



HOW ARE OUR NATURAL
RESOURCES GOVERNED?

EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

LEGISLATION PRIMER



ARTICLE III. SECTION 7. THE RIGHT
OF THE PEOPLE TO INFORMATION
ON MATTERS OF PUBLIC CONCERN
SHALL BE RECOGNIZED...

What is the EITI?



The EITI is an international standard of governance implemented in 51 countries

As of 2016, the Extractive Industries Transparency Initiative (EITI) is being implemented in 51 countries in Asia, Australia, North America, South America, Europe, and Africa.



The process involves reconciliation of disclosure of payments made by companies and revenues reported by government

An independent administrator (IA) collects data from government agencies and participating companies and then reconciles the figures. Should there be discrepancy, the IA asks the concerned to identify possible gaps in the difference.



EITI national and international implementation is governed by a Multi-Stakeholder Group (MSG).

The MSG is a group composed of representatives from the industry, government and civil society working together to make policies and decisions in relation to EITI implementation



Its implementation follows a Standard set by the EITI international board

The EITI Standard provides for requirements that implementing countries need to follow.



An implementing country's status may be:



Candidate:

When a country decides to implement EITI for the first time. After two and a half years, a candidate country must undergo Validation.



Compliant:

When a country undergoes Validation and made satisfactory progress in meeting the EITI Standard. Compliant-status is re-validated every 3 years.



Suspended:

When a country fails to meet the EITI Standard for no more than 1 year. Otherwise, the country will be delisted.



The Philippines is currently a candidate country. We are to undergo Validation by January 2017.

Why institutionalize EITI?



EITI informs affected communities.

Communities can meaningfully engage with key stakeholders with evidenced-based data. EITI also informs them of how much is due to them. This allows them to meaningfully engage with key stakeholders including the government and the industry on how to manage their natural resources.



Right to information is an inherent right of every Filipino.

The 1987 Philippine Constitution enshrines the Filipino peoples' right to information particularly on matters of public concern. The Filipinos, represented by the state, own the country's finite natural resources. Hence, government should inform the public how finite resources are governed and how it spends proceeds from the extraction of these resources.



EITI informs public policy and decision making.

The EITI process generates data and reports which government can use to inform and formulate policy reforms. The annual EITI country reports identify gaps as well as good practices in resource governance.



Private sector benefits from transparency.

Corruption increases the cost of doing business. When transactions between the private and public sector are transparent, there are fewer opportunities for "under the table" transactions. The private sector becomes a genuine partner of development with their payments accounted for and spent on social services.



To ensure continuity of reforms and gains of EITI.

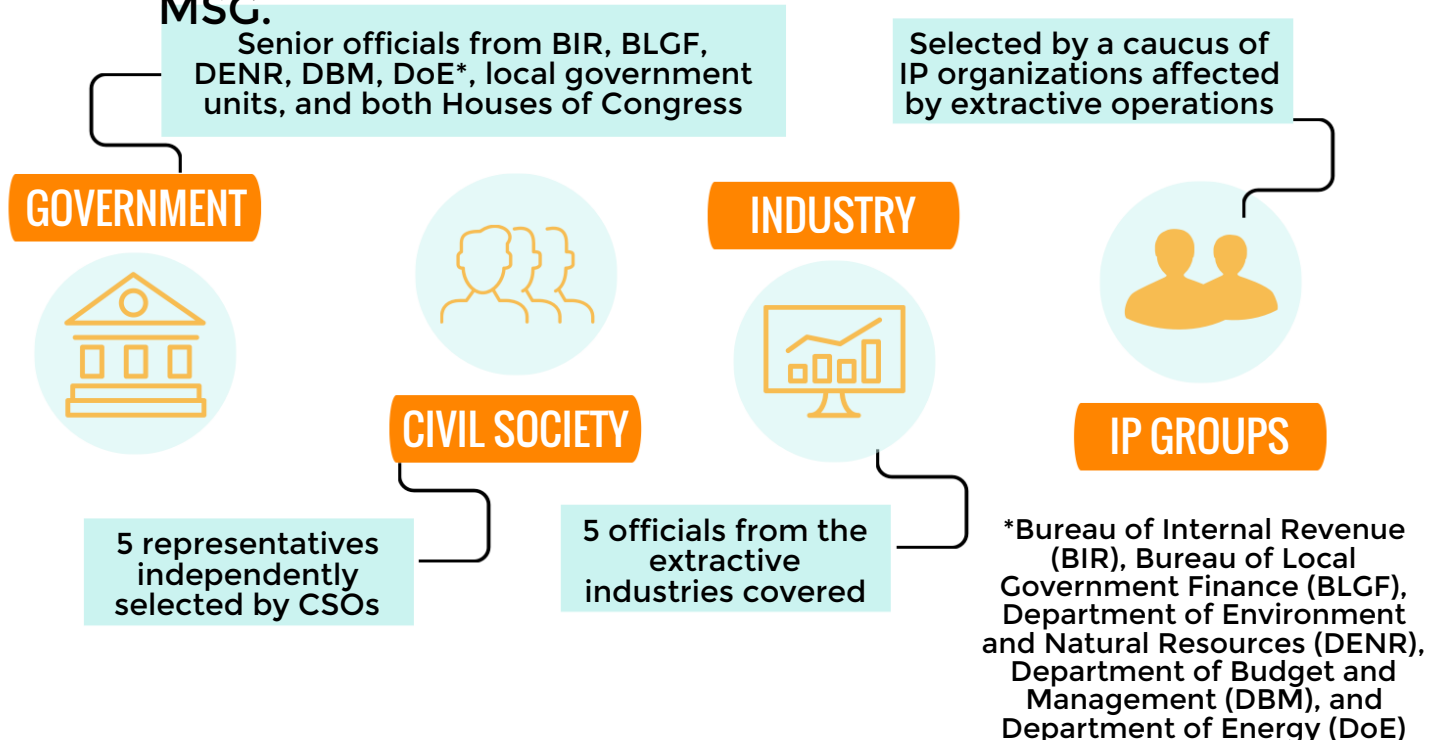
The Philippines' participation in EITI in 2013 is mandated by Section 14 of Executive Order 79 and Executive Order 147. Continuity of EITI is necessary to ensure reforms and good governance in the sector. EITI-Compliant Status is also one of our commitments to the Open Government Partnership.

Proposed Objectives & the MSG



ALL key stakeholders need to be represented in the MSG.

The Standards provides for representation of government, industry, and civil society in the MSG. In the case of the Philippines, however, indigenous peoples (IPs) are also heavily affected by extractive industries. Hence we are pushing for representation of IPs in the MSG.



Proposed Objectives of the PH-EITI:



Contract Transparency

To prevent preferential agreements and open contracts to public scrutiny



Revenue Transparency

To ensure proceeds from finite natural resources are accounted for by the public and that they translate to sustainable development



Access to Information

To better inform public debate and prevent misinformation due to lack of data

Proposed Scope of EITI



The scope of the PH-EITI should cover extractive companies regardless of size.

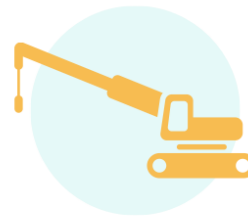
Extraction of resources affects communities and the environment regardless of materiality. The PH-EITI needs to cover all extractive companies from the different sectors of the extractive industries.



**MINING
INDUSTRY**



**UPSTREAM
OIL AND GAS**



**UPSTREAM
COAL SECTOR**



Participation of ALL extractive companies will be REQUIRED.

Currently, EITI participation is voluntary causing some companies to not comply. Under the proposed legislation, failure to participate will warrant the company suspension of its permit and blacklisting for future projects.



Extractive companies will be exempted from confidentiality clause.

Disclosure by the Bureau of Internal Revenue is burdened by confidentiality provisions under Section 270 of the National Internal Revenue Code and Article 81 of the Omnibus Investments Code. The proposed legislation exempts extractive companies from these provisions insofar as their participation to in the PH-EITI process is concerned.

Proposed Secretariat & Funding



The PH-EITI Office will be transferred to the Office of the President.

The proposed legislation also suggests that the PH-EITI be lodged directly under the Office of the President, with a Chairman appointed by the President. The MSG then selects a National Coordinator that will lead the Secretariat office performing day-to-day operations of EITI. Currently, the PH-EITI is hosted by the Department of Finance.



The EITI implementation needs support from government

The proposed legislation of EITI prescribes that Congress allocate adequate funding for EITI implementation. The said amount shall be 2% of the gross proceeds of the sectors covered by and within the scope of EITI.



The President and Congress should be furnished an annual report.

The prescribed annual Philippine EITI Report shall include, but not be limited to:

- (1) report of payments and revenues including government spending;
- (2) report and audit of contracts and monitoring reports; and
- (3) civil society assessment of the EITI process.

The report shall be submitted in any case not later than April 30 of each year.

PH-EITI's Performance



The PH-EITI implementation is internationally recognized.

Last February 2016 in Lima, Peru, the Philippines received the EITI Chair Award for impacts of EITI implementation to policy reforms. The country was one among only four countries that received the award.



Two country reports has so far been produced by the implementation of EITI.

The two reports cover fiscal years 2012 and 2013. The reports provide contextual information and a reconciliation of payments declared by participating extractive companies and of revenues reported by government.



The Philippines has an online repository of contracts through EITI.

Through the PH-EITI, contracts, monitoring reports, and compliance documents were disclosed and uploaded in an online portal.



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