

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



NINETEENTH CONGRESS
First Regular Session

House Bill No. 6950

Introduced by CIBAC Party-List Representative
HON. EDUARDO 'BRO. EDDIE' C. VILLANUEVA

**AN ACT
PROVIDING FOR THE CREATION OF PHILIPPINE EXTRACTIVE
INDUSTRIES TRANSPARENCY INITIATIVE AND FOR OTHER
PURPOSES**

EXPLANATORY NOTE

The extractive industries have the capacity to contribute to the national growth and development, especially in resource-rich countries like the Philippines. They have the potential to provide livelihood opportunities, create jobs, and channel additional government resources to host communities. The gains from the oil, gas, and mineral resources, nevertheless, do not always translate to benefits for the general public. Across the globe, extractive industries are marred with various issues on environmental degradation, fiscal misconduct, poverty, and corruption.

In response to these issues, the Extractive Industries Transparency Initiative (EITI) was launched to allow for full disclosure of and public access to information regarding the extractive industry. The EITI is an internationally recognized framework and practice that monitors revenue and public benefit from mining and other extractive resources. Composed of representatives from the government, extractive industry players, and civil society organizations, EITI provides a platform for the regular and systematic reporting, review, and assessment of information concerning

the industry. It also strengthens multi-sectoral participation in crafting and implementing regulatory policies governing the extractive industry.

In the Philippines, the EITI was established on November 26, 2013 pursuant to Executive Order No. 147 entitled “Creating the Philippine Extractive Industries Transparency Initiative.” Since its inception, the Philippine EITI (PH-EITI) served as an effective platform for public disclosure of information on fees, taxes and other payments made by mining companies. The later expansion of PH-EITI enabled the coverage of oil and gas industries. Furthermore, regular reports published by the PH-EITI also later expanded to include publicly disclosed information on social and environmental impact of the extractive industries.

Among the impacts of this initiative, the PH-EITI strengthened the capacity of local government units (LGUs) – as well as other stakeholders such as community groups, civil society organizations, and indigenous people – in monitoring the mining activities in their respective areas through regular disclosure of the share of LGUs in the revenues from extractive industries. Over the years since its inception, PH-EITI data collection and reporting provided different stakeholders the instrument and proper platform to formulate real governance reforms on the ground.

To ensure the continuation of the reforms introduced and established by the said initiative, this bill seeks to institutionalize the creation of the Philippine EITI. Institutionalizing the PH-EITI will enable the multi-sectoral initiative not only to continue its efforts but also pursue other reforms that will allow the country to further maximize the benefits from the extractive industry.

The immediate passage of this bill is earnestly sought.



EDUARDO “BRO. EDDIE” C. VILLANUEVA

- 1 b) **Contractor** means a qualified person acting alone or in
2 consortium who is a party to a mineral agreement or to a financial
3 or technical assistance agreement;
4
- 5 c) **Extractive Industries** refer to the mining, oil, gas and coal
6 sectors and all other sectors that require the extraction of non-
7 renewable natural resources for commercial use;
8
- 9 d) **Financial or Technical Assistance Agreement (FTAA)** means
10 a contract involving financial or technical assistance for large-
11 scale exploration, development and utilization of mineral
12 resources;
13
- 14 e) **Independent Firm** refers to an accounting or auditing firm that
15 has no existing relationship with either the Government or any of
16 the companies that are part of the Philippines-Extractive
17 Industries Transparency Initiative (PH-EITI);
18
- 19 f) **Mineral Production Sharing Agreement (MPSA)** means an
20 agreement where the government grants to the contractor the
21 exclusive right to conduct mining operations within a contract
22 area and shares in the gross output. The contractor provides the
23 financing, technology, management and personnel necessary for
24 the implementation of the agreement;
25
- 26 g) **Multi-stakeholder Group (MSG)** shall have the meaning given
27 to it under Section 14 of this Act; and
28
- 29 h) **State** refers to the Republic of the Philippines.
30

31 **CHAPTER II**
32 **ESTABLISHMENT OF THE PHILIPPINE**
33 **EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE**
34

35 **SEC. 4. Creation of PH-EITI.** – There is hereby created the
36 Philippine Extractive Industries Transparency Initiative (hereinafter
37 referred to as PH-EITI).
38

39 **SEC. 5. Composition.** – The PH-EITI shall be composed of a broad
40 coalition of stakeholders, including representatives from the government,
41 the private sector, the indigenous community, and non-governmental
42 organizations. The PH-EITI shall be governed by a multi-stakeholder

1 body (hereinafter referred to as PH-EITI MSG), which shall be constituted
2 in accordance with the provisions of Chapter V of this Act.

3
4 **CHAPTER III**
5 **OBJECTIVES OF THE PH-EITI**
6

7 **SEC. 6. *General Objectives.*** – The general objective of the PH-
8 EITI is to improve governance and management of the natural resources
9 in the country and ensure that all of what is due to the Filipino people and
10 the Government on account of the exploitation and/or extraction of the
11 country’s mineral, oil, gas and other natural resources are (a) verifiably
12 paid; (b) duly accounted for; and (c) judiciously utilized for the benefits of
13 all Filipinos and on the basis of intergenerational equity and sustainability.
14

15 **SEC. 7. *Specific Objectives.*** – The specific objectives of the PH-
16 EITI shall include, but not be limited, to the following:
17

- 18 a) Ensure sustained political commitment for the initiative and
19 mobilize resources to sustain its activities and goals;
- 20
21 b) Require all companies engaged in the extraction of natural
22 resources to participate in such initiative;
- 23
24 c) Promote genuine participation of civil society in the design,
25 implementation, evaluation and modification of policies and
26 actions of the Government associated with resource
27 governance in the Philippines;
- 28
29 d) Implement and ensure compliance to the standards and
30 policies of the global initiative;
- 31
32 e) Ensure that the initiative is effectively integrated in other
33 related government reform agenda; and
- 34
35 f) Promote better understanding of the public on the nature of
36 extractive industries and the benefits of transparent and
37 accountable governance of our natural resources.

38
39 **CHAPTER IV**
40 **SCOPE AND FOCUS OF THE PH-EITI**
41

42 **SEC. 8. *Applicability.*** – This Act shall apply to all extractive
43 industries, government agencies at the national and local level in the

1 country. National and local governments shall be mandatorily required to
2 participate in reporting relevant data pursuant to this Act.

3
4 **SEC. 9. Scope.** – The scope of the PH-EITI shall include:

- 5
6 a) Revenue transparency, which means the timely disclosure,
7 reconciliation or audit and publication of all data of material
8 national and local payments and revenues sourced from the
9 extractive activities covered by the scope of the PH-EITI;
10
11 b) Contract transparency, which means public accessibility of all
12 concessions, contracts/licenses, agreements and joint ventures
13 that the Government enters into related to the extractive sectors
14 within the scope of the PH-EITI including related documents and
15 attachments to the contracts; and
16
17 c) Accessibility of data, information and reports on the extractive
18 industries, which means public release of data, documents, and
19 information in a format that allows the public to freely use, re-use
20 and redistribute them, for any purpose, without restrictions.
21

22 **SEC. 10. Sectors Covered.** – For the purpose of this Act, the
23 following sectors shall be covered by and within the scope of the PH-EITI:
24 (a) the mining sector; (b) the oil and gas sector; (c) the coal sector; and
25 (d) such other sectors as the multi-stakeholder group may subsequently
26 determine and deem necessary. The covered sectors shall submit
27 relevant data, including, but not limited, to the cost of their operations,
28 amount minerals sold, which shall be disaggregated per transaction, and
29 include such information as the name of the buyer/s, country of
30 destination, among others, and other related costs, which shall also be
31 disaggregated.
32

33 **SEC. 11. Annual Report.** – The PH-EITI shall submit an annual
34 report to the President and Congress, in any case not later than April 30
35 of each year. The annual report to be prepared, submitted and published
36 by the PH-EITI shall comply with the international standards of EITI and
37 include additional reporting requirements as agreed upon by the PH-EITI
38 MSG.
39

40 **SEC. 12. Monitoring of Payments.** – The payment and utilization
41 of taxes, fees, surcharges, and similar charges made by extractive
42 companies and/or contractors shall be closely monitored by the PH-EITI.
43 All fiscal payments and mandatory expenditures by contractors shall be

1 disclosed to the PH-EITI MSG for the production of the annual EITI report.
2 National and local governments shall also submit a report on how the
3 proceeds from the extraction of resources were utilized.

4
5 **CHAPTER V**
6 **CREATION OF MULTI-STAKEHOLDER GROUP**
7

8 **SEC. 13. Composition.** – In accordance with the EITI International
9 Standards and with due regard to the Philippine context, there shall be
10 created a multi-stakeholder group (MSG) that will be in charge of PH-EITI.
11 The PH-EITI MSG shall be headed by a Chairperson to be appointed by
12 the President of the Philippines, who must be either: (1) a Cabinet
13 secretary, (2) the head of the interagency coordinating council on the
14 extractive sector, or (3) a presidential adviser. The functions of the
15 Chairperson shall include convening the group and organizing a
16 secretariat.

17
18 The PH-EITI MSG shall consist of representatives from the following
19 sectors:

- 20
21 a) Government Representatives. The government representatives
22 shall be composed of (1) senior officials from concerned agencies
23 appointed by the President of the Philippines, (2) representatives
24 from local government units, which shall be the president of the
25 leagues of various local government units; and (3) representatives
26 from the Congress, to ensure that the findings of the EITI will be
27 used for more effective and more responsive policies;
28
29 b) Industry Representatives. The industry representatives shall be
30 composed of officials from the extractive industries included in the
31 EITI;
32
33 c) Civil Society Organizations (CSOs) Representatives. The civil
34 society shall independently select their representatives in the EITI;
35 and
36
37 d) Indigenous Peoples (IPs) Representatives. The IP representative
38 shall be selected by a caucus of IP organizations affected by mining
39 operations.
40

41 Provided, that groups representing items (b), (c) and (d) above shall
42 designate a permanent and alternate representative to PH-EITI MSG.
43 Each organization, upon the decision of its members and through its

1 independent process, can replace their representatives in the MSG any
2 time following their own governance mechanism.

3
4 **SEC. 14. Regular Meeting of PH-EITI MSG.** – The PH-EITI MSG
5 shall meet once a quarter or as often as necessary. For urgent matters
6 where decision is needed, necessary information shall be circulated
7 through email so that decisions can be made electronically by consensus.
8 Fifty percent (50%) of the members, with at least one representative from
9 the government, CSOs, IPs, and business sector shall constitute a
10 quorum for the transaction of business of PH-EITI MSG. The MSG, shall,
11 in good faith, make decisions by consensus.

12
13 **SEC. 15. Annual Meeting of PH-EITI MSG Members.** – The
14 members of PH-EITI MSG shall hold their annual meeting on the month
15 of April of each year. The agenda of the meeting shall include, but not be
16 limited to, the approval of the activities, reports, accounts and the activity
17 plan of the PH-EITI, and any other acts or matters which may be brought
18 to the attention of the PH-EITI in pursuit of its mandate as provided under
19 this Act and relevant regulations.

20
21 **SEC. 16. Notice of Meetings.** – The Chairperson shall call and
22 preside over the meetings. Notices shall be sent out by the PH-EITI
23 secretariat at least one week before the date of the meeting. The
24 secretariat shall handle the documentation and preparations of the
25 minutes of the meeting.

26
27 **SEC. 17. Review of the MSG.** – The composition and number of
28 representatives shall be subject to regular review by the MSG. Other
29 agencies may form part of the MSG subject to the evolving needs and
30 scope of the EITI implementation; Provided, That all sectors should be
31 adequately represented in the MSG at all times; Provided further, That the
32 existing PH-EITI created under Executive Order No. 147, s. 2013 shall be
33 henceforth constituted under the provisions of this Act.

34
35 **CHAPTER VI**
36 **SECRETARIAT OFFICE AND FUNDING**

37
38 **SEC. 18. PH-EITI Office.** – There is hereby created the PH-EITI
39 Office under the Office of the President, to be headed by a National
40 Coordinator selected by the PH-EITI MSG. The staffing pattern, including
41 the duties, qualifications, responsibilities and functions, and
42 compensation scheme of the personnel of the PH-EITI Office shall be
43 determined by the MSG, upon the recommendation by the National

1 Coordinator. For this purpose, the creation of the corresponding plantilla
2 positions is hereby authorized.

3
4 **SEC. 19. *Funding.*** – The Congress shall allocate adequate funding
5 for the implementation of PH-EITI in the General Appropriations Act;
6 Provided, That the said amount shall not be less than the amount
7 equivalent to one percent to two percent (1% to 2%) of the gross proceeds
8 of the sectors covered by and within the scope of the PH-EITI, as defined
9 in Section 10 of this Act.

10 The PH-EITI Office shall have the authority to receive, disburse, and
11 manage financial aid or grants from foreign and domestic entities to be
12 utilized for the implementation of the objectives of PH-EITI, subject to the
13 usual accounting and auditing rules and regulations of the government.

14
15 **CHAPTER VII**
16 **EXEMPTION FROM CONFIDENTIALITY CLAUSES**

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18 **SEC. 20. *Exemption from Confidentiality Clauses.*** –
19 Confidentiality provisions stated under applicable laws, including, but not
20 limited, to the provisions of Section 270 of the National Internal Revenue
21 Code, Article 81 of the Omnibus Investments Code, among others, shall
22 not be applicable to extractive companies insofar as their participation in
23 the PH-EITI process is concerned.

24
25 **CHAPTER VIII**
26 **PENALTIES**

27
28 **SEC. 21. *Penalties.*** – Failure to participate in PH-EITI shall be a
29 ground for suspension of the contractor’s permit to operate and
30 blacklisting for future projects. A contractor that, without justifiable cause,
31 unreasonably delays or causes the delay of submission of the reporting
32 template within the deadline set by PH-EITI, shall be imposed a fine of
33 One Million Pesos (Php1,000,000.00). Sanctions provided under this Act
34 shall be imposed by the responsible regulatory agency, as the case may
35 be, pursuant to the concerned agency’s internal rules and regulations.

36
37 **CHAPTER IX**
38 **TRANSITORY AND MISCELLANEOUS PROVISIONS**

39
40 **SEC. 22. *Implementing Rules and Regulations.*** – Within sixty
41 (60) days from the effectivity of this Act, the Secretaries of Finance,
42 Budget and Management, Environment and Natural Resources, Interior
43 and Local Government, and Energy, in consultation with relevant

1 stakeholders, shall promulgate the necessary rules and regulations for the
2 effective implementation of this Act.

3
4 **SEC. 23. *Separability Clause.*** – If any provision of this Act is
5 declared unconstitutional or invalid, other parts or provisions hereof not
6 affected thereby shall continue to be in full force and effect.

7
8 **SEC. 24. *Repealing Clause.*** – All laws, decrees, executive orders,
9 rules and regulations or parts thereof which are contrary to or inconsistent
10 with this Act are hereby repealed, amended or modified accordingly;
11 provided, that nothing in this Act shall be construed as a diminution of
12 local autonomy or in derogation of ancestral domain rights under the
13 Indigenous Peoples’ Right Act of 1997.

14
15 **SEC. 25. *Effectivity.*** – This Act shall take effect fifteen (15) days
16 after its publication in this Official Gazette or in any two newspapers of
17 general circulation.

18
19 **Approved,**