



MINING TRANSPARENCY INDEX 2015-16

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HOW TRANSPARENT IS THE MINING INDUSTRY?

Introduction

While large-scale metallic mines extract billions of pesos worth of minerals every year, most of the communities and provinces hosting mining remain poor. Mining-related disasters have also become all too common from Marcopper to Philex and most-recently the Semirara Panian open pit mine among many cases. In a June 6, 2016 interview with Mines Geosciences Bureau Director Leo Jasareno, the director himself admitted that half of 44 operating metallic mines in the country violates mining laws. Are efforts to monitor extractive activities enough?

The combined market value of publicly listed companies in the extractive industry is estimated to be at P245 billion as of February 2016. Political and financial influence of mining companies is undeniable. The extent of what we know about these companies is limited.

Most disclosures of these companies are financial in nature. Most mining companies fail to disclose other documents and information mandated by Philippine law. The Mining Transparency Index (MTI) evaluates the extent of disclosure of the biggest large-scale metallic mining companies operating in the Philippines as well as that of concerned government agencies.

Mining companies have legal, social, and environmental obligations in conducting their environmentally-damaging business. The same is true for government agencies particularly on the monitoring and regulatory side. Communities are put at risk every time a mining agreement is approved. Transparency is more than imperative.

In a recent national conference for indigenous peoples organizations conducted by Bantay Kita, many of the communities are left in the dark particularly in the validation of accuracy of royalty payments as well as monitoring of their memorandum of agreement. The implementation of the Extractive Industries Transparency Initiative (EITI) in the Philippines has brought transparency to the next level.

Companies are now reporting their payments to government and indigenous people's organizations. PH-EITI has also pushed for government agencies to disclose other documents pertaining to mining operations and are now in public domain.

In spite of these advances, however, mining companies continue to disclose little about their business. Very few companies publicly commit to transparency. Most are not doing enough to raise transparency and accountability standards in their conduct of business.

Methodology

Companies

The mining companies covered by the Index possess either a Mineral Production Sharing Agreement (MPSA) or Financial and Technical Assistance Agreement (FTAA). All EITI-targeted companies for 2012 and 2013 were included in the Index may they be participating or nonparticipating. Participating companies are those that signed the EITI waiver and submitted accomplished templates, otherwise they are nonparticipating entities.

The survey instrument consists of 85 questions broken down into five categories. The first category seeks to establish whether the company possesses the basic commitment to transparency. More specifically, this aspect is concerned with whether or not the company publishes a website, has a public statement on transparency, and submitted an EITI waiver, among others. The second category concerns an entity's transparency when it comes to its payments to the government and other disclosures which are financial in nature. This information is extracted from their own website, the template that they submitted to the EITI, and in their disclosures to stock exchanges, if they are listed. Third, the survey seeks to establish their commitment to disclosing the status of their operations. This facet contains information regarding reports that pertain to their extraction, employees, and the likes. The fourth aspect pertains information regarding social and environment data such as their

expenditures on their social development and management programs and their environmental protection and enhancement programs. And finally, the fifth facet has to do with their disclosures of permits and documents pertaining to their contracts.

For each item in the survey, a full disclosure merits a score of 1, no disclosure merits a score of 0, and partial disclosures merit a score of 0.5. The basic question is whether the company devoted an entire document in relation to the pertinent disclosure. Such information is extracted either from their website and/or the EITI template, if any. Those documents that pertain to the company but are accessible through other sources do not count because it is the companies themselves that have to make the effort to provide access to them. Mere mentions to these pieces of information in annual reports do not count and are at best self-serving.

Scores from each category were then averaged to come up with their category scores which then generates five (5) category scores. These scores are further averaged and summed up to generate an entities' composite score.

Government

The Index also measured transparency of regional government agencies concerned with the mining sector. The survey focused on two most important agencies: the Mines and Geosciences Bureau (MGB) and

the National Commission on Indigenous Peoples (NCIP).

The MGB is a government line bureau under the Department of Environment and Natural Resources (DENR) entrusted with the regulation of all exploration, utilization, and conservation of mineral resources. It is divided into 15 regional offices but this study covers only nine offices since these are the ones with the corresponding mining companies operating within their respective territorial jurisdictions.

The instrument for the MGB Regional Offices is subdivided into two categories—the Regional Questionnaire and the Per Operation Questionnaire. The first concerns the basic requirements of transparency that is expected of these regional offices. This category enquires into the availability of the regional website, tenement maps, cadaster maps, and mineral inventories, among others. The Per Operation Questionnaire check if the Regional Office publishes the pertinent documents that operating companies submit to the office. These consist, for example, of Social Development and Management Program (SDMP) Reports, Permit in Cutting Trees, and Decommissioning Plans. The materials surveyed in order to check compliance with these

requirements were: 1) the EITI template; and 2) the regional website, if any.

The NCIP is mandated to protect and promote the interests of IPs in the Philippines and to formulate and effectuate policies in connection therewith. The survey likewise breaks down the NCIP to various regional offices. For the survey instrument, the questions are likewise subdivided into two categories—Per Region and Per Operation. The former consists of basic database of registered IPs and their ethnograph, among others. The latter assesses if the regional office disclosed documents such as Free and Prior Informed Consent (FPIC) Conferences, Community Resolutions, Memorandum of Agreement, etc. Materials used to assess compliance were: 1) the template submitted to the EITI; and 2) the agency's regional website, if any.

The companies belonging to a certain region were grouped per region. After which, the average score of the companies within a given region then served as the regional score. The average of each item was obtained for each category and for each category is assigned fixed weights. 20% of the Per Region category plus 80% of the Per Operation category yields the overall score of the regional office.

General Findings

Companies

The top 15 firms are all publicly-listed. The only publicly-listed firms that did not make it to the top ranks are TVI Resources (Agata), Berong, and Citinickel. Studies have shown that publicly-listed companies are more inclined to be transparent because their share prices are likely to be affected by investors' perception of them.¹ This is the positive aspect of the observation. The flipside, however, is that those that are not publicly listed are disinclined or at least have no incentive to be transparent. This is important considering that there are considerably fewer companies that are publicly-listed than those that are not.

Government

The MGB regional offices generally have functional and updated websites and publish the basic information relative to the activities undertaken in their geographical scope. They generally disclose the mining operations, cadastre maps, tenement maps, and annual reports in their geographical scope.

However, as with the survey for mining companies, there is a dearth of information regarding the social and environmental aspects of mining. Most MGB regional websites contain links to purportedly published documents but most of these are either inaccessible or not up to date.

Similar to the private mining companies, this suggests that the MGB regional offices, at best, comply minimally with the standards of transparency. They only disclose basic requirements but do not go out of their way to release more sensitive information about operations within their regions.

Among all the entities covered by the Index, the NCIP regional offices are by far the least transparent. Only a total of four regional offices have websites—Region I, VI, VII, and XII. Regions VI and VII have a joint website but only Region VII is relevant for the study since it is the only one with a mining company operating within its scope. Among those that have websites, the information is very scarce and not up to date.

The greatest issue posed to the IPs is that, to begin with, not a lot of people know of the issues that plague them. Admittedly, discourse over the IPs is not part of the mainstream public information. Only in isolated instances do news reports cover the issues of IPs and the hype over these instances are short-lived anyway. It is the NCIP that is in the best position to bring the IP issues into the public forum. There needs to be a concerted effort to direct attention to the status and concerns of the IP. But this cannot be achieved if the government body tasked to monitor them does not even publish basic documents, much less have a functional website.

¹ Firth, Michael and Wang, K. Philip and Sonia, Wong, *Corporate Transparency and the Impact of Investor*

Sentiment on Stock Prices (December 1, 2013). Management Science, Forthcoming.

FINDINGS: 2012

| | | | |
|----------------------|-----|----------------------|-----|
| Apex Mines | 52% | Sinosteel HY | 31% |
| Carmen Copper | 51% | Shuley Mining | 30% |
| BenguetCorp | 50% | LNL Archipelago | 28% |
| Philex Mining | 49% | Johson Gold | 28% |
| Lepanto Consolidated | 48% | Cambayas Mining | 23% |
| OceanaGold Corp | 46% | Leyte Ironsand | 18% |
| Cagdianao Mining | 46% | Adnama Mining | 15% |
| Hinatuan Mining | 45% | Rapu-Rapu Mining | 13% |
| Marcventures Mining | 45% | Krominco | 8% |
| TVI Resources | 40% | AAM Phil | 4% |
| Taganito Mining | 40% | Citinickel Mines | 4% |
| Philsaga Mining | 39% | Ore Asia | 4% |
| Rio Tuba Nickel | 39% | Oriental Synergy | 4% |
| Berong Nickel | 38% | Pacific Nickel | 4% |
| Platinum Group | 36% | Shenzou Mining | 4% |
| Carrascal Nickel | 33% | Zambales Diversified | 4% |
| Filminiera Mining | 33% | CTP Construction | 0% |
| Greenstone Resources | 32% | Mt. Sinai Mining | 0% |
| SR Metals | 32% | SR Languyen | 0% |
| Eramen Corp | 31% | | |

FINDINGS: 2013

| | | | |
|----------------------|-----|-----------------------|-----|
| Philex Mining | 53% | Filminiera Minerals | 26% |
| Platinum Group | 48% | Sino Steel | 26% |
| Cagdianao Mining | 45% | Eramen Minerals | 24% |
| Lepanto Consolidated | 45% | SR Metals | 24% |
| Taganito Nickel | 45% | Century Peak | 21% |
| Philsaga Mining | 44% | Adnama Mining | 19% |
| Carmen Copper | 44% | TVI Resources (Agata) | 18% |
| Rio Tuba Nickel | 43% | Leyte Ironsand | 16% |
| Greenstone Resources | 42% | Investwell Resources | 6% |
| Apex Mines | 42% | Berong Nickel | 4% |
| TVI Resources | 41% | Cambayas Mining Corp | 4% |
| Hinatuan Mining | 40% | CTP Mining | 4% |
| Marcventures Mining | 40% | Wellex Mining | 2% |
| BenguetCorp | 38% | Shenzhou Mining | 0% |
| OceanaGold | 33% | Oriental Synergy | 0% |
| Carrascal Nickel | 32% | Zambales Diversified | 0% |
| Pacific Nickel | 32% | Norweah Mining | 0% |
| AAM-PHIL | 30% | Strong Built Mining | 0% |
| Shuley Mines | 29% | Mt. Sinai Mining | 0% |
| Johson Gold | 29% | Libjo Mining | 0% |
| LNL Archipelago | 28% | Atro Mining | 0% |
| Ore Asia | 27% | Citinickel Mines | 0% |
| Rapu-Rapu Mining | 27% | SR Languyan | 0% |
| Krominco | 26% | | |

RECOMMENDATIONS

To Mining Companies

1. Commit to the Philippine Extractive Industries Transparency Initiative

In 2013, only 31 of the 48 targeted mining companies participated in the EITI process. Nonparticipation in the initiative is a disservice to the owners of the natural resources – the Filipinos. As contractors of the government, mining companies have the obligation to be open and transparent and EITI is one avenue where they should exercise this obligation.

2. Go beyond the minimum disclosure

Participation in the EITI and disclosures to the stock exchange should not be the sole standard of transparency. Their practice of openness should be in line with the needs of communities and mining is not all about financial disclosures.

3. Disclose documents; not mere statements in annual reports.

Mentions of certain disclosures in annual reports does not allow for further public participation since the information provided is limited. Companies should disclose the documents – permits, annexes to contracts, maps and so on, for communities to see the whole picture and not just what the companies want to report.

To Government

1. Institutionalize freedom of information and mandatory participation in the PH-EITI.

As caretakers of natural resources, the government has the obligation to the Filipino people to inform them on how their natural resources are governed. Participation in the PH-EITI should not be voluntary but mandatory. At the current state of the EITI, only 31 of the 48 targeted entities participate.

2. Require companies and regional offices to disclose important documents and data on a project level.

Oversight of mining operations is handled by offices at the regional hence the most relevant documents and information are at their level. If

transparency is to work for communities, the initiative to disclose must put regional offices at the forefront.

3. Organize regional websites

Publishing online information and documents democratizes access to information to every Filipino wherever they are. While websites may not be the most effective platform for all especially those without internet access, it is a necessary step for regional offices to ensure that information can be freely accessed without any barriers.

To Civil Society Organizations

1. Push for companies and regional offices to be more transparent.

Civil society organizations especially those working with mining-affected communities need to continuously dialogue with regional offices and companies themselves to disclose data and information beyond the EITI standard. Rather, they should demand for information and data most relevant to them such as those pertaining to social and environmental disclosures.

2. Use the disclosures by companies and government.

While disclosures remain limited to mostly financial in nature, CSOs must also ensure use of these disclosures to make them work for their constituent communities. CSOs must use these disclosures in their advocacies as evidences in their engagement with government and companies. This way, disclosures are not made for the sake of transparency but for genuine accountability that benefits the communities.

To Investors

1. Demand that companies disclose more exhaustively and consider transparency or lack thereof in investment decisions.

Investors must evaluate the riskiness of companies they are investing in. They should have access to pertinent information that may affect smooth operation of mining companies they are putting their money in. Poor compliance can lead to backlash. When this happens, market value of companies is drastically affected and consequently share prices of investors. Measuring compliance can only be done by looking at actual documents and not annual reports alone published by companies themselves.

Annex A. Questions

Mining Transparency Index

Commitment to Transparency

- 1 The company submitted accomplished template to PH EITI
- 2 The company signed waiver to PH EITI
- 3 The company or its mother company has a publicly- stated policy on transparency
- 4 The company or its mother compny has a functional and updated website
- 5 The company or its mother company publishes an annual report on its website

Financial Disclosures

- 1 Financial Statement (2012) is publicly available
- 2 The company disclosed payments to BIR
- 3 The company disclosed payments to BOC
- 4 The company disclosed payments to PPA
- 5 The company disclosed payments to MGB
- 6 The company disclosed payments to NCIP
- 7 The company disclosed payments to LGU
- 8 The company provided schedule of payments to the EITI
- 9 The company disclosed any grants or donations made, if any
- 10 The company disclosed any incentives it received from the government

Social and Environmental Disclosure

- 1 Semi-annual Report on Mine Waste and Tailings generated is available online
- 2 Status reports of the Environmental Work Program is available online
- 3 Technical report on the two-year Exploration Work Program (report on environmental effects) is available online
- 4 Certificate of Environmental Management and Community Relations Record/Certificate of Exemption is available online
- 5 Environmental Management Plan is available online
- 6 Environmental Work Program is available online
- 7 Environmental Protection and Enhancement Program is available online
- 8 National Greening Program is available online
- 9 Annual Environmental Protection and Enhancement Program is available online
- 10 Annual program for SDMP is available online
- 11 Environmental Impact Assessment is available online
- 12 EPEP Monitoring Report is available online
- 13 MRF Progress Report is available online

- 14 Mining Monitoring Trust Fund Monitoring Report is available online
- 15 Rehabilitation Cash Fund Monitoring Report is available online
- 16 Mine Waste and Tailings Fee Semi-Annual Reports and Verification Report are available online
- 17 Social Development and Management Program is available online
- 18 SDMP Monitoring Report is available online
- 19 The company disclosed its disaggregated SDMP Spending
- 20 The company disclosed its disaggregated CLRFs

Operations Disclosure

- 1 Monthly Report on Production, sales and inventory of metallic minerals and employment is available online
- 2 Annual Mineral Reserve Inventory Reports is available online
- 3 Emergency Response Program is available online
- 4 Quarterly SHP Accomplishment Reports are available online
- 5 Safety and Health Program is available online
- 6 Quarterly Audit of the Safety and Health Program is available online
- 7 Monthly Explosive Consumption Report is available online
- 8 The company disclosed their beneficial owners with percentages of ownership
- 9 The company disclosed names of their company officials
- 10 The company disclosed the demographics of their employees as asked in the PH EITI template
- 11 The company disclosed its mineral extraction to PH EITI

Documentary Disclosure

- 1 Field Based Investigation Report is available online
- 2 Documentation of Pre-FPIC Conference is available online
- 3 Documentation/Report of 1st Community Assembly is available online
- 4 Documentation/Report of 2nd Community Assembly is available online
- 5 Documentation of Consensus Building Process is available online
- 6 Post FPIC Report is available online
- 7 Memorandum of Agreement is available online
- 8 Location map is available online
- 9 Proof of technical competence is available online
- 10 Proof of financial capability to undertake the Exploration Work Program is available online
- 11 Photocopy of Articles of Incorporation, By-Laws and Certificate of Registration is available online
- 12 Certificate of non-overlap for areas without ICC is available online
- 13 Community resolution on the EPR is available online

- 14 Audited financial statements covering term of exploration permit is available online
- 15 Permit in cutting trees is available online
- 16 Field Based Investigation Report is available online
- 17 Documentation of Pre-FPIC Conference is available online
- 18 Documentation/Report of 1st Community Assembly is available online
- 19 Documentation/Report of 2nd Community Assembly is available online
- 20 Documentation of Consensus Building Process is available online
- 21 Post FPIC Report is available online
- 22 Memorandum of Agreement is available online
- 23 Mining Project Feasibility Study is available online
- 24 Development/Utilization Work Program is available online
- 25 Final Mine Rehabilitation and Decommissioning Plan is available online
- 26 Annual land use report is available online
- 27 General Information Sheet is available online
- 28 Progress Report of the FMR/DP submitted by the mining company to the MGB RO is available online
- 29 Annual report of accomplishment of activities of the CLRF Steering Committee is available online
- 30 Final Rehabilitation with third party environmental audit is available online
- 31 Evaluation report of the MRF Committee is available online
- 32 Site Management Plan is available online



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