

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth CONGRESS
First Regular Session

House Bill No. 3763

Introduced By Hon. KAKA J. BAG-AO, Hon. WALDEN F. BELLO,
Hon. TEDDY BRAUNER BAGUILAT, JR., Hon. RUFUS B. RODRIGUEZ,
Hon. MAXIMO B. RODRIGUEZ, JR., Hon. CARLOS M. PADILLA,
and Hon. ROILO S. GOLEZ

EXPLANATORY NOTE

The country's natural resources form a great part of the nation's wealth. Consequently, all activities which have the propensity to impair the quality of our natural resources should be subjected to scrutiny before being allowed to continue.

One of the industries which have massive societal and environmental impacts is the mining industry. It is essentially an extractive industry which results in the depletion of nonrenewable resources.

However, despite the naturally polluting tendency of the mining industry, the Philippine government's legislation and policies are largely pro-mining beginning with the passage of the Philippine Mining Act or Republic Act 7942 in 1995. It sought to liberalize the mining industry to foreign investment in order to meet the demands of globalization. The law was eventually declared unconstitutional by the Supreme Court in the leading case of *La Bugal B'laan Tribal Association v. Ramos*, a decision that was overturned less than a year later. The history of that case mirrors the proclivity of the government to act against its better judgment once the so-called profits of mining are brought into the picture. Indeed, the law has continued to serve as a platform for every administration's determined pursuit of mining as its most lucrative attraction for foreign investors, especially the previous administration. In executive issuances EO 270 and 270-A, the previous administration outlined a national policy agenda for the revitalization of the mining industry as a pillar of growth. It declared that the vast mineral resources of our country should be utilized for economic development and poverty alleviation, especially in the rural areas. It further fast-tracked the procedures for processing mining applications and diluted the authority of the local governments over mining issues.

Considering the history of serious mining accidents and the mining corporations' poor record in complying with our inadequate mining laws, the government's deference to the mining industry should be better examined. The baseless messianic view that the mining industry will attract foreign investment and save the country's faltering economy should be pitted against the numerous controversies over the massive social, economic and environmental impacts of the mining industry. In particular, the easy access of mining companies into indigenous peoples lands and ancestral domains and the controversy over mining in watersheds and other protected areas must be studied thoroughly.

Furthermore, the devastating effects of mining on the health of the environment and communities on the long-term and at a large scale are both well-documented and unprecedented. Mining is an intrinsically dirty, wasteful and destructive industry – it threatens 40% of the world's undeveloped forests, causes the emission of 142 million tons of acid-rain-causing sulphur dioxide each year, and consumes from seven to 10 percent of the world's energy. The creation of one gold ring generates three tons of waste, mostly left behind in indigenous peoples' domains where half of the world's gold are mined.

In the Philippines, the Marcopper disaster in Marinduque is one of the most notorious examples dramatizing the Philippines' own struggle with the hazards of mining. More than three million tons of toxic sludge were released into the Boac River in 1996 when a drainage tunnel burst, rendering the river biologically dead. This after two decades of environmental havoc had already been brought about by Placer Dome, the Canadian mining firm responsible for the Marcopper mines, which caused the dumping, via surface disposal, of more than 200 million tons of mine tailings directly into the shallow waters of Calancan Bay, covering corals and sea grasses and the bottom of the bay with 80 square kilometers of tailings.

Yet, despite these statistics and experiences, our policy-makers have championed mining as the virtual savior of our economy and made it a "pet project" of sorts, laboring under the illusion that it can still bring high revenues for the government. The reality, however, is that the mining industry is currently one of the weakest sectors in the global market. The big transnational mining companies have cut their workforces by the thousands and mining projects have been shelved with the global financial crisis which Karsten Fuelster, a mining division business development official for the International Finance Corp. have said is leading to "substantial short-term demand destruction." He adds that prices for metals apart from gold are expected to fall and projects will get delayed and exploration curtailed, while "funding difficulties will get worse" before they get better and that fund-raising will become "nearly impossible for non-producing companies" and that "many will not survive."

Even historically speaking, mining has never been shown to drive national economic development and is not expected to do so now, especially vis-à-vis the social, cultural, environmental, health, and even the economic costs it entails. In the Philippines, mineral-rich provinces continue to have higher poverty incidences despite the operations of mining companies. Instead, mining has exacerbated conflicts, resulted in the displacement of indigenous peoples and other rural communities, heightened the numbers of extra-judicial killings and of human rights violations, and caused and exacerbated the pollution and depletion of natural resources which for generations have sustained livelihoods and defined our people's way of life. To pour resources into an industry which contributes only 1.2% of the country's GDP, instead of, say, into the agricultural sector which accounts for 35.7% of

the country's labor force and economically contributes more to the country's GDP at 18%¹ simply defies good common sense.

The promotion of mining, therefore, in this time of crisis will translate not only to bad investment but also to the waste of what little resources we have remaining, these resources referring to both money in the bank and to those that are most essential such as water and food. There is an obvious and urgent need to shift our present framework on mining. We need to rethink our current priorities and recognize that it not only impossible but also unwise to separate mining from the discussion of resource use, water, food security, environment, human rights, indigenous peoples and economics.

If there is truly a need for mining and if we are to engage in the mining industry as a nation, then there are certain safeguards that we need to establish to be able to meet the needs of our peoples now and in the future. There must be a shift of land use priorities towards sustainable development and food security. The benefits of mining for the Filipino peoples should clearly be established before even considering exposing our land and our people to the risks and hazards that are entailed.

Against this backdrop, the exploration of our mineral wealth must be understood within the context of environmental protection and sustainable development. The policies of the State should be aimed at preventing disasters rather than mere remedial in nature. Since the effects of the mining industry are irreversible and the remedies or rehabilitation of the environment after disasters have occurred would be merely an exercise in futility, it would be better to formulate policies that will abate the occurrence of such deleterious events.

In this regard, the policies, principles and provisions contained in the 1995 Mining Act sorely lack what is needed to effectively respond to the needs of the Filipino people and to survive the current economic and environmental crises that we together face. This bill is therefore proposed to take the place of the current mining law and, among others:

- guarantee that the exploration, development and utilization of mineral resources are primarily for the benefit of the Filipino people;
- prioritize more viable and more sustainable livelihood choices for communities, giving utmost importance to food security and livable conditions for the peoples;
- ensure that the gains from the mining industry would be maximized while preventing or mitigating its adverse effects of the same;
- recognize that the issue of environment is local and prioritize local participation in decisions surrounding mining; and
- protect human rights of communities and individuals and impose harsh penalties for the violations thereof.

In view of the foregoing, the early passage of this bill is thus earnestly sought.



HON. KAKA J. BAG-AO
Akbayan Partylist

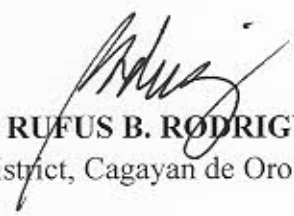


HON. WALDEN F. BELLO
Akbayan Partylist

¹ Based on figures for the year 2008.



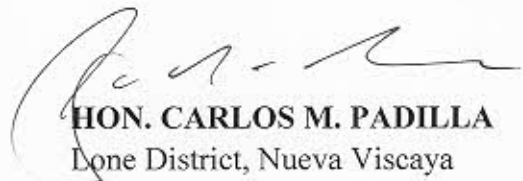
HON. TEDDY BRAWNER BAGUILAT, JR.
Lone District, Ifugao



HON. RUFUS B. RODRIGUEZ
2nd District, Cagayan de Oro City



HON. MAXIMO B. RODRIGUEZ, JR.
Abante Mindanao Partylist



HON. CARLOS M. PADILLA
Lone District, Nueva Viscaya



HON. ROILO S. GOLEZ
Second District, Parañaque City

- c) Value the dignity of every human person and guarantees full respect for human rights;
- d) Promote social justice in all phases of national development;
- e) Recognize and promote the rights of indigenous cultural communities within the framework of national unity and development;
- f) Protect and promote the right to health of the people and instill health consciousness among them;
- g) Pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination;
- h) Develop a self-reliant and independent national economy effectively controlled by Filipinos;
- i) Ensure the autonomy of local governments;
- j) Give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good;
- k) Encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation;
- l) Adopt and accept the generally accepted principles as embodied in the International Covenant on Civil and Political Rights, International Covenant on Economic, Social, Cultural Rights, UN Declaration on the Rights of Indigenous Peoples, UN Convention on Biodiversity and other applicable international instruments.

Section 3. To this end, the State shall also endeavor to achieve an ecologically sound, economically viable, gender fair, equitable system of land and resource management that upholds the human rights of indigenous peoples and local communities towards sustainable development.

Section 4. The exploration, development and utilization of natural resources must comply with the principles of intergenerational responsibility.

Section 5. The judicious stewardship of our mineral resources require that:

- (1) The State and its members shall share in the burden of satisfying the need for mineral resources primarily through reusing and recycling existing mineral products;
- (2) In land and water use, the production of sufficient food free from pollution

1 towards food security shall always be the priority;

2
3 (3) The State and its members shall develop its human resources and encourage the
4 evolution of its own appropriate technologies;

5
6 (4) The community shall actively participate in the stewardship of mineral resources.
7 Community-based initiatives shall be encouraged and supported.

8
9 (5) Mining operations shall not in any way create or exacerbate conflicts.

10
11 (6) The integrity of the environment is not compromised.

12 13 CHAPTER II. SCOPE AND GENERAL PRINCIPLES

14
15 Section 6. **Scope.** This Act shall govern the ownership, management and governance
16 of ore minerals onshore, as well as quarry resources, sand and gravel, guano, and
17 gemstones, and the conservation, exploration, development, utilization, processing and
18 transportation thereof. The ownership, management and governance of petroleum and
19 coal shall be governed by special laws. Offshore mining shall also be governed by special
20 laws.

21
22 Section 7. Ore minerals form part of the country's irreplaceable and non-renewable
23 natural wealth and capital. The conservation of our mineral wealth is a paramount public
24 interest and mineral resources shall be utilized only in a rational manner. The economic
25 benefits derived from mining shall be equitably distributed by, among others, prioritizing
26 development for local communities and all other stakeholders directly affected by mining
27 operations.

28
29 Section 8. The management of mineral resources shall be a shared concern and
30 responsibility among the national government, corporations, all levels of local
31 government, and the communities affected by the exploration, development, and
32 utilization of mineral resources.

33
34 Section 9. The extraction of mineral resources shall only be allowed if the ecological
35 and social benefits and costs of mining far outweigh ecological and social benefits and
36 costs from other land uses. The anticipated cost of environmental and social impacts on
37 the affected local communities, which shall at all times be prevented and/or mitigated
38 through the allocation of sufficient funds for this purpose.

39
40 Section 10. The State shall accord support to communities dependent on small-scale
41 mining whose operations shall strictly adhere to the provisions of this law.

1
2 Section 11. Subject to their right to self-determination, indigenous cultural
3 communities/indigenous peoples (ICCs/IPs) own and have the responsibility to manage
4 the mineral resources in their respective ancestral domains, free from external
5 manipulation, interference, force threat, intimidation, coercion and other analogous acts.
6 The State shall support indigenous cultural communities in developing capacities to
7 effectively exercise their right and responsibility.

8
9 Section 12. Mining shall be limited in scale in accordance with this Act.

10
11 Section 13. Mineral resources development, utilization and processing shall be
12 reserved for Filipino citizens and for Filipino corporations. Exploration shall be
13 undertaken directly by the State for the benefit of the nation.

14
15 Section 14. Remining and recycling of mineral resources shall be prioritized over the
16 opening of new mines to maximize and recover the remaining minerals resources from
17 the rejects or wastes of previous mines and mining operations.

18
19 Section 15. The State shall prioritize the rehabilitation of the abandoned mines in the
20 country.

21
22 Section 16. The State shall prioritize the development of mineral resources needed for
23 national development and the creation of domestic processing capacity for industrial
24 metals and other labor-intensive downstream industries. Mine planning shall be
25 conducted to meet this principle. In this regard, the State shall formulate a Minerals
26 Utilization Framework that will support national development based on the principles of
27 sustainable development. This framework will define minerals to be extracted, volume to
28 be extracted and when to be extracted. This shall be matched with the approved mining
29 areas as identified as identified by the Councils. These matched areas are eligible for
30 mining operations.

31 32 33 CHAPTER III. DEFINITION OF TERMS 34

35 Section 17. **Definition of terms** – As used in and for the purposes of this Act, the
36 following terms, whether used in singular or in plural form, shall mean:

- 37
38 a. Abandonment – the act of the contractor leaving a mine without rehabilitation or
39 completing such rehabilitation despite the legal obligation to do the same;
40 b. Acid mine drainage – the dissolution, mobilization and transportation of toxic
41 metals from rocks resulting from the chemical reaction of the acid-generating

- 1 minerals in rock and waste materials having high permeability to both air and
2 rainfall and other water inflows when land is opened up for mining and initiates
3 the chemical reaction, resulting to a perpetual machine of acid generation.
- 4 c. Ancestral domains – all areas generally belonging to indigenous cultural
5 communities/indigenous peoples (ICCs/IPs) comprising lands, inland waters,
6 coastal areas, and natural resources therein, held under a claim of ownership,
7 occupied or possessed by ICCs/IPs, by themselves or through their ancestors,
8 communally or individually since time immemorial, continuously to the present
9 except when interrupted by war, force majeure or displacement by force, deceit,
10 stealth or as a consequence of government projects or any other voluntary dealings
11 entered into by government and private individuals/corporations, and which are
12 necessary to ensure their economic, social and cultural welfare. It shall include
13 ancestral lands, forests, pasture, residential, agricultural, and other lands
14 individually owned whether alienable and disposable or otherwise, hunting
15 grounds, burial grounds, worship areas, bodies of water, mineral and other natural
16 resources, and lands which may no longer be exclusively occupied by ICCs/IPs
17 but from which they traditionally had access to for their subsistence and traditional
18 activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or
19 shifting cultivators
- 20 d. Ancestral lands – lands occupied, possessed and utilized by individuals, families
21 and clans who are members of the ICCs/IPs since time immemorial, by themselves
22 or through their predecessors-in-interest, under claims of individual or traditional
23 group ownership, continuously, to the present except when interrupted by war,
24 force majeure or displacement by force, deceit, stealth, or as a consequence of
25 government projects and other voluntary dealings entered into by government and
26 private individuals/corporations including, but not limited to, residential lots, rice
27 terraces or paddies, private forests, swidden farms and tree lots;
- 28 e. Beneficiation – process wherein a large fraction of the waste material is removed
29 from the ore;
- 30 f. Buffer Zones – identified areas outside the boundaries of and immediately
31 adjacent to designated protected areas that need special development control in
32 order to avoid or minimize harm to the protected area;
- 33 g. Bureau – the Mines and Geosciences Bureau under the Department of Science
34 and Technology
- 35 h. Carrying capacity – the capacity of natural and human environments to
36 accommodate and absorb change without experiencing conditions of instability
37 and attendant degradation;
- 38 i. Certificate of Ancestral Domains Title (CADT) – title formally recognizing the
39 rights of possession and ownership of ICCs/IPs over their ancestral domains
40 identified and delineated in accordance with law;

- 1 j. Certificate of Ancestral Lands Title (CALT) – a title formally recognizing the
- 2 rights of ICCs/IPs over their ancestral lands;
- 3 k. Closure of mines – permanent cessation of operations at a mine or mine
- 4 processing site after completion of the decommissioning process;
- 5 l. Consensus – the decision communally reached after appropriate participatory
- 6 consultation and discussion, free from any external manipulation, interference and
- 7 coercion, and other analogous cases and obtained after fully disclosing the intent
- 8 and scope, including the positive and negative impacts, of the activity such of
- 9 decision, in a language and process understandable to the community or group.
- 10 m. Consent – the voluntary assent of the landowner or those who have been in open,
- 11 continuous, exclusive and notorious possession of the land for more than ten (10)
- 12 years in good faith, or thirty (30) years in bad faith, free from any external
- 13 manipulation, interference and coercion, and obtained after fully disclosing the
- 14 intent and scope, including the positive and negative impacts of the activity, in a
- 15 language and process understandable to the said landowner or occupant;
- 16 n. Contract area – the area delineated as specifically provided by a mineral
- 17 agreement for the development or utilization of mineral resources found therein;
- 18 o. Critical watershed – refers to a drainage area of a river system, lake or water
- 19 reservoir supporting existing and proposed hydroelectric power, domestic water
- 20 supply, geothermal power and irrigation works, which needs immediate
- 21 rehabilitation and protection to minimize soil erosion, improve water yield and
- 22 prevent possible flooding. The term shall also include areas which are traditional
- 23 human settlements, land-uses, or sea-uses which are representative of a culture (or
- 24 cultures), or human interaction with the environment especially when it has
- 25 become vulnerable under the impact of irreversible change;
- 26 p. Critical habitats – place or environment where species or subspecies naturally
- 27 occur or has naturally established its population that are crucial to the survival of a
- 28 species and essential for its conservation;
- 29 q. Cultural sites – those that bear a unique or at least exceptional testimony to a
- 30 cultural tradition or to a civilization which is living or which has disappeared or,
- 31 directly or tangibly associated with events or living traditions, with ideas, or with
- 32 beliefs, with artistic and literary works of outstanding universal significance
- 33 r. Customary laws – body of written and/or unwritten rules, usages, customs and
- 34 practices traditionally recognized, accepted and observed by respective ICCs/IPs
- 35 and local communities;
- 36 s. Decommissioning – the activity or process that begins after cessation of
- 37 prospecting activities or mineral production (including metallurgical plant
- 38 production). It involves, among others, the removal of unwanted infrastructure,
- 39 making excavations and waste repositories safe and stable and surface
- 40 rehabilitation with a view to negate or minimize any adverse environmental

- 1 impacts remaining after cessation of mineral production. It includes the after-care
2 or maintenance that may be needed.
- 3 t. Ecological profile or eco-profile – geographic-based instruments for planners
4 and decision-makers which present an evaluation of the environmental quality and
5 carrying capacity of an area and measures the specific interactions that will be
6 affected by mining operations;
- 7 u. Exploration - means the searching or prospecting for mineral resources by non-
8 invasive means for the purpose of determining the existence, extent, quantity and
9 quality thereof, which may include but not limited to seismic, gravity, magnetic,
10 electromegnetic, radar, induced polarization, radio-wave and electrogeochemical;
- 11 v. Extraction – ore-removal activities that take place a the mine site itself;
- 12 w. Free, prior and informed consent – the consensus of all members of the ICCs/IPs
13 to be determined in accordance with their respective customary laws and practices,
14 free from any external manipulation, interference, coercion, and other analogous
15 act and obtained after fully disclosing the intent and scope, including the positive
16 and negative impacts, of the activity, in a language and process understandable
17 and acceptable to the community;
- 18 x. Indigenous peoples/Indigenous cultural communities (IP/ICC) – refer to a group
19 of people or homogenous societies identified by self-ascription and ascription by
20 others, who have continuously lived as organized community on communally
21 bounded and defined territory, and who have, under claims of ownership since
22 time immemorial, occupied, possessed and utilized such territories, sharing
23 common bonds of language, customs, traditions and other distinctive cultural
24 traits, or who have, through resistance to political, social and cultural inroads of
25 colonization, non-indigenous religions and cultures, became historically
26 differentiated from the majority of Filipinos. ICCs/IPs shall likewise include
27 peoples who are regarded as indigenous on account of their descent from the
28 populations which inhabited the country, at the time of conquest or colonization,
29 or at the time of inroads of non-indigenous religions and cultures, or the
30 establishment of present state boundaries, who retain some or all of their own
31 social, economic, cultural and political institutions, but who may have been
32 displaced from their traditional domains or who may have resettled outside their
33 ancestral domains. They are peoples who have a spiritual relationship with the
34 land;
- 35 y. Indigenous political structure – refer to organizational and cultural leadership
36 systems, institutions, relationships, patterns and processes for decision-making and
37 participation, identified by ICCs/IPs such as, but not limited to, Council of Elders,
38 Council of Timuays, Bodong Holders, and any other tribunal or body of similar
39 nature;

- 1 z. Joint Venture Agreement – an agreement wherein the government and a
2 qualified person organize a joint-venture company, with both parties having equity
3 shares, to develop and manage mineral resources. Aside from earnings on the
4 equity, the Government shall be entitled to a share in the output computed at a
5 certain percentage mutually agreed upon by and beneficial to both parties.
- 6 aa. Key biodiversity areas – are sites of global biodiversity conservation
7 significance. They are defined by standardized criteria and thresholds to guide
8 conservation interventions such as the establishment of protected areas;
- 9 bb. Large-scale mining – mining in areas more than twenty (20) hectares, using
10 mechanized tools and equipment, requiring considerable capital and having large-
11 scale environmental, social, cultural and economic impacts with regard to resource
12 use and/or consumption.
- 13 cc. Mineral Agreement – a contract entered into by the government, in behalf of the
14 State, and a private Filipino person, granting such person/s the privilege to mine a
15 specific contract area;
- 16 dd. Mineral resource – any concentration of minerals/rocks with potential economic
17 value;
- 18 ee. Mineral processing – the milling, beneficiation or upgrading of ores or minerals
19 and rocks or by similar means to convert the same into marketable products;
- 20 ff. Minerals – all naturally occurring inorganic substance in solid, gas, liquid, or
21 any intermediate state excluding energy materials such as coal, petroleum, natural
22 gas, radioactive materials, and geothermal energy;
- 23 gg. Mine development – preparing the mine site for production by shaft sinking or
24 pit excavation building of access roads, and constructing of surface facilities;
- 25 hh. Mine wastes and tailings –rock materials from surface or underground mining
26 and milling operations with no economic value to the generator of the same;
- 27 ii. Mining Activity – any or all of the following activities: exploration, extraction,
28 utilization, processing, transportation and other activities conducted for the same.
- 29 jj. Mining Area – a portion of the contract area which has been identified by the
30 contractor wherein actual mining operations are conducted;
- 31 kk. Mining Operations – either all or any of the mining activities involving
32 exploration, feasibility, development, utilization, and processing;
- 33 ll. National Park – an area of the public domain essentially natural wilderness,
34 scenic, or historic in character which has been withdrawn from settlement,
35 occupancy, or any form of exploitation except in conformity with an approved
36 management plan and set aside exclusively to conserve the area or preserve the
37 scenery, the natural and historic objects, wild animals, and plants therein mainly
38 for the purpose of biodiversity conservation and/or human enjoyment.
- 39 mm. Native title – pre-conquest rights to lands and domains which, as far back as
40 memory reaches, have been held under a claim of private ownership by ICCs/IPs,

- 1 have never been public lands and are thus indisputably presumed to have been
2 held that way since before the Spanish Conquest;
- 3 nn. Natural Forest – forests composed of indigenous trees, not planted by man,
4 whose structure, functions, and dynamics have been largely the result of natural
5 succession processes
- 6 oo. Natural Parks – is a relatively large area not materially altered by human activity
7 where extractive resource uses are not allowed and maintained to protect
8 outstanding natural and scenic areas of national or international significance for
9 scientific, educational and recreational use;
- 10 pp. Open-pit mining – Extracting metal ores and minerals that lie near the surface by
11 removing the overlying material and breaking and loading the ore. Also known as
12 open-cast mining; open-cut mining;
- 13 qq. Ore – a material that contains minerals in such quantities that it can be mined
14 and worked commercially to extract that mineral. The mineral is usually contained
15 in chemical combination with some other element in addition to various
16 impurities;
- 17 rr. Pollution control and infrastructure devices – infrastructure, machinery,
18 equipment and/or improvements used for impounding, treating, or neutralizing,
19 precipitating, filtering, conveying and cleansing mine industrial waste and tailings
20 as well as eliminating or reducing hazardous effects of solid particles, chemicals,
21 liquids or other harmful byproducts and gases emitted from any facility utilized in
22 mining operations for their disposal;
- 23 ss. Private land – any land belonging to any private person which includes alienable
24 and disposable land being claimed by a holder, claimant, or occupant who has
25 already acquired a vested right thereto under the law, although the corresponding
26 certificate or evidence of title or patent has not been actually issued;
- 27 tt. Processing – includes all treatment an ore receives after its extraction and
28 beneficiation, which involves changes in the chemical nature of the mined
29 minerals;
- 30 uu. Progressive rehabilitation – rehabilitation which involves the staged treatment of
31 disturbed areas during exploration, construction/development and mining
32 operations
- 33 vv. Protected Areas – identified portions of land and water set aside by reason of
34 their unique physical and biological significance, managed to enhance biological
35 diversity and protected against destructive human exploitation;
- 36 ww. Protected landscapes/seascapes – areas of national significance which are
37 characterized by the harmonious interaction of man and land while providing
38 opportunities for public enjoyment through recreation and tourism within the
39 normal lifestyle and economic activity of these areas

- 1 xx. Quarry resources – any common rock or other mineral substances as the Director
2 of the Mines and Geosciences may declare to be quarry resources such as, but not
3 limited to, andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite,
4 decorative stones, gabbro, granite, limestone, marble, marl, red burning clay for
5 potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff,
6 volcanic cinders, and volcanic glass, *Provided*, That such quarry resources do not
7 contain metals or metallic constituents and /or other valuable minerals in
8 economically workable quantities; *Provided further*, That non-metallic minerals
9 such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite,
10 talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and
11 semi-precious stones, and other non-metallic minerals that may later be discovered
12 and which the Director declares the same to be of economically workable
13 quantities, shall not be classified under the category of quarry resources;
- 14 yy. Quarrying – process of extracting, removing and disposing quarry resources
15 found on or underneath the surface of private or public land.
- 16 zz. Regional Director – the regional director of any mines regional office;
- 17 aaa. Regional Office – any of the mines regional offices;
- 18 bbb. Recycling – shall refer to the treating of used or waste materials through a
19 process of making them suitable for beneficial use and for other purposes, and
20 includes any process by which solid waste materials are transformed into new
21 products in such a manner that the original products may lose their identity, and
22 which may be used as raw materials for the production of other goods or services:
23 *Provided*, That the collection, segregation and re-use of previously used packaging
24 material shall be deemed recycling under the Act.
- 25 ccc. Rehabilitation – the process by which the land will be returned to a form and
26 productivity in conformity with a prior land use plan including a stable ecological
27 state that does not contribute substantially to environmental deterioration and is
28 consistent with surrounding aesthetic values;
- 29 ddd. Remediation – removal of pollution or contaminants from environmental media
30 for the general protection;
- 31 eee. Remining – maximizing and recovering the remaining minerals from the rejects
32 or wastes of previous mines and mining operations;
- 33 fff. Restoration – where the intent is to recreate an ecosystem as close as possible to
34 the original which existed at the site, with most of the structure and productivity
35 matching that of the original ecosystem, and most of the original biodiversity: in
36 time ecological processes and functions will match those of the original forest;
- 37 ggg. Small-scale mining – mining activities which rely heavily on manual labor using
38 simple implements and methods and do not use explosives or heavy mining
39 equipment, primarily engage in for sustainable living. Impacts from small-scale

- 1 mining shall not be large-scale, otherwise, the mining activity shall be defined as
2 large-scale mining;
- 3 hhh. Small-scale mining permit – permit issued for small-scale mining
- 4 iii. Strategic minerals – minerals needed for national development
- 5 jjj. Tailings Disposal System or Tailings Placement – the method wherein the waste
6 from mining operations are dumped, placed, or disposed.
- 7 kkk. Traditional small-scale mining – small-scale mining using traditional means and
8 without the use of chemical or mechanized extraction and separation means,
9 methods, implements, and/or equipment;
- 10 lll. Watershed continuum – shall refer to an area consisting of the watershed and its
11 divide including its connection from the headwaters to the reef or a land area
12 drained by a stream or a fixed body of water and with tributaries having a common
13 outlet for surface runoff. It is the system by which the mining-affected
14 communities shall be determined following the drainage of a stream or fixed body
15 of water with tributaries having a common outlet for surface runoff.
- 16 mmm. Wildlife – undomesticated forms and varieties of flora and fauna.

18 CHAPTER IV. OWNERSHIP AND GOVERNANCE

20 Section 18. **Authority of the Bureau.** The Mines and Geosciences Bureau shall be a
21 scientific research institution under the Department of Science and Technology (DOST),
22 primarily conducting and developing research of mineral resources and mining
23 technologies and training of local communities, local government units and indigenous
24 peoples. It shall also regulate the operations of persons involved in mining activities. It
25 shall also work with the Multi-Sectoral Mineral Council in the monitoring of mining
26 activities.

28 Section 19. **Regional Offices.** The Bureau shall have as many regional offices in the
29 country as may be established by the Secretary, upon the recommendation of the Director.

31 Section 20. **Bureau as repository of information.** The Bureau shall be the central
32 repository of information regarding mineral lands, resources, permits, studies and other
33 information relevant to the operation of a mine, including the necessary requirements
34 which a contractor is obliged to submit. All other governmental offices and other bodies
35 created under this Act shall copy furnish the Bureau of other information related to
36 mining.

38 Section 21. **Recording System.** There shall be established a national and regional
39 filing and recording system. A mineral resource database system shall be set up in the
40 Bureau which shall include, among others, a mineral rights management system.

1
2 Section 22. **Publication.** The Bureau shall publish at least annually a mineral gazette of
3 nationwide circulation containing among others, a current list of mineral rights, their
4 location in the map, mining rules and regulations, other official acts affecting mining, and
5 other information relevant to mineral resources development. A system of publication
6 fund shall be included in the regular budget of the Bureau.

7
8 Section 23. **Bureau to conduct exploration activities.** Exploration of mineral
9 resources shall be exclusively and directly undertaken by the State through the Bureau.
10 In no case shall this function be delegated or contracted out to private corporations or
11 persons.

12
13 Section 24. **Non-invasive exploration.** Exploration activities shall only be non-
14 invasive such as, but not limited to seismic, gravity, magnetic, electromegnetic, radar,
15 induced polarization, radio-wave and electrogeochemical.

16
17 Section 25. **Consent.** The Bureau shall not enter into any private lands for the purposes
18 of exploration activities without the written consent of the landowner, possessor and/or
19 occupant, or the FPIC of the ICC/IP and payment of just compensation for the use of
20 property. Neither shall the Bureau enter into any part of the ancestral domains/lands of
21 ICCs/IPs without their free and prior informed consent. Further, the Bureau shall not
22 enter into any distributed land under the Comprehensive Agrarian Reform Program
23 within in the 10 years prohibited period of the said program.

24
25 Section 26. **Ownership of ICCs/IPs.** Mineral resources within ancestral
26 domains/ancestral lands are the collective private property of the indigenous cultural
27 communities/indigenous peoples (ICCs/IPs). The management of such mineral resources
28 shall build on the indigenous knowledge systems and practices.

29
30 Section 27. **Free, prior and informed consent.** No mining activity shall be conducted
31 within the ancestral domains/lands of ICCs/IPs without their free, prior and informed
32 consent (FPIC), in addition to the conditions set for under succeeding sections.

33
34 Section 28. **When ancestral domain is not formally recognized.** When ancestral
35 domain is not covered by a Certificate of Ancestral Domain Title/Certificate of Ancestral
36 Land Title (CADT/CALT), or is covered by a different title issued in favor of members of
37 the ICCs/IPs, mineral resources shall nevertheless be managed by the ICCs/IPs concerned
38 when it can be presumed that the area is part of ancestral domain. An area is presumed to
39 be part of ancestral domain by virtue of historic rights and self-delineation.
40

1 Section 29. **When ICCs/IPs displaced from ancestral domain, and when ancestral**
2 **domain is already covered by other titles emanating from the state other than**
3 **CADT/CALT.** Native title over ancestral domain subsists notwithstanding the fact that
4 the ICCs/IPs who hold such native title have been displaced therefrom or that such
5 ancestral domains have been occupied by other persons or corporations under another
6 claim of title emanating from the State. In such cases, ICCs/IPs shall continue to own
7 such mineral resources.

8
9 Section 30. **Questions on the validity of FPIC.** In instances that there are questions on
10 the legality or validity of the issued free prior and informed consent, mining operations
11 shall not be allowed to be conducted in the ancestral domains or lands of the ICCs/IPs
12 without the final resolution of such question on the legality or validity of the FPIC.

13 Section 31. **Ownership of the State.** The mineral resources found outside ancestral
14 domains/lands shall be owned by the State. The State shall ensure that the management of
15 mineral resources shall be primarily for the benefit of the local communities in whose
16 territory the same shall be found. Any minerals extracted shall be solely used for local
17 industries consistent with the Minerals Utilization Framework. The State may directly
18 undertake development, utilization and processing of mineral resources or it may enter
19 into mineral agreements with eligible parties pursuant to the provisions of this Act.

20
21 Section 32. **Inventory of mineral resources.** The Bureau shall identify and provide an
22 inventory of the available mineral resources, including the mine tailings within the
23 country. It shall submit to the DOST a report which shall contain the following
24 information:

- 25
26 a. the classification of minerals;
27 b. the quality and grade of the ore;
28 c. the potential mine life;
29 d. the geological description of the area;
30 e. the economic viability of mine tailings;
31 f. whether the area is a key biodiversity area or if it is a critical habitat
32 g. and all other relevant information necessary for potential mineral investments.

33
34 The process for exploration and/or approval for a mining permit shall not commence
35 without the said inventory.

36
37 Section 33. **Identification of strategic minerals.** The Bureau shall conduct researches
38 and studies prior to any mining operations to identify strategic mineral resources. Only
39 mineral resources that shall be needed for local industries shall be mined.

1 Section 34. **Demarcation of mineral areas.** The Bureau shall demarcate the
2 boundaries of all areas identified as containing commercial quantities of mineral
3 resources on the ground.

4
5 Section 35. **Baseline information on watershed continuums.** The baseline
6 information on all watersheds in the country shall be required and made available to the
7 public, online as much as possible. No mining permit shall be issued without this baseline
8 information.

9
10 Section 36. **Affected local community and local government unit.** For the purposes
11 of this Act, the affected local community and the affected local government unit are
12 defined in relation to the watershed continuum which is potentially negatively impacted
13 by mining operation in the demarcated area. The local communities and the local
14 government units therefore are those who are dependent on the watershed eco-system and
15 its resources

16
17 Section 37. **Establishment of Multi-Sectoral Mineral Council.** A Multi-Sectoral
18 Mineral Council shall be established for the purposes of this Act. There shall be as many
19 Multi-Sectoral Mineral Councils as there are watershed continuums with demarcated
20 mineral areas.

21
22 Section 38. **Powers of the Council.** The Council shall have the following powers,
23 among others:

- 24 a. To determine whether or not mining operations shall be allowed;
25 b. To deliberate on proposals for mineral agreements;
26 c. To approve the proposal for mineral agreements;
27 d. To monitor the conduct of mining operations;
28 e. To establish its internal rules of procedure which are not contradictory to
29 this Act;

30
31 Section 39. **Composition of the Multi-Sectoral Mineral Council.** The Multi-Sectoral
32 Mineral Council shall be composed of a representative of the Bureau, a representative
33 from the DENR, one representative from each of the affected provincial
34 governments/independent component cities/highly urbanized cities, representatives from
35 'peoples' organizations as many as the representatives of local government units, the
36 affected ICCs/IPs within the watershed continuum and representatives from the
37 marginalized sectors that will be greatly affected by the proposed mining project. The
38 Bureau shall be the convenor of the Council.

1 No mining operations shall be allowed without the Council having been properly
2 convened.

3
4 Section 40. **Areas open to mining.** The Council shall have the power to determine
5 whether or not the land where mineral resources are found shall be opened to mining.
6 Areas may only be opened to mining upon the unanimous vote of all the members of the
7 Council pursuant to the guidelines provided by this Act. In determining whether or not
8 such area shall be opened, the following shall be required:

- 9
10 a. Report of the Bureau on the conducted exploration;
11 b. Existence of downstream industries for the mineral resources;
12 c. Potential environmental impacts;
13 d. Potential cultural impacts;
14 e. Conflict and risk assessment;
15 f. Potential health impacts;
16 g. Potential economic benefits of the development and utilization of the
17 minerals;
18 h. Carrying capacity and the ecological profile of the area;
19 i. Existing and alternative land uses of the area;
20 j. Local government land use plan.

21
22 No mining application shall be allowed unless an environmental economic audit or
23 resource valuation of the proposed mining area have been conducted or prepared applying
24 acceptable valuation standards. This audit or resource valuation shall be conducted in
25 coordination with multisectoral group of experts and community stakeholders. It shall
26 include determination of the expected economic returns and the potential negative
27 impacts from mining on the enjoyment and exercise of human rights, cultural rights, and
28 on peace and security. A detailed study must mention the flora, fauna and environment
29 present in the mining claim and the impact of mining operations on the environment, the
30 possible environmental degradation and the attendant loss of subsistence resources cause.
31 There must be mention of existence of sacred areas or areas otherwise of cultural
32 significance and address the impacts of resource exploitation on indigenous peoples.

33
34 This information shall be accessible to the public at all times.

35
36 *Provided however,* That in no case shall the Council open the following areas to mining:

- 37
38 a. Head waters of watershed areas;
39 b. Areas with potential for acid mine drainage;
40 c. Critical watersheds;

- 1 d. Critical habitats;
- 2 e. Climate disaster-prone areas;
- 3 f. Geohazard areas;
- 4 g. Small island ecosystems;
- 5 h. Cultural sites, which may include, but not limited to, sacred sites and burial
- 6 grounds;
- 7 i. Traditional swidden farms and hunting grounds;
- 8 j. Lands covered by the Comprehensive Agrarian Reform Law or Republic Act No.
- 9 6657, as amended;
- 10 k. Prime agricultural lands, irrigable and irrigated lands as defined by Republic Act
- 11 No. 9700;
- 12 l. Cultural property enumerated under the National Cultural Heritage Act of 2009 or
- 13 Republic act No. 10066;
- 14 m. Key biodiversity areas;
- 15 n. High conflict areas;
- 16 o. The Province of Palawan pursuant to Republic Act No. 7611 and other areas
- 17 covered by local ordinances;
- 18 p. In military and other government reservations, except upon prior written clearance
- 19 by the government agency concerned;
- 20 q. Near or under public or private buildings, cemeteries, archeological and historic
- 21 sites, bridges, highways, waterways, railroads, reservoirs, dams or other
- 22 infrastructure projects, public or private works including plantations or valuable
- 23 crops, except upon written consent of the government agency or private entity
- 24 concerned;
- 25 r. In areas expressly prohibited by law or ordinances;
- 26 s. In areas covered by small-scale miners as defined by law unless with prior consent
- 27 of the small-scale miners, in which case a royalty payment upon the utilization of
- 28 minerals shall be agreed upon by the parties, said royalty forming a trust fund for
- 29 the socioeconomic development of the community concerned; and
- 30 t. Old growth, natural or primary forests, watershed forest reserves, wilderness area,
- 31 mangrove forests, mossy forests, national parks, protection forests,
- 32 provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries
- 33 and their respective buffer zones as defined by law, in areas covered by the
- 34 National Integrated Protected Area System (NIPAS) under Republic Act No. 7586
- 35 and those expressly prohibited by other laws.

36
37 The determination whether or not the same are absolutely closed to mining shall not only
38 be limited to the existence of a law or ordinance declaring it as protected areas, but also to
39 the actual use of said area.
40

1 Section 41. **Manner of voting by the Council for opening an area to mining.**
2 Sections 26 and 27 of the Local Government Code on consultation and consent shall be
3 strictly adhered to. Local government units at all levels shall conduct mandatory public
4 hearings with the affected local communities, to be carried out within their respective
5 territories and presenting those enumerated under Section 40.

6
7 After the inventory of the existing minerals, the formulation of a mine plan, and the
8 existence of the baseline information of the particular watershed area, the Bureau shall
9 convene the Council.

10
11 The Council shall thereafter respectively convene their constituents to determine whether
12 or not their respective territories shall be opened for mining.

13
14 Local government units, ICCs/IPs, NGOs and peoples organizations, shall ensure that the
15 Bureau shall comprehensively explain the goals and objectives of the project or program,
16 its negative and positive impact upon the people and the community in terms of
17 environmental or ecological balance, and the measures that will be undertaken to prevent
18 or minimize the adverse effects thereof. Thereafter, the approval of the respective
19 *sanggunians* of the affected local government units shall be required in accordance to the
20 sentiment of the peoples of the local government unit as a result of the consultations
21 conducted.

22
23 *Provided*, That the affected local government unit representatives shall meet and shall
24 relay the decision of their respective constituents to the provincial
25 government/independent component cities/highly urbanized cities. The
26 provincial/component city/highly urbanized city government representative shall sit in the
27 Council and shall carry the result of the vote of all the affected local government units
28 within the province resulting from the process provided in the preceding paragraph of this
29 Section. There must be a unanimous vote among the local government units for the
30 purpose of opening a particular area for mining. Failure to reach a unanimous vote for
31 opening shall mean that the area is closed to mining. The proceedings shall at all times be
32 recorded.

33
34 *Provided moreover*, That in case there are affected indigenous cultural
35 communities/indigenous peoples within the watershed continuum, they shall also bring
36 the community's vote to the Council after undergoing their own processes in accordance
37 with their respective indigenous political structure, free from any external manipulation,
38 interference, coercion and other analogous acts, and obtained after fully disclosing the
39 intent and scope, including the positive and negative impacts of the activity, in a language
40 and process understandable and acceptable to them.

1
2 *Provided finally*, That any member of the community may file a protest with the Council
3 during this period of consultations and deliberations for the Council's consideration.
4

5 Section 42. **Violation of Section 51.** Local government officials who are
6 administratively found to violate the preceding section and Section 51 of this Act vis-à-
7 vis the pertinent sections of the Local Government Code shall be removed from office
8 and perpetually disqualified from holding any elective or appointive position in
9 government, its divisions, subsidiaries and any government owned and controlled
10 corporations.
11

12 Section 43. **Pool of consultants.** There shall be a pool of independent consultants that
13 may assist the local government units, local communities or ICCs/IPs with regard to the
14 technical aspects of mining.
15

16 Section 44. **Publication, posting and radio announcement requirements.** The
17 decision of the Council shall be published by the Bureau in the local newspaper in the
18 local language, shall be announced on the local radio programs for not less than six (6)
19 weeks and notices shall be distributed widely in communities. The notice containing
20 relevant information shall likewise be posted in conspicuous places for the information of
21 the general public and shall be announced during the local market day.
22
23

24 CHAPTER V. MINERAL AGREEMENTS 25

26 Section 45. **Modes of Mineral Agreement.** A mineral agreement may only take the
27 following forms as herein defined;
28

- 29 (a) Mineral production sharing agreement – is an agreement where the
30 Government grants to the contractor the exclusive right to conduct mining
31 operations within a contract area and shares in the gross output. The
32 contractor shall provide the financing, technology, management and
33 personnel necessary for the implementation of this agreement.
34 (b) Co-production agreement – is an agreement between the Government and
35 the contractor wherein the Government shall provide inputs to the mining
36 operations other than the mineral resource.
37 (c) Joint venture agreement – is an agreement where a joint-venture company
38 is organized by the Government and the contractor with both parties having
39 equity shares. Aside from earnings in equity, the Government shall be
40 entitled to a share in the gross output.

1
2 In no case shall Financial or Technical Assistance Agreements, or any other similar
3 agreements, contracts, and/or executive issuances granting license or permission to
4 explore, develop and/or utilize mineral resources be awarded to foreign persons.
5

6 Section 46. **Eligibility.** Only Filipino citizens or corporations sixty percent (60%) of
7 whose equity is owned or controlled by such citizens shall be allowed to conduct
8 development, utilization and processing of mineral resources within the country.
9

10 Section 47. **Identification of mining projects.** With the unanimous vote of the
11 Council to open areas for mining operations, the Bureau shall prepare the necessary
12 information sheets on the said area for potential investments. The Bureau shall call for
13 proposals to develop the mining area.
14

15 Section 48. **Pre-screening of mining proposals.** Mining proposals shall be pre-
16 screened by the Bureau upon the submission of interested parties of the following:
17

- 18 a. demonstration of financial capability;
- 19 b. proven social and environmental track record, including those of its officers and
20 directors;
- 21 c. clear corporate structure and ownership;
- 22 d. proof of physical office and operations of the proponent within the Philippines;
- 23 e. identification of potential investors;
- 24 f. mining project feasibility;
- 25 g. mining operation work plan;
- 26 h. proposed operation, mitigation and prevention methods and/or equipment;
- 27 i. capacity to process minerals;
- 28 j. intent to develop downstream industries;
- 29 k. intent to contribute to local community development.
- 30 l. Submission of the Environmental and Social Impact Prevention and Mitigation
31 Plan
32

33 The Council shall fix the minimum capitalization that any bidder must satisfy based on its
34 determination of the expected economic returns and the potential negative impacts from
35 mining, upon reference to an independent study proposing such minimum capitalization.
36

37 Section 49. **Environmental and Social Impact Prevention and Mitigation Plan.** The
38 contractor shall submit an Environmental and Social Impact Prevention and Mitigation
39 Plan (ESIPMP) containing the means, methods, processes and schedule by which the
40 contractor shall conduct its operations and prevent or mitigate negative environmental

1 and social impacts. Social impact shall include possible impacts on the enjoyment and
2 exercise of human rights, cultural rights, and on peace and security. The ESIPMP shall
3 also include not only plans relative to mining operations but also to rehabilitation,
4 regeneration, restoration of mineral areas, slope stabilization of mined out and tailings
5 covered areas, aquaculture, watershed development, water conservation, relocation and
6 return of displaced population, provision of alternative livelihood and socioeconomic
7 development.

8
9 The ESIPMP shall also contain a Social Development Management Plan which shall
10 likewise contain the plans of the proponent for the development of the community
11 through the establishment of infrastructures and programs that shall be sustainable even
12 after the closure of the mine.

13
14 **Section 50. Pre-qualification.** The Bureau shall thereafter identify the top three (3)
15 proposals and shall recommend the same to the Council for deliberation.

16
17 **Section 51. Deliberation of the proposals.** After the Bureau's transmittal of its
18 recommendations to the Council together with all the submitted documents for the pre-
19 qualification, the Council shall initiate the deliberation process of the pre-qualified
20 proposals.

21
22 Immediately thereafter, Sections 26 and 27 of the Local Government Code on
23 consultation and consent shall be strictly adhered to. Local government units at all levels
24 shall conduct mandatory public hearings with the affected local communities, to be
25 carried out within their respective territories and presenting those enumerated under
26 Section 48. Local government units, ICCs/IPs, NGOs and peoples organizations, shall
27 ensure that the mining applicant shall comprehensively explain the goals and objectives
28 of the project or program, its negative and positive impact upon the people and the
29 community in terms of social, cultural and environmental or ecological balance, and the
30 measures that will be undertaken to prevent or minimize the adverse effects thereof.
31 Thereafter, the approval of the respective *sanggunians* of the affected local government
32 units shall be required in accordance to the sentiment of the peoples of the local
33 government unit as a result of the consultations conducted.

34
35 *Provided,* That the affected local government unit representatives shall meet and shall
36 relay the decision of their respective constituents to the provincial
37 government/independent component cities/highly urbanized cities through the submission
38 of the minutes of meeting declaring their decision with signatures from the constituent.
39 The provincial/component city/highly urbanized city government representative shall sit
40 in the Council and shall carry the result of the vote of all the affected local government

1 units within the province/independent component city/highly urbanized city resulting
2 from the process provided in the preceding paragraph of this Section.

3
4 In determining which proposal is acceptable to the people, a majority vote of the local
5 government units within the province/independent component city/highly urbanized city
6 shall be required.

7
8 The affected ICCs/IPs shall also deliberate on the proposals in accordance with their own
9 systems and processes free from any external manipulation, interference, coercion and
10 other analogous acts, and obtained after fully disclosing the intent and scope, including
11 the positive and negative impacts of the activity, in a language and process
12 understandable and acceptable to them.

13
14 After the respective processes are complied with, the Council shall then meet and decide
15 which proposal, if any, is most acceptable and consistent with their own socio-economic,
16 environmental and cultural programs and shall notify the Bureau of the chosen proposal.

17
18 **Section 52. Posting and Publication Requirement.** After notice, the Bureau shall
19 notify the proponent of the accepted proposal and cause the publication and posting of the
20 accepted proposal.

21
22 *Provided,* That any member of the community may contest the decision of the Council
23 within six (6) weeks upon the posting and publication of notice of the acceptance of the
24 proposal in the manner provided in Section 41. No mining operations shall be allowed to
25 be conducted pending any action questioning the legality or validity of the proposal.

26
27 **Section 53. Issuance of the permit.** After the six (6) weeks from the date of the
28 posting and publication, if no contest is filed, the Bureau shall issue a permit in accordance
29 with the decision of the Council on the winning proposal.

30
31 **Section 54. Environmental and Social Impact Compliance Certificate.** The mining
32 proponent shall be issued an Environmental and Social Impact Compliance Certificate by
33 the Bureau with the approval of the Council.

34
35 *Provided,* no amendments to the conditions of the Certificate shall be allowed, unless
36 such proposed amendment shall work for the benefit of the communities, and in which
37 case, the Council and the Bureau shall be notified of any amendments to the ESIPMP and
38 that the former should give their consent to the same, after the proponent explaining in
39 detail the reason for such amendment and the possible impacts and consequences of these
40 amendments.

1
2 *Provided further*, That any violation of the ESIPMP shall cause the cancellation of the
3 Certificate.

4
5 Section 55. **Maximum Areas for Mineral Agreements.** The maximum area under
6 mineral agreements that a person can hold at any one time shall be determined by the
7 Council, *Provided* That the contract area per agreement shall not exceed five hundred
8 (500) hectares, *Provided further*, That no person shall be awarded in excess of the total
9 contract area of seven hundred-fifty (750) hectares in any given watershed area. For the
10 purposes of this Act, the prohibition on the maximum area shall also include corporations
11 that shall have common directors or significant shareholders.

12
13 Section 56. **Term of Mineral Agreement.** The term of the mineral agreement shall be
14 equivalent to the mine life plus an additional five (5) years for the rehabilitation of the
15 mining area. *Provided*, That in no case shall a Mineral Agreement have a term beyond
16 fifteen (15) years, *Provided further*, That the contractor shall already include
17 rehabilitation/remediation of the mining area within the ten-year term.

18
19 In no case shall a Mineral Agreement be extended without just cause to be determined by
20 the Council, *Provided*, That the extension shall not cause the term of the agreement to
21 exceed the fifteen (15) year term mentioned in the preceding section. *Provided further*,
22 That for the purposes of this act, just cause shall mean acts or events resulting from war,
23 force majeure or those beyond the control of the mining proponent not attributable to the
24 same.

25
26 *Provided finally*, That in no case shall mineral agreements be renewed after the expiration
27 of the fifteen-year period.

28
29 Section 57. **Prohibition on open-pit mining method.** Open-pit mining method for the
30 extraction of mineral ores shall be prohibited.

31
32 Section 58. **Failure to initiate mining operations.** Failure to initiate mining operations
33 in accordance with the work program within two (2) years from the award of the mineral
34 agreement shall cause the cancellation of the mineral agreement. The contractor thereafter
35 forfeits the value of the improvements made upon the land. The contractor and other
36 corporations who are also run by the same directors and officers are thereafter banned
37 from bidding to conduct mining operations for ten (10) years after failure to initiate its
38 mining operations in accordance with the work program.

1 Section 59. **Mandatory consultations in each mining phase.** Mandatory consultations
2 with affected communities shall be undertaken in each phase of mining operation:
3 exploration, extraction, processing, and mine closure to ensure that the peoples shall be
4 informed of the proposed plans and methods that are proposed to be conducted.

5
6 Section 60. **FPIC of ICCs/IPs on each stage of operation.** The free and prior
7 informed consent of the ICCs/IPs shall be required at each and every stage of the mining
8 operations. Free and prior informed consent shall be secured in accordance with the laws,
9 practices and processes of the concerned ICCs/IPs. The violation of any of the conditions
10 imposed by the ICCs/IPs on the contractor shall cause the cancellation of the mineral
11 agreement. Included in this process is the explanation of the rights of ICCs/IPs of
12 ownership and self-determination.

13
14 Section 61. **Consent of private landowners.** No person shall be allowed entry into
15 private lands without the written consent of the landowners, possessors or lawful
16 occupants of the land and/or the FPIC of the ICC/IP.

17
18 Section 62. **Expropriation.** Expropriation proceedings shall be filed with the regular
19 courts to determine whether the taking of private property for mining purposes shall meet
20 a public purpose and to determine just compensation.

21
22 Section 63. **Multi-partite Monitoring.** The Council shall form a multi-partite
23 monitoring team to monitor compliance by the contractor of the terms and conditions of
24 the mineral agreement. It may conduct ocular inspections of the contract area at any time
25 of the day and night. It shall also inspect all the books of contractors and refer the same to
26 independent auditors. The Multi-partite monitoring team and/or the Bureau may
27 confiscate surety, performance and guaranty bonds posted through an order to be
28 promulgated by the Director. The Council, the Director or the local government
29 authorities may deputize, when necessary, any member or unit of the Philippine National
30 Police, barangay, duly registered nongovernment organization (NGO) or any qualified
31 person to police all mining activities.

32
33 Section 64. **Withdrawal from the Mineral Agreement.** The contractor may withdraw
34 from the mineral agreement at any time for justifiable cause with one (1) month's notice
35 to the Bureau, the Council and/or the ICCs/IPs, and other government agencies as may be
36 provided by law. The Council, in cooperation with other concerned government agencies,
37 shall issue a clearance for withdrawal upon certifying that the contractor has complied
38 with all its legal obligations, including the appropriate measures for mine closure and
39 rehabilitation. Funds and bonds which have been put up by the contractor in accordance
40 with this Act shall be forfeited.

1
2 Section 65. **Non-transferability of Mineral Agreements.** In no case shall mining
3 rights under this Act be transferrable. The contractor shall also notify the Council and the
4 Bureau of any substantial change in the ownership and/or control of the corporation.
5 Violation of this provision shall cause the cancellation of the agreement and forfeiture of
6 assets and equipment of the contractor.

7
8 Section 66. **Access to Information.** All contractors for mineral permits and
9 agreements shall provide information to affected indigenous peoples, local communities,
10 and local governments. The following information, among others, shall be required:

- 11
12 (a) full disclosure of methods and processes of mining
13 (b) full disclosure of environmental and social risks
14 (c) full disclosure of ownership structure
15 (d) full disclosure of financial sources
16

17 All information and documents related to proposals, mineral agreements, permits and
18 mining operations shall not be considered confidential.

19
20 Refusal to grant access to this information shall be cause for the disqualification of
21 prospective proponents or cancellation of mineral agreements and permits.

22
23 The Bureau, being the repository of all relevant information under this Act is mandated to
24 grant access to the public of any information in its custody. Refusal or unnecessary delay
25 by the officers of the Bureau to give information shall be punishable by a fine of fifty
26 thousand pesos (Php 50,000.00) for every instance of refusal or unnecessary delay.

27
28 Information requested by indigents or marginalized sectors shall be given to them for
29 free.

30 31 CHAPTER VI. SMALL-SCALE MINING

32
33 Section 67. **Applicability of RA 7076.** Small-scale mining shall continue to be
34 governed by the provisions of Republic Act No. 7076 or the People's Small-Scale Mining
35 Act of 1991, *Provided*, That the Provincial/City Mining Regulatory Board shall be
36 composed of the Governor or City Mayor, as chairperson, as the case may be, a
37 representative from the DENR as co-chairperson, one (1) small scale mining
38 representative, one (1) big-scale mining representative, one representative from a
39 nongovernment organization who shall come from an environmental group, one
40 representative from a people's organization (PO) coming from the marginalized sector,

1 and at least one (1) representative from the indigenous communities, whenever
2 applicable, as members. The representatives from the private sector, nongovernment
3 organization and indigenous communities shall be selected by their respective
4 organizations and/or communities, and appointed by the PMRB or CMRB.

5
6 *Provided further,* That the conduct of small-scale mining shall also comply with the
7 prohibitions and regulations established herein for large-scale mining. Only qualified
8 individuals and cooperatives may apply for a small-scale mining permit.

9
10 **Section 68. Maximum term of small-scale mining permits.** The term for small-scale
11 mining permits shall be three (3) years, extendable to a maximum of fifteen (15) years.

12
13 **Section 69. Traditional small-scale mining within ancestral domains.** The Council
14 shall conduct regular monitoring activities within its jurisdiction to determine if the
15 provisions of relevant laws are complied with in traditional small-scale mining by
16 ICCs/IPs within their respective ancestral domains.

17
18 **Section 70. FPIC in small-scale mining.** Small-scale mining within ancestral domain
19 by any person shall also require the free, prior informed consent of ICCs/IPs.

20
21 **Section 71. Requirement for an Environmental Compliance Certificate.** Small-
22 scale mining shall likewise require an Environmental Compliance Certificate. All small
23 scale mining applicants or proponents must show proof of compliance with the terms and
24 conditions of its Environmental Compliance Certificate (ECC) prior to the issuance of a
25 small scale mining permit. Failure to submit this requirement will result in the non-
26 issuance of the SSMP.

27
28 **Section 72. Environmental measures in small-scale mining.** The State shall
29 immediately address the environmental and health problems in small-scale mining,
30 including the use of hazardous chemicals, such as mercury and cyanide, in the
31 amalgamation of gold by small-scale miners.

32
33 **Section 73. Prohibition on the use of mercury.** Mercury use in small-scale mining
34 shall be prohibited. The Bureau shall research, develop and actively promote appropriate
35 technologies in small-scale mining including labor-intensive methods, environmental
36 protection and physical techniques of gold extraction among small-scale miners.

37
38 **Section 74. Multisectoral Monitoring Team.** A multisectoral monitoring team shall
39 be organized to monitor the SSMP permittee's compliance with the terms and conditions

1 of its SSMP and ECC. The MMT shall conduct ocular inspections of the SSMP area at
2 any time of the day and night and shall have visitorial powers.

3
4 **Section 75. Alternative livelihood support.** The state shall support the improvement
5 of the livelihood of small-scale-miners by extending the services for access to other more
6 viable and sustainable forms of livelihood, and, if the same is not possible, the following
7 support services:

- 8
9 (a) access to minerals markets and to financing;
10 (b) facilitating partnership with mining companies or contractors by, among others,
11 requiring mining companies to buy tailings from small-scale mining operations
12 for further processing or recycling;
13 (c) facilitating partnership among small-scale mining cooperatives; and
14 (d) other incentives to attract informal small-scale miners to formalize their status.
15

16 **Section 76. Buying stations.** The Bangko Sentral ng Pilipinas shall ensure that buying
17 stations acquire gold from small-scale traders at prevailing international gold market price
18 and prevailing exchange rate set by the BSP Treasury Department on a daily basis.
19

20 **CHAPTER VII**
21 **QUARRY RESOURCES**
22

23 **Section 77. Quarry resources within ancestral domains.** Gathering of quarry
24 resources, sand and gravel, guano and other organic fertilizer materials, and gemstones
25 within ancestral domains shall likewise be subject to the free prior informed consent of
26 ICCs/IPs. ICCs/IPs and the government shall be entitled to at least ten per cent (10%) of
27 royalties depending on whether the resources are found inside or outside ancestral
28 domains. Permits shall be limited to a maximum term of five (5) years, renewable for
29 like periods but not exceeding a total term of twenty five (25) years, and a maximum area
30 of five (5) hectares.
31

32 **Section 78. Quarry Permit.** Any qualified person may apply to the provincial/city
33 mining regulatory board for a quarry permit on privately-owned lands except ancestral
34 domains and/or public lands for building and construction materials such as marble,
35 basalt, andesite, conglomerate, tuff, adobe, granite, gabbro, serpentine, inset filling
36 materials, clay for ceramic tiles and building bricks, pumice, perlite and other similar
37 materials that are extracted by quarrying from the ground. The provincial governor shall
38 grant the permit after the applicant has complied with all the requirements as prescribed
39 by the rules and regulations.

1 The maximum area which a qualified person may hold at any one time shall be five
2 hectares (5 has.): *Provided*, That in large-scale quarry operations involving cement raw
3 materials, marble, granite, sand and gravel and construction aggregates, a qualified person
4 and the government may enter into a mineral agreement as defined herein.

5 A quarry permit shall have a term of five (5) years, renewable for like periods but not to
6 exceed a total term of twenty-five (25) years. No quarry permit shall be issued or granted
7 on any area covered by a mineral agreement.

8
9 **Section 79. Quarry Fee and Taxes.** A permittee shall pay a quarry fee as provided for
10 under the implementing rules and regulations. The permittee shall also pay the excise tax
11 as provided by pertinent laws.

12
13 **Section 80. Cancellation of Quarry Permit.** A quarry permit may be cancelled by the
14 provincial governor for violations of the provisions of this Act or its implementing rules
15 and regulations or the terms and conditions of said permit: *Provided*, That before the
16 cancellation of such permit, the holder thereof shall be given the opportunity to be heard
17 in an investigation conducted for the purpose.

18
19 **Section 81. Commercial Sand and Gravel Permit.** Any qualified person may be
20 granted a permit by the provincial governor to extract and remove sand and gravel or
21 other loose or unconsolidated materials outside ancestral domains which are used in their
22 natural state, without undergoing processing from an area of not more than five hectares
23 (5 has.) and in such quantities as may be specified in the permit.

24
25 **Section 82. Industrial Sand and Gravel Permit.** Any qualified person may be granted
26 an industrial sand and gravel permit by the Bureau for the extraction of sand and gravel
27 and other loose or unconsolidated materials outside ancestral domains that necessitate the
28 use of mechanical processing covering an area of more than five hectares (5 has.) at any
29 one time. The permit shall have a term of five (5) years, renewable for a like period but
30 not to exceed a total term of twenty-five (25) years.

31
32 **Section 83. Exclusive Sand and Gravel Permit.** Any qualified person may be granted
33 an exclusive sand and gravel permit by the provincial governor to quarry and utilize sand
34 and gravel or other loose or unconsolidated materials from public lands for his own use,
35 *Provided*, That there will be no commercial disposition thereof.

36
37 **Section 84. Government Gratuitous Permit.** Any government entity or
38 instrumentality may be granted a gratuitous permit by the provincial governor to extract
39 sand and gravel, quarry or loose unconsolidated materials outside ancestral domains

1 needed in the construction of building and/or infrastructure for public use or other
2 purposes over an area of not more than two hectares (2 has.) for a period coterminous
3 with said construction.

4
5 Section 85. **Private Gratuitous Permit.** Any owner of land may be granted a private
6 gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose
7 unconsolidated materials within his property.

8
9 Section 86. **Guano Permit.** Any qualified person may be granted a guano permit by
10 the provincial governor to extract and utilize loose unconsolidated guano and other
11 organic fertilizer materials in any portion of a municipality where he has established
12 domicile outside ancestral domains. The permit shall be for specific caves and/or for
13 confined sites with locations verified by the Department's field officer in accordance with
14 existing rules and regulations. *Provided,* That extraction does not violate and is consistent
15 with the provisions in the Cave Conservation Act and the Wildlife Act.

16
17 Section 87. **Gemstone Gathering Permit.** Any qualified person may be granted a non-
18 exclusive gemstone gathering permit by the provincial governor to gather loose stones
19 useful as gemstones in rivers and other locations outside ancestral domains.

20 21 CHAPTER VIII. TRANSPORT, SALE AND PROCESSING OF MINERALS

22
23 Section 88. **Ore Transport Permit.** A permit specifying the origin and quantity of
24 non-processed mineral ores or minerals shall be required for their transport. Transport
25 permits shall be issued by the Bureau. The absence of a permit shall be considered as
26 prima facie evidence of illegal mining and shall be sufficient cause for the confiscation of
27 the ores or minerals being transported, the tools and equipment utilized, and the vehicle
28 containing the same.

29
30 Section 89. **Track Record.** Only mining companies with demonstrated capacity and
31 good environmental track record in mineral processing shall be allowed to extract
32 minerals. The Council shall encourage contractors to put up processing plants within the
33 community with the end in view of generating employment and developing other
34 downstream industries.

35
36 Section 90. **Mineral Trading Registration.** No person shall engage in the trading of
37 mineral products, either locally or internationally, unless registered with the Department
38 of Trade and Industry and accredited by the Department, with a copy of said registration
39 submitted to the Bureau.

1 Section 91. **Mineral Processing Permit.** No person shall engage in the processing of
2 minerals without first securing a minerals processing permit from the Council. Minerals
3 processing permits shall be for a period of five (5) years, renewable for like periods but
4 not to exceed a total term of twenty-five (25) years.

5
6 CHAPTER IX. DEVELOPMENT OF COMMUNITIES,
7 SCIENCE AND TECHNOLOGY
8

9 Section 92. **Expenditure for Community Development.** A contractor shall assist in
10 the development of the community, and the promotion of the general welfare of its
11 inhabitants towards sustainable development. Community development projects shall in
12 no way decrease the obligation of the corporation with regard to royalties and fees due to
13 communities or local government units. Community development projects should be
14 consistent with the Comprehensive Land Use Plans (CLUP), Ancestral Domains
15 Sustainable Development and Protection Plan (ADSDPP) and annual investment plans of
16 the LGUs, and the like.

17
18 Section 93. **Employment of Filipinos and training of members of the local**
19 **community.** A contractor shall give preference to Filipino citizens in all types of mining
20 employment within the country. Members of the local community shall be trained in all
21 aspects of the mining operations, including remining, recycling, rehabilitation, and the
22 management thereof.

23
24 Section 94. **Use of Indigenous Goods, Services and Technologies.** A contractor shall
25 give preference to the use of local goods, services and scientific and technical resources
26 in the mining operations, where the same are of equivalent quality and are available on
27 equivalent terms as their imported counterparts.

28
29 Section 95. **Donation/Turn Over of Facilities.** Prior to the cessation of mining
30 operations occasioned by abandonment or withdrawal of operations, on public lands by
31 the contractor, the latter shall have a period of one (1) year therefrom within which to
32 remove improvements; otherwise all the infrastructure, facilities and equipment shall be
33 turned over or donated tax-free to the proper government authorities, national or local, to
34 ensure that said infrastructure facilities and equipment are continuously maintained and
35 utilized by the host and neighboring communities. A fine of one hundred thousand pesos
36 (P100,000) shall be imposed for every day of delay.

37
38 CHAPTER X. BENEFIT SHARING, TAXES AND FEES
39

1 Section 96. **Taxes and fees.** The contractor shall pay all taxes and fees as required by
2 law, including, but not limited to:

- 3
- 4 a. contractor's income tax;
- 5 b. customs, duties and fees on imported capital equipment;
- 6 c. value-added tax on imported goods and services;
- 7 d. withholding tax on interest payments on foreign loans;
- 8 e. withholding tax on dividends to foreign stockholders;
- 9 f. documentary stamps taxes;
- 10 g. capital gains tax;
- 11 h. excise tax on minerals;
- 12 i. local business tax;
- 13 j. real property tax;
- 14 k. community tax;
- 15 l. occupation fees;
- 16 m. registration and permit fees;
- 17 n. water usage fees.
- 18

19 Section 97. **Government share.** Aside from the taxes and fees referred to in the
20 preceding section, Government shall have at least a share equivalent to ten per cent (10%)
21 of the gross revenues from the development and utilization of mineral resources that are
22 owned by it to be set aside for the general fund of the government.

23
24 Section 98. **Indigenous Cultural Communities' Royalty.** In case of mineral
25 operations within ancestral domains, the contractor shall pay at least ten per cent (10%) of
26 the gross revenues as royalty to the ICCs/IPs. Community development programs shall
27 not be considered as royalty payment. The payment of the royalties shall directly be given
28 to the communities in a process that build on traditional and customary laws.

29
30 *Provided,* That the royalty established in this Act shall be a minimum royalty payment
31 and may still be subject to other conditions to be agreed by the parties, free from any
32 external manipulation, interference, coercion, and other analogous acts, and obtained after
33 fully disclosing the intent and scope, including the positive and negative impacts of the
34 activity, in a language and process understandable and acceptable to them.

35
36 Section 99. **Scientific Research and Development Fund.** A Scientific Research and
37 Development Fund shall be set aside to be devoted to research and development of clean
38 mining technologies, improvement of mining processes, mine rehabilitation, mitigating
39 technologies, setting up and maintenance of an independent pool of experts, and
40 operational expenses of the Bureau.

1
2 Section 100. **Legal Support Services Fund.** A legal support fund shall be set aside for
3 the use of the communities and local government units for cases that they may file against
4 mining permittees or cases that may be filed against them by mining companies in trying
5 to do their responsibility of protecting the rights of the marginalized groups, the
6 environment and sustainable development in general.

7
8 Section 101. **Local Government Unit Share.** Local Government Units shall be entitled
9 to share of the net revenues from mining operations which shall be paid directly to the
10 provincial/independent component city/highly urbanized city treasurer/s for distribution
11 to other local government units. To determine the government share, the following
12 variables shall be considered:

- 13
14 a. Classification of local government;
15 b. Vulnerability;
16 c. Human development index.

17
18 A percentage of this amount shall be set aside by the respective local government units
19 for Disaster Risk Management. This fund shall likewise benefit ICCs/IPs within the
20 territory of the local government unit.

21
22 *Provided,* That the administrative and operational expenses of the Council shall also be
23 taken from this share.

24
25 Section 102. **Mine Wastes and Tailings Fees.** A semi-annual fee to be known as mine
26 wastes and tailings fee is hereby imposed on all operating mining companies in
27 accordance with the implementing rules and regulations. The mine wastes and tailings fee
28 shall accrue to a fund to be used as support funds for monitoring activities of the Council.
29 The Secretary is authorized to increase mine wastes and tailings fees, when public interest
30 so requires.

31
32 Section 103. **Incentives.** Incentives that shall be given to the contractors shall only be
33 limited to pollution control or mitigation devices.

34
35
36 CHAPTER XI. SAFETY AND ENVIRONMENTAL PROTECTION

37
38 A. Safety
39

1 Section 104. **Mines Safety.** All contractors and permittees shall strictly comply with all
2 the mines and safety rules and regulations concerning the safe and sanitary upkeep of the
3 mining development. Government personnel involved in the implementation of mines
4 safety, health and environmental rules and regulations shall be covered under Republic
5 Act No. 7305 or the Magna Carta of Public Health Workers.

6
7 Section 105. **Mine Labor.** No person under sixteen (16) years of age shall be employed
8 in any place of mining operations and no person under eighteen (18) years of age shall be
9 employed in a mine.

10
11 Section 106. **Mine Supervision.** All mining and quarrying operations shall have at least
12 one (1) licensed mining engineer for every fifty (50) employees. Such engineer/s shall
13 have at least five (5) years of experience in mining operations, and one (1) registered
14 foreman.

15
16 Section 107. **Safety of Workers.** All mining companies shall provide safeguards to the
17 health and well-being of workers. The Regional Office of the Department of Labor and
18 Employment shall inspect all mining sites within their areas of jurisdiction to determine
19 the conditions of workers. Denial of entry shall be punishable under this Act.
20 Representatives of labor unions shall also have visitorial rights.

21
22 Section 108. **Mine Inspection.** The mines regional directors and the Council shall have
23 jurisdiction over the safety inspection of all installations, surface or underground, in
24 mining operations at reasonable hours of day or night and as much as possible in a
25 manner that will not impede or obstruct work in progress of a contractor or permittee.
26 Monitoring reports and recommendations of the Bureau shall be submitted to the Council.

27
28 Section 109. **Power to Issue Orders.** The mines regional director, in consultation with
29 the Environmental Management Bureau, forthwith or within such time as specified in the
30 order, require the contractor to remedy any practice connected with mining, which is not
31 in accordance with safety and anti-pollution laws and regulations. In case of imminent
32 danger to life or property, the Director may summarily suspend the mining operation until
33 the danger is removed, or appropriate measures are taken by the contractor. Unreasonable
34 delay to remove the danger or introduce the necessary improvements by the contractor
35 shall be a cause for the cancellation of the mineral agreement.

36
37 Section 110. **Report of accidents.** In case of any incident or accident, causing or
38 creating the danger of loss of life or serious physical injuries, the person in charge of
39 operations shall immediately report the same to the regional office where the operations
40 are situated. Failure to report the same without justifiable reason shall be cause for the

1 imposition of administrative sanctions prescribed in the rules and regulations
2 implementing this Act.

3
4 B. Environmental Protection

5
6 Section 111. **Environmental Insurance.** Contractors and mineral processing permit
7 holders shall be obliged to execute an insurance contract as an environmental assurance
8 for each and every source of pollution or disaster, relative to the "worst case scenario"
9 costs, following accepted actuarial standards, *Provided*, That in no way shall this
10 provision be construed to remove or reduce the liability of the contractors and/or permit
11 holders to compensate any damage caused by their operations. *Provided further*, That the
12 insurer shall be an accredited international company in good standing.

13
14 Prior to the approval of the insurance contract by the DOST, the DOST shall seek and
15 consider the opinion of an independent expert as to the financial credibility of the insurer.

16
17 Section 112. **Calamity and Human Rights Protection Fund.** Persons issued a mineral
18 agreement shall deposit five million pesos (Php5,000,000.00) semi-annually in an
19 interest-bearing account a common fund maintained by the national government which
20 shall be used for responding to, or ameliorating the effects of calamities, natural disasters
21 and human rights violations including militarization, displacement, and forcible
22 evacuation in any part of the country in relation to mining activities. *Provided*, That in no
23 way shall this provision be construed to remove or reduce the liability of the contractors
24 and/or permit holders to compensate any damage caused by their operations.

25
26 Section 113. **Performance Bond.** The contractor shall put up a bond in an amount
27 equivalent to fifty per cent (50%) of the projected cost of rehabilitation as validated by
28 independent studies. This amount shall be deposited in an interest-bearing account. The
29 bond shall be forfeited in the event that the contractor shall fail or default in the
30 rehabilitation or remediation of the mining area as included in the work plan of the
31 contractor or abandons the mine at any time of its operations.

32
33 Section 114. **Rehabilitation.** Contractors and permittees shall technically and
34 biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to
35 the condition of environmental safety, as may be provided in the implementing rules and
36 regulations of this Act. A mine rehabilitation fund shall be created, based on the
37 contractor's approved work program, and shall be deposited as a trust fund in a
38 government depository bank and used for physical and social rehabilitation of areas and
39 communities affected by mining activities and for research on the social, technical and
40 preventive aspects of rehabilitation. Failure to fulfill the above obligation shall mean

1 immediate suspension or closure of the mining activities of the contractor/permittee
2 concerned.

3
4 Section 115. **Progressive rehabilitation.** Contractors shall also conduct progressive
5 rehabilitation activities.

6
7 Section 116. **Adoption of Precautionary Principle.** When an activity related to mining
8 raises threats of harm to human health or the environment, precautionary measures shall
9 be taken proactively even if some cause and effect relationship are not fully established
10 scientifically. The mining proponent and the Bureau shall also be obliged to disclose
11 whether or not the cause and effect have not yet been scientifically established.

12
13 Section 117. **Adoption of Polluter Pays Principle.** Polluters shall pay for the damage
14 they cause to the environment. The amount of damages shall be determined by accredited
15 independent consultants, to be chosen from a list and agreed upon by both the mining
16 proponent and by the Council.

17
18 Section 118. **Tailings impoundment.** Tailings impoundments shall be built away from
19 critical watershed drainage areas. Furthermore, it shall be ensured that will not endanger
20 critical watershed areas or low lying valleys in the event of accidents under abnormal
21 conditions. Tailing impoundments and dams shall meet the international standards for
22 large dams.

23
24 Section 119. **Dumping of waste.** Dumping of waste or tailings in any body of water
25 shall be prohibited. Provisions on the Clean Water Act shall be strictly implemented.

26
27 Section 120. **Use of toxic chemicals and methods.** At all times, mining contractors
28 shall use chemicals or reagents which would result to the least environmental and social
29 destruction. The use of mercury and cyanide for the extraction of gold, silver and other
30 minerals shall be prohibited. The use of blow torching to separate gold from amalgam
31 shall likewise be prohibited.

32
33 Section 121. **Preservation of topsoil.** The removed topsoil, or the more productive
34 horizons of the soil shall be preserved for other uses.

35
36 Section 122. **Priority use for water.** The National Water Resources Board shall
37 investigate any existing use of water resources in the area whether or not covered by any
38 existing water permit or registration. Upon determination of any existing use, the
39 applicant shall procure the consent of all water users and/or the free prior and informed
40 consent of ICCs/IPs with or without water permits within the same groundwater network
41 or any downstream users of water resources. In all instances, priority shall be given to use

1 of water for domestic, municipal, and agricultural purposes. If potential negative impact
2 on other water users is identified, the water permit shall not be granted. For water
3 resources within the ancestral domain of indigenous peoples, no water permit shall be
4 granted by the National Water Resources Board without the free and prior informed
5 consent of indigenous peoples.

6
7 **Section 123. Recycling of water resources.** Water used in mining operations shall be
8 recycled. Mining contractors shall be required to provide for the methods or equipments
9 for the recycling or reuse of water. Released contaminated water shall be treated
10 accordingly to meet national standards. Released water must at least be equivalent in
11 quality to the baseline water quality.

12
13 **Section 124. Water user fee.** A water user fee that reflects the value of water to the
14 country and community shall be imposed by the Council for water used in mining
15 operations. Contractors shall pay the fee to the National Water Resources Board which
16 shall use the same for monitoring and improvement of the affected waterways and
17 systems and the mitigation of negative impacts thereon to ensure that communities shall
18 have access to clean water.

21 C. Acid Mine Drainage

22
23 **Section 125. Prohibition from using acid-generating waste rock to build roads or**
24 **dams.** To prevent or mitigate acid mine drainage, there shall be a prohibition against
25 using acid-generating waste rock to build roads or dams or other infrastructures. The use
26 of such materials shall only be used after treatment to neutralize the effect of acid mine
27 drainage.

28
29 **Section 126. Establishment of a prediction and monitoring system.** A prediction and
30 monitoring system shall be in place to identify potential acid-producing materials and
31 monitor their production of acid waste.

32
33 **Section 127. Avoidance of waterways.** Open pits, waste rock piles and tailings
34 impoundments shall not be built near or on waterways to prevent contact and subsequent
35 acid production and groundwater contamination.

36
37 **Section 128. Remining.** Remining shall be prioritized over the opening of new mines to
38 maximize and recover the remaining minerals from the rejects or wastes of previous
39 mines and mining operations, *Provided*, That remining operations shall follow the
40 proceses, standards, parameters and guidelines set for mining operations.

1
2 Section 129. **Suits after the termination of contracts or projects.** Recognizing that the
3 effects of mining may be seen or felt, actions relating to the health of affected
4 communities or peoples, environmental degradation and other similar effects may be
5 maintained against the project proponent and/or persons even after the mineral agreement
6 or mining project has terminated.

7
8 CHAPTER XII. RESOLUTION OF CONFLICTS
9

10 Section 130. **Panel of Arbitrators.** There shall be a panel of arbitrators in the regional
11 office of the Department composed of three (3) members, two (2) of whom must be
12 members of the Philippine Bar in good standing and one a licensed mining engineer or a
13 professional in a related field, and duly designated by the Secretary as recommended by
14 the Mines and Geosciences Bureau Director. Those designated as members of the panel
15 shall serve as such in addition to their work in the Department without receiving any
16 additional compensation. As much as practicable, said members shall come from the
17 different bureaus of the Department in the region. The presiding officer thereof shall be
18 selected by the drawing of lots. His tenure as presiding officer shall be on a yearly basis.
19 The members of the panel shall perform their duties and obligations in hearing and
20 deciding cases until their designation is withdrawn or revoked by the Secretary. Within
21 thirty (30) working days, after the submission of the case by the parties for decision, the
22 panel shall have exclusive and original jurisdiction to hear and decide on the following:

- 23 a. Questions involving compliance with the established technical guidelines
24 and standards herein established, or those to be established by the
25 implementing rules and regulations of this Act;
26 b. Questions involving the compliance with technical procedures herein
27 established, or those to be established by the implementing rules and
28 regulations; and,
29 c. Other similar instances wherein the technological and technical expertise of
30 the Department shall be needed.

31
32 Disputes involving real rights, contractual obligations and the other causes of action that
33 are outside the technological and technical expertise of the Panel of Arbitrators shall be
34 under the jurisdiction of the regular courts or as otherwise provided by other special laws.

35
36 *Provided,* That disputes pending before the Bureau and the Department at the date of the
37 effectivity of this Act shall undergo an immediate review within sixty (60) working days
38 upon the passage of this Act to determine the cause of action. Those which are outside the
39 technical expertise of the Department or Bureau shall be refiled with the appropriate
40 court, without costs to the complainant or petitioner.

1
2 Section 131. **Appeal.** The decision or order of the panel of arbitrators may be appealed
3 by the party not satisfied thereto to the Mines Adjudication Board within fifteen (15) days
4 from receipt thereof which must decide the case within thirty (30) days from submission
5 thereof for decision.
6

7 Section 132. **Mines Adjudication Board (MAB).** The Mines Adjudication Board shall
8 be composed of three (3) members. The Secretary of the DOST shall be the Chairperson
9 with the Director of the Mines and Geosciences Bureau and the Undersecretary for
10 Operations of the Department as members thereof. The Board shall have the following
11 powers and functions:
12

- 13 a. To promulgate rules and regulations governing the hearing and disposition of
14 cases before it, as well as those pertaining to its internal functions, and such
15 rules and regulations as may be necessary to carry out its functions;
- 16 b. To administer oaths, summon the parties to a controversy, issue subpoenas
17 requiring the attendance and testimony of witnesses or the production of such
18 books, papers, contracts, records, statement of accounts, agreements, and other
19 documents as may be material to a just determination of the matter under
20 investigation, and to testify in any investigation or hearing conducted in
21 pursuance of this Act;
- 22 c. To conduct hearings on all matters within its jurisdiction, proceed to hear and
23 determine the disputes in the absence of any party thereto who has been
24 summoned or served with notice to appear, conduct its proceedings or any part
25 thereof in public or in private, adjourn its hearings at any time and place, refer
26 technical matters or accounts to an expert and to accept his report as evidence
27 after hearing of the parties upon due notice, direct parties to be joined in or
28 excluded from the proceedings, correct, amend, or waive any error, defect or
29 irregularity, whether in substance or in form, give all such directions as it may
30 deem necessary or expedient in the determination of the dispute before it, and
31 dismiss the mining dispute as part thereof, where it is trivial or where further
32 proceedings by the Board are not necessary or desirable:
 - 33 1. To hold any person in contempt, directly or indirectly, and impose
34 appropriate penalties therefor; and
 - 35 2. To enjoin any or all acts involving or arising from any case pending
36 before it which, if not restrained forthwith, may cause grave or
37 irreparable damage to any of the parties to the case or seriously affect
38 social and economic stability.
39
40

1 In any proceeding before the Board, the rules of evidence prevailing in courts of law or
2 equity shall not be controlling and it is the spirit and intention of this Act that shall
3 govern. The Board shall use every and all reasonable means to ascertain the facts in each
4 case speedily and objectively and without regard to technicalities of law or procedure, all
5 in the interest of due process and social justice. In any proceeding before the Board, the
6 parties may be represented by legal counsel. The findings of fact of the Board shall be
7 conclusive and binding on the parties and its decision or order shall be final and
8 executory.

9
10 A petition for review by *certiorari* and question of law may be filed by the aggrieved
11 party with the Supreme Court within thirty (30) days from receipt of the order or decision
12 of the Board.

13 14 CHAPTER XIII. ACCESS TO JUSTICE 15

16 Section 133. **Obligation to respect human rights.** Corporations shall respect, protect
17 and promote the human rights of communities affected by mining, including the right to
18 life, liberty and property, freedom of movement, right of public participation and the right
19 to self-determination of indigenous cultural communities.

20
21 Section 134. **Violations of human rights.** Extrajudicial killing, torture, involuntary
22 disappearance, forcible displacement of populations, and imposition of toll fees which
23 impede the freedom of movement within mineral areas, deprivation of food and water
24 sources, vote-buying and bribery for the purpose of securing consent or endorsement for
25 the mining project, and other analogous acts are violations of human rights. Violations of
26 human rights by contractors shall cause the immediate cancellation of mineral
27 agreements. The offending contractor, as well as corporations having the same directors
28 and/or officers as of the offending contractor shall be perpetually disqualified from being
29 granted a mineral agreement. All equipment and assets of the corporation or person shall
30 be confiscated in favor of the government.

31
32 Section 135. **Use of paramilitary and military forces.** All mining companies are
33 strictly prohibited to employ paramilitary groups. Use of private and military forces shall
34 result in the cancellation of the mineral agreement and the filing of appropriate civil,
35 criminal and/or administrative charges.

36
37 Section 136. **Strategic Legal Action Against Public Participation (SLAPP).** SLAPPs
38 shall be strictly prohibited. SLAPP is any legal action, whether civil, criminal or
39 administrative, filed to harass, vex, exert legal action or stifle legal recourses of
40 community members complaining against violations of this Act or enforcing the..

1 provisions of the Act, or exercising their freedom of assembly or right of public
2 participation. The investigating prosecutor or court shall immediately determine within a
3 period of thirty (30) days from filing thereof whether a legal action is a SLAPP and
4 accordingly dismiss the same.

5
6 Section 137. **Indigents' suit.** Indigents shall be exempt from payment of any
7 administrative or court fees, including docket fees for the filing of a case. Lawyers shall
8 be provided to pauper litigants in case they could not afford legal services.

9
10 Section 138. **Application of the customary laws of ICCs/IPs.** The contractor shall
11 respect the customary laws of the ICCs/IPs and shall submit to processes of their
12 customary laws, *Provided*, That these laws are not contrary to the provisions of the
13 Constitution.

14
15 Section 139. **Strict liability.** Mining corporations are strictly liable for all damages that
16 the mining operations might cause. In case of any actual damage, the burden of proof
17 shall lie with the corporations.

18
19 Section 140. **Piercing the corporate veil.** When the separate personality of the
20 corporation from its shareholders is being invoked as defense in order to perpetuate a
21 crime, fraud or other machinations, or evade liability, the separate personality of the
22 corporation shall be set aside. Civil, criminal and administrative actions may thus be
23 filed directly against the members of the Board of Directors, officers and/or individual
24 stockholders.

25
26 Section 141. **Citizen Suits.** For the purpose of enforcing the provisions of this Act or its
27 implementing rules and regulations, any citizen may file appropriate civil, criminal and
28 administrative suits against any of the following:

- 29
30 a. Any person who violates or fails to comply with the provisions of this Act or
31 its implementing rules and regulations;
32 b. Any public officer with respect to orders, rules and regulations inconsistent
33 with this Act;
34 c. Any public officer who willfully or grossly neglects the performance of an act
35 specifically enjoined as a duty by this Act or its rules and regulations; or
36 abuses the authority in the performance of a duty/ies under this Act or its
37 implementing rules and regulations.

38
39 The court shall exempt such action from the payment of filing fees, except fees for
40 actions not capable of pecuniary estimation, and shall likewise, upon *prima facie* showing

1 of non-enforcement or violation complained of, exempt the plaintiff from filing an
2 injunction bond for the issuance of a preliminary injunction.

3
4 Within thirty (30) days upon the filing of the case, the court will determine whether or not
5 the complaint is malicious or baseless and shall accordingly dismiss the petition.

6 7 CHAPTER XIV. PENAL PROVISIONS 8

9 Section 142. Grounds for the cancellation of permits:

- 10 a. Violation of any provision of this Act;
11 b. Human rights violations perpetrated by the contractor or any agent of the
12 contractor;
13 c. Non-payment of taxes;
14 d. Bribery, use of force, intimidation, threat, coercion of public officials and
15 communities;
16 e. Any act that shall create or contribute to conflicts;
17 f. Other analogous acts.

18
19 *Provided, that,* violations of environmental provisions shall cause the immediate
20 cancellation of mining permits, including but not limited to Sections 118, 119, 120, 121,
21 125 and 127, and the contractor shall be required to pay for the rehabilitation, restoration
22 or clean up of the impacts of such violations.

23
24 Corporations, corporate directors/officers found guilty of the above enumeration may be
25 subjected to a perpetual ban in the mining operations.

26
27 Section 143. **False Statements.** Any person who knowingly presents any false
28 application, declaration, or evidence to the Government or publishes or causes to be
29 published any prospectus or other information containing any false statement relating to
30 mines, mining operations or mineral agreements and permits shall, upon conviction, be
31 penalized by a fine of not exceeding One Hundred Thousand pesos (P100,000.00).

32
33 Section 144. **Illegal Exploration.** Any person undertaking exploration work without the
34 necessary exploration permit shall, upon conviction, be penalized by a fine of not
35 exceeding Five Million pesos (P5,000,000.00).

36
37 Section 145. **Panning.** Panning shall be considered an act of mining. Any person
38 undertaking panning without the necessary mining permit shall upon conviction, be
39 convicted of illegal panning penalized under section 27 (RA 7076). In addition, such
40 person shall be liable to pay damages made to the environment by reason of such

1 panning. In the case of associations, partnerships, or corporations, the president and each
2 of the directors thereof shall be responsible for the acts committed by such association,
3 corporation, or partnership.

4
5 **Section 146. Theft of Minerals.** Any person extracting minerals and disposing the same
6 without a mining agreement, lease, permit, license, or steals minerals or ores or the
7 products thereof from mines or mills or processing plants shall, upon conviction, be
8 imprisoned from six (6) months to six (6) years or pay a fine from One Hundred thousand
9 pesos (P100,000.00) to One Million pesos (P1,000,000.00) or both, at the discretion of
10 the appropriate court. In addition, he shall be liable to pay damages and compensation for
11 the minerals removed, extracted, and disposed of. In the case of associations,
12 partnerships, or corporations, the president and each of the directors thereof shall be
13 responsible for the acts committed by such association, corporation, or partnership.

14
15 **Section 147. Unauthorized Dealing, Selling, and/or Buying of Gold.** Any person,
16 partnership or corporation who shall sell, buy or in any manner deal gold from any miner
17 or person without being duly authorized by the Bangko Sentral ng Pilipinas shall be
18 punished as unauthorized dealing and shall be penalized in accordance with Section 144
19 of this Act.

20
21 **Section 148. Vitiating of FPIC.** Any person found to have vitiated the consent of the
22 ICCs/IPs through bribery, threat, force, and/or intimidation, or any other similar means,
23 shall suffer the penalty of six (6) years and one (1) day to ten (10) years in prison, and a
24 fine of at least two million pesos (Php 2,000,000.00). If the perpetrator is a government
25 official, the penalty shall be eight (8) years and one (1) day to twelve (12) years
26 imprisonment, and a fine of at least four (4) million pesos (Php 4,000,000.00). He/she
27 shall be perpetually prohibited from assuming public office, and shall be disqualified
28 from receiving other benefits by virtue of his/her position in government.

29
30 **Section 149. Penalty for human rights violations.** Contractors or other persons who
31 have violated the human rights of communities in connection with the mining operations
32 shall be penalized with ten (10) years to fourteen (14) years imprisonment and a fine of at
33 least five million pesos (Php 5,000,000.00) and shall indemnify the victims.

34
35 **Section 150. Amendment to Section 27 of Republic Act No. 7076 or the Small-scale**
36 **Mining Act.** Violations of the provisions of RA 7076 or of the rules and regulations
37 issued pursuant hereto shall be penalized with imprisonment of six years and 1 day to 12
38 years, and shall include the confiscation and seizure of equipment, tools and instruments,
39 immediate suspension or closure of the mining activities of the permittee concerned and
40 revocation or cancellation of permit.

1
2 Section 151. **Abandonment.** Contractors and/or permittees who shall abandon mines
3 shall be perpetually banned or disqualified from conducting mining operations, directly or
4 indirectly. The ban and/or disqualification shall include the officers and directors of
5 corporations that have abandoned mines.

6
7 Section 152. **Confiscation of equipment and property.** The equipment and property of
8 contractors and permit holders violating this Act shall be forfeited in favor of the
9 government.

10
11 Section 153. **Non-application of the corporate veil.** Any person violating the
12 provisions of Commonwealth Act No. 108, or the Anti-Dummy Law of the Philippines as
13 amended, or is found to have used the corporate structure to defeat the provisions of the
14 Act shall suffer the penalty of five million pesos (P5,000,000.00) and perpetual ban in the
15 mining industry.

16
17 Section 154. **Reinstatement of revoked permits.** After notice and hearing, revoked
18 permits that have undergone due process may be reinstated, *Provided*, That it may only
19 be reinstated once.

20 21 CHAPTER XV. TRANSITORY PROVISIONS.

22
23 Section 155. There shall be a moratorium on all mining activities until all the systems
24 are in place for the proper implementation of the law.

25
26 Section 156. All existing mining permits, licenses and agreements are deemed cancelled.

27
28 Section 157. The classification of public lands as mineral reservations pursuant to pre-
29 existing laws shall hereby cease. All such lands shall be closed to mining unless opened
30 thereto in accordance with the provisions of this Act. The President's power to declare
31 mineral reservations shall henceforth cease to exist. A review of the current mineral
32 land classification shall be conducted to determine the best livelihood and economic
33 option for the said area.

34
35 Section 158. The members of the panels of arbitrators and the provincial or city mining
36 regulatory boards established under Republic Act No. 7942 shall hold-over their positions
37 until replaced in accordance with provisions of this Act.

38 39 CHAPTER XVI. FINAL PROVISIONS

1 Section 159. **Separability Clause.** The provisions of this Act are hereby declared to be
2 separable and, in the event of any such provisions are declared unconstitutional, the other
3 provisions which are not affected thereby shall remain in force and effect.

4
5 Section 160. **Repealing Clause.** Republic Act 7942, Presidential Decree 463,
6 Presidential Decree 512, and other related mining laws are hereby repealed. All
7 provisions in laws, decrees and other regulations inconsistent with this present law shall
8 be deemed amended or repealed if the inconsistency is irreconcilable.

9
10 Section 161. **Funds.** The amount of One Hundred Billion Pesos (Php
11 100,000,000,000.00) is hereby appropriated for the proper functioning of the Bureau, the
12 Council, and other bodies established under this Act.

13
14 Section 162. **Implementing Rules and Regulations.** The implementing rules and
15 regulations of this Act shall be the product of joint collaboration by the Department, and
16 representatives from the local government units, peoples' organizations, sectoral
17 organizations and non-governmental organizations, and shall be drawn up after
18 appropriate public consultations.

19
20 Section 163. **Effectivity Clause.** This Act shall take effect within fifteen (15) days
21 following its publication in two newspapers of general circulation in the Philippines.

22
23
24 Approved,