



Republic of the Philippines

HOUSE OF REPRESENTATIVES

Quezon City, Metro Manila

Fifteenth Congress First Regular Session

HOUSE BILL NO. 4808

INTRODUCED BY: REPRESENTATIVE FRANCISCO T. MATUGAS

EXPLANATORY NOTE

The Philippines is situated along a well-defined belt of volcanoes called the Circum-Pacific Rim of Fire where the processes of volcanism and plate convergence resulted in the formation of abundant and important metallic mineral deposits. It is considered one of the countries that is richly endowed with metallic resources and it has the potential to be among the top ten largest mining powers in the world. In terms of occurrence per unit area, it ranks third in gold, fourth in copper, fifth in nickel and sixth in chromite.¹

The common metallic minerals extracted in the Philippines are as follows:

Category	Mineral	% of Total Value*
Precious Metals	Gold	48.07
	Silver	0.26
Base Metals	Copper	6.78
Iron & Ferro-Alloy Metals	Nickel	16.36
	Chromite	0.12
*based on 2008 Gross Production Value of USD 1.84 billion ²		

¹ The Philippines' Mineral Potential, 07 April 2010,
<http://www.investphilippines.gov.ph/downloads/sector/Mining.pdf>

² *Ibid.*

In terms of ores, the Philippines has the following reserves:

Ore	Reserves Million MT (2005)
Gold	3,056
Copper	2,968
Nickel	953
Chromite	18
Iron	410
Aluminum	292

It is unfortunate, however, that these ores, after mining or extraction, are exported directly to foreign countries as raw materials. The Philippines has not developed the downstream mining industry and thus, cannot maximize the benefits or value-added from mining. It is high time for the mining industry to focus on the final stages of the minerals value chain and encourage the establishment and development of processing plants that use new processes in manufacturing mineral ores.

It is well to note that the industrialization of the Philippine mineral industry is included in the long-term plan of action of the Mines and Geosciences Bureau ("MGB"). We should help the MGB promote downstream processing and manufacturing of metals such as copper, nickel, gold and chromite, develop community-based supplier industries and services, improve government benefits for the mining industry; and control the export of unprocessed minerals.

It is my firm belief that by developing the downstream mining industry, we are not only advancing said industry but paving the way for the industrialization of the entire country.

Approval of this bill is earnestly sought.



Hon. Francisco T. Matugas



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AN ACT
PROMOTING THE DEVELOPMENT OF MINERALS PROCESSING
AND IN THE PROCESS BANNING THE EXPORT OF IRON, NICKEL,
CHROMITE, MANGANESE AND OTHER STRATEGIC METALLIC
ORES, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled.

1 Section 1. *Development of Minerals Processing.* - The State shall promote
2 industrialization and full employment through industries that make full and efficient
3 use of human and natural resources, and which are competitive in both domestic and
4 foreign markets.

5
6 The State recognizes that the revitalization of the mining industry can contribute
7 greatly to the country's industrialization. The State shall therefore, promote the
8 development of Minerals Processing to maximize the benefits or value-added from
9 mining. Towards this end, it shall encourage the establishment and development of
10 mining firms and manufacturing plants that will utilize locally processed products and
11 process mineral ores first before exporting them to other countries.

12
13 Section 2. *Entities Engaged in Minerals Processing.* - For purposes of this Act, an
14 individual, partnership, cooperative, corporation or other entity shall be considered as
15 one engaged in Minerals Processing if it is engaged in the milling, beneficiation or
16 upgrading of ores or minerals and rocks or similar means that convert the same into
17 marketable products. However, not all entities engaged in Minerals Processing shall be
18 entitled to the incentives provided under Section 4 of this Act. The incentives under
19 Section 4 shall not be available to entities engaged in processing where the ore or
20 minerals and rocks merely undergo a process or technology, without which, the

1 resource will not be developed or the mining activity could not be possibly undertaken
2 such as sorting, crushing, washing, drying and other similar activities.

3
4 For nickel, chromite and iron, an additional processing step that will add further
5 value to the mineral end product such as, ferro-nickel, mixed sulfides, nickel pig iron,
6 ferrochrome or refractory bricks, shall be required before the entity can avail of the
7 incentives under Section 4.

8
9 **Section 3. Minerals Processing Permit.** - No individual, partnership, cooperative,
10 corporation or other entity shall engage in the processing of minerals without first
11 securing a Minerals Processing Permit from the Secretary of the Department of
12 Environment and Natural Resources.

13
14 In the case of small-scale miners, the processing of mineral ores and minerals
15 they produce, as well as the licensing of their custom mills or processing plants, shall
16 continue to be governed by the provisions of Republic Act No. 7076.

17
18 In the case of individuals, corporations, partnerships, cooperatives or other
19 entities who are parties to a Mineral Agreement or a Financial or Technical Assistance
20 Agreement, holders of Quarry and Industrial Sand and Gravel Permits, the approved
21 Work Program for the production period shall be sufficient requirement for them to
22 process their minerals in lieu of a Minerals Processing Permit.

23
24 A Minerals Processing Permit shall be for a period of ten (10) years, renewable
25 for like periods: *Provided*, That, the renewal of a Minerals Processing Permit shall not be
26 allowed unless the permit holder has complied with all the terms and conditions of the
27 Minerals Processing Permit and has not been found guilty of violation of any provisions
28 of Republic Act No. 7942, or the Philippine Mining Act of 1995, and its implementing
29 rules and regulations. Section 55 of Republic Act 7942 is hereby amended in so far as it
30 is inconsistent with this provision.

31
32 After due process, a Minerals Processing Permit may be suspended, revoked or
33 cancelled by the Department of Environment and Natural Resources for violation of its
34 terms and conditions, or of pertinent laws, rules and regulations.

35
36 **Section 4. Incentives.** - Minerals Processing, which are entitled to incentives under
37 Section 2 of this Act, shall be included every year in the Investment Priorities Plan to be
38 prepared by the Board of Investments in accordance with Executive Order No. 226, as
39 amended, otherwise known as the Omnibus Investment Code of 1987 and shall always
40 be listed as a preferred area of investment. Before being entitled to the foregoing
41 incentives, the entity involved shall be registered with the Board of Investments and
42 satisfy the requirements for registration provided for under Article 32 of Executive
43 Order No. 226.

1 Individuals, partnerships, cooperatives, corporations or other entities engaged in
2 Minerals Processing shall be entitled to the incentives provided for under Chapter XVI
3 of Republic Act No. 7942 or the Philippine Mining Act of 1995, including those on
4 incentives for pollution control devices, income tax-carry forward of losses, income tax-
5 accelerated depreciation, and investment guarantees.

6
7 **Section 5. *Additional Incentives to Entities Who Can Generate Their Own Power.* -**

8 An individual, partnership, cooperative, corporation or other entity engaged in
9 Minerals Processing shall be entitled to generate its own electricity: *Provided, That,* it
10 shall comply with all pertinent laws, particularly those being implemented and enforced
11 by the Department of Energy. If such an entity is able to meet all or seventy percent
12 (70%) of its own energy requirements, said entity shall be entitled to the following
13 additional fiscal incentives:

14
15 a. Additional Deduction for Labor Expansion. Instead of being allowed an
16 additional deduction from taxable income of fifty percent (50%) of the wages
17 corresponding to the increment in the number of direct labor for skilled and
18 unskilled workers, in the first five (5) year from registration only, said
19 incentive shall be extended to the first six (6) years from registration: *Provided,*
20 *That,* in order to be entitled to this incentive, the project must still meet the
21 prescribed ratio of capital equipment to number of workers set by the Board
22 of Investments.

23
24 b. Tax and Duty Exemption on Imported Capital Equipment. - Importations
25 of machinery and equipment and accompanying spare parts needed for the
26 construction, operation and maintenance of the power plant shall be exempt
27 to the extent of one hundred percent (100%) of the customs duties and
28 national internal revenue tax payable thereon: *Provided, That* the importation
29 of machinery and equipment and accompanying spare parts shall comply
30 with the following conditions:

31
32 (1) They are not manufactured domestically in sufficient quantity, of
33 comparable quality and at reasonable prices;

34
35 (2) They are reasonably needed and will be used exclusively by the
36 entity involved in the generation of electricity; and

37
38 (3) The approval of the Board of Investments shall be obtained for the
39 importation of such machinery, equipment and spare parts.

40
41 c. Tax Credit on Domestic Capital Equipment. - A tax credit equivalent to one
42 hundred percent (100%) of the value of the national internal revenue taxes
43 and customs duties that would have been waived on the machinery,
44 equipment and spare parts, had these items been imported shall be given to
45 the entities which purchase machinery, equipment and spare parts from a

domestic manufacturer: *Provided*, That the said equipment, machinery and spare parts are reasonably needed and will be used exclusively by the entity in the generation of electricity.

- d. Exemption from Contractor's Tax. – The entity shall be exempt from the payment of contractor's tax, whether national or local for the construction, operation and maintenance of the power plant.

Section 6. *Expenditure for Community Development and Science and Mining Technology.* – The grantee of a Minerals Processing Permit shall assist in the development of the community in which its processing plants are established, the promotion of the general welfare of its inhabitants and the development of science and mining technology.

Activities that may be credited as expenditures for development of the community, and science and mining technology are the following:

- a. Any activity or expenditure intended to enhance the development of the community other than those required or provided for under existing laws, or collective bargaining agreements, and the like; and
- b. Any activity or expenditure directed towards the development of geosciences and mining technology such as, but not limited to, institutional and manpower development, and basic and applied researches. Appropriate supervision and control mechanisms shall be prescribed in the implementing rules and regulations of this Act.

Section 7. *Training and Development.* – The grantee of a Minerals Processing Permit shall maintain an effective program for manpower training and development throughout the effectivity of its Minerals Processing Permit and shall encourage and train Filipinos to participate in all aspects of its operations, including the management thereof.

Section 8. *Safety and Environmental Protection.* – The grantee of a Minerals Processing Permit shall strictly comply with all safety rules and regulations as may be promulgated by the Department of Environment and Natural Resources concerning the safety and sanitary upkeep of its operations.

Said grantee shall also undertake an environmental protection and enhancement program covering the period of its Minerals Processing Permit. Such environmental program shall be incorporated in the Work Program which the grantee shall submit as an accompanying document to its application for a Minerals Processing Permit.

Before being granted a Minerals Processing Permit, the applicant shall be required to procure an Environmental Clearance Certificate based on the

1 environmental impact assessment and procedures under the Environmental Impact
2 Assessment System including Sections 26 and 27 of the Local Government Code of
3 1991 which require national agencies to maintain ecological balance, and prior
4 consultation with local government units, nongovernmental and people's organizations
5 and concerned sectors of the community.

6
7 **Section 9. *Ban on the Exportation or Direct Shipping of Iron Nickel, Chromite,***
8 ***Manganese and Other Strategic Metallic Ores.*** –Minerals Processing for iron, nickel,
9 chromite and manganese shall be prioritized. For this purpose, starting 1 January 2015,
10 it shall be unlawful for any individual, partnership, cooperative, corporation or other
11 entity, to export or directly ship to any foreign country iron, nickel, chromite and
12 manganese ores extracted from any mining site in the Philippines.

13
14 The President may, upon recommendation of the Secretary of the Department
15 of Environment and Natural Resources or the Secretary of the Department of Trade
16 and Industry, indorsed by the National Economic Development Authority, or upon
17 recommendation by the National Economic Development Authority, ban the export or
18 direct shipping of other strategic metallic ores, apart from iron, nickel, chromite and
19 manganese if the same is crucial to the accelerated industrialization of the country or is
20 needed for economic development and national defense.

21
22 **Section 10. *Penalty for Violation.*** – Any person exporting iron, nickel, chromite,
23 manganese or other strategic metallic ores, the export of which has been banned by
24 order of the President under Section 9 hereof, shall, upon conviction, be imprisoned
25 from six (6) months to six (6) years or fined Fifty Thousand Pesos (P50,000.00) to Two
26 Hundred Thousand Pesos (P200,000.00), or both, at the discretion of the court. If the
27 offender is a corporation, association, partnership or any juridical person, the penalty
28 shall be imposed upon the responsible officers, as the case may be, who participated in
29 the commission of the offense. If the offender is an alien, he shall, in addition to the
30 penalty herein prescribed, be deported without further proceedings after serving the
31 prescribed penalties.

32
33 **Section 11. *Transition Period.*** – The period from the approval of this Act until 1
34 January 2015 shall be considered the transition period to prepare the mining industry
35 for the total ban on the export and direct shipping of iron, nickel, chromite and
36 manganese and other strategic metallic ores, the export of which has been banned by
37 order of the President. The Department of Trade and Industry, and the Department of
38 Environment and Natural Resources shall develop the necessary guidelines during the
39 transition period to ensure that the mining industry is adequately prepared for the
40 eventually ban on export and direct shipping of these ores.

41
42 **Section 12. *Implementing Rules and Regulations.*** – Within six (6) months from the
43 effectivity of this Act, the Department of Environment and Natural Resources and the
44 Department of Trade and Industry shall promulgate the necessary rules and regulations

1 for the effective implementation of this Act. Such rules and regulations shall take effect
2 upon its publication in two (2) newspapers of general circulation.

3 **Section 13. *Separability Clause.*** - If, for any reason, any provision of this Act is
4 declared to be unconstitutional or invalid, the other sections or provisions thereof
5 which are not affected thereby shall continue to be in full force and effect.

6 **Section 14. *Repealing Clause.*** - All laws, decrees, executive orders, rules and
7 regulations, and other issuances or parts thereof which are inconsistent with this Act
8 are hereby repealed, amended or modified accordingly.

9 **Section 15. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after its
10 complete publication in at least two (2) newspapers of general circulation.

11 Approved,