Component 2 is
43 Sec. 43, par. 3, R.A. 7942, Philippine Mining Act of 1995 - No quarry permit shall be issued or granted on any area covered by a mineral agreement or financial or technical assistance agreement.
44 Annex H - DILG Memorandum Circular No. 2011-08 to LGU officials, ARMM Regional Governor and DILG Regional Directors on strict adherence to Sec. 90 of R.A. 10147 (General Appropriations Act Fiscal Year 2011) regarding the “Use and Disbursement of Internal Revenue Allotment of LGUs” require the posting of the following reports: (1) Annual Budget Report; (2) Quarterly Statement of Cash Flows; (3) Statement of Receipts and Expenditures; (4) Trust Fund (PDAF) Utilization; (5) Quarterly Report of SEF (Special Education Fund) Utilization; (6) 20% Component of the IRA Utilization; (7) Annual GAD Accomplishment Report; (8) Statement of Debt Service; (9) Annual Procurement Plan or Procurement List; (10) Items to Bid; (11) Bid Results on Civil Works, and Goods and Services; (12) Abstract of Bills Calculated. Non-compliance would be a ground for disciplinary action.
Annex I - DILG Memorandum Circular No. 2010-83 to LGU officials, ARMM Governor and DILG Regional Directors regarding the Full Disclosure of Local Budget and Finances, and Bids and Public Offerings, dated 31 Aug. 2010.

Sec. 17, RA 7942. Royalty Payments for Indigenous Cultural Communities. In the event of an agreement with an indigenous cultural community pursuant to the preceding section, the royalty payment, upon utilization of the minerals shall be agreed upon by the parties. The said royalty shall form party of a trust fund for the socioeconomic well-being of the indigenous cultural community. Sec 16, Opening of Ancestral Lands for Mining Operations. No ancestral land shall be opened for mining operations without prior consent of the indigenous cultural community concerned.

Annex J – Signature sheets and photographs of tarpaulins used at the PPEI booth during the Mining 2011 Conference and Exhibit

Annex K - Program and Attendance/List of Eighteen Participants

Annex L – NRM workshop power point presentation on JC 2009-01

Annex M – NRM workshop power point presentation on suggested actions in 2009

Annex N – RTD List of participants

Annex O – DILG power point presentation at the RTD, 15 Dec 2011

Annex P – draft Order as the unequivocal statement to implement the EITI and install the EITI mechanism in the Philippine government bureaucracy

Annex Q – Site Visit Report: Toledo City

Annexes Q1 to Q10 – documents collected in Toledo City

Annex R – Programme of the National Workshop on Local Convergence Model

R.A. 8425 – the Social Reform and Poverty Alleviation Act created the NAPC, chaired by the President of the Philippines, to provide direction and coordinate poverty alleviation programs and projects.

Dr. Bernardo Villegas of the University of Asia and the Pacific conducted a study of the socio-economic benefits of the mining operations of FILMINERA on the town of Aroroy, Masbate. Research was also conducted at the UA&P on Shell. However since these studies are intellectual properties, permission to disclose them is necessary.

Annex S – draft Programme of a Donors’ Forum

The National Greening Program is the flagship program of the DENR. It is headed by Assistant Secretary (ASEC) Marlo Mendoza who is promoting public-private-partnerships in reforestation cum livelihood projects in six hundred (600) municipalities. Mining companies are already involved in the NGP because they have the added privilege of cutting permits inside their concessions despite the logging ban which carries with it the responsibility to rehabilitate and reforest denuded areas.

Both PBSP and CODE-NGO have been involved in PPEI meetings and workshops since 2010.

Excerpt of speech and video available on the EITI website: http://eiti.org/news

The League of Provinces of the Philippines used to have mining committee. – DENR FASPO Director Edwin Domingo.

Annexes T and U – draft Philippines EITI WFP for 2012, and a copy of the Timor-Leste EITI Workplan, respectively
Philippines Poverty Environment Initiative