

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 9775



Introduced by: Hon. Shirlyn L. Bañas-Nogales

EXPLANATORY NOTE

Despite the country's mineral endowment, the contribution of the mining industry to the Philippine economy is low at 1% of the country's GDP. Moreover, in terms of employment generation, the industry also falls short in this aspect with only 234,000 jobs in 2015 as listed by the MGB, equivalent to 0.6% of the total employment of the country in the same year.

Thus, to address such shortfall of the industry's socioeconomic contributions, there is a need to reorient its direction towards industrialization, beginning with mineral resources that are abundant and primarily exported as raw ores, such as nickel laterite, and iron in the form of black sand/magnetite concentrate. These resources are the main raw materials for ironmaking and steelmaking, products of which are considered important, multi-functional, and adaptable of materials with great array of applicability such as in construction, transportation, energy, appliances, and packaging, among others.

As such, this bill proposes gradual/partial restriction of export of these direct shipping ores as its mechanism to start and drive the mining industry to compel into mineral processing, value-adding and establishing of downstream industries, which are sure means to let the mining industry to be a significant economic contributor, while ensuring the preparedness of mining companies to respond to such call.

In essence, the bill seeks not only to increase the mining industry's GDP contribution but also to increase employment and other benefits, both directly and indirectly, that accrue from processing and manufacturing with minerals and metals.

Approval of this bill is earnestly sought.


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AN ACT
ON PROMOTING THE DEVELOPMENT OF MINERALS PROCESSING AND
VALUE-ADDING AND IN THE PROCESS GRADUALLY/PARTIALLY
RESTRICTING THE DIRECT SHIPPING OF NICKEL LATERITE ORES,
MAGNETITE SANDS/IRON CONCENTRATES AND OTHER RAW METALLIC
ORES AND FOR OTHER PURPOSES

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

SECTION 1. Title. – This Act shall be known as the “PROMOTION OF MINERAL PROCESSING AND VALUE-ADDING ACT”.

SECTION 2. Declaration of Principles. –

- a. All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation through the combined efforts of government and the private sector in order to enhance national growth in a way that effectively safeguards the environment and protect the rights of affected communities.
- b. The State must ensure that the Filipino people benefit extensively from its mineral resources, and therefore, it shall encourage mineral processing, value-adding, and development of downstream industries to maximize the mining industry’s economic contributions and to pave way for the generation of more jobs.

SECTION 3. Definition of Terms. –

- a. “Black Sand or Magnetite Sand” refers to beach, river, onshore, nearshore, and offshore sands containing high concentration of magnetite, an iron oxide, which results from the weathering and erosion of metamorphic and igneous rocks.
- b. “Contractor” means a Qualified Person acting alone or in consortium who is a party to a Mineral Agreement or FTAA.

- c. “Direct Shipping Ore (DSO)” refers to the bulk raw ore product of mining operations that are shipped out or exported from any mining site in the Philippines to any foreign country.
- d. “Downstream Industries” refer to industrial firms that process the output of other firms into a finished or different product.
- e. “Financial or Technical Assistance Agreement (FTAA)” means a contract involving financial or technical assistance for large-scale exploration, development, and utilization of mineral resources.
- f. “Government” means the Government of the Republic of the Philippines.
- g. “Gradual or Partial Restriction” refers to the plan of the Government to gradually or partially restrict direct shipping of ores to any foreign country and encourage domestic processing and value-adding of these ores.
- h. “Gross Output” means the actual market value of minerals or mineral products or of bullion from each mine or mineral land operated as a separate entity, without any deduction for mining, processing, refining (including all expenses incurred to prepare the said minerals or mineral products in a marketable state), as well as transporting, handling, marketing or any other expenses: Provided, That if the minerals or minerals products are sold or consigned abroad by the lessee or owner of the mine under C.I.F terms, the actual cost of ocean freight and insurance shall be deducted: Provided, however, That in the case of mineral concentrate, not traded in commodity exchanges in the Philippines or abroad, such as copper concentrate, the actual market value shall be the world price quotations of the refined mineral products content thereof prevailing in the said commodity exchanges, after deducting the smelting, refining, and other charges incurred in the process of converting mineral concentrates into refined metals traded in those commodity exchanges.¹
- i. “Laterites” refer to a type of soil, rich in nickel, iron, aluminum, or magnesium that formed through prolonged chemical and mechanical weathering in wet, warm, tropical environments.²
- j. “Magnetite concentrate” refers to the magnetic portion of a magnetite sand produced by magnetic separation and/or gravity concentration, or other similar means.

¹ Minor revision as per Revenue Regulations No. 1 – 2018. Providing for the Revised Tax Rates on Mineral Products pursuant to the Provisions of Republic Act No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Law” Amending for the purpose Revenue Regulations No. 13-94

² Ashcroft, Greg. Nickel Laterites: The World’s Largest Source of Nickel. Geology for Investors. June 12, 2014. Retrieved from: <https://www.geologyforinvestors.com/nickel-laterites/>

- k. “Minerals” refers to all naturally occurring inorganic substance in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials, and geothermal energy.
- l. “Mineral Agreement” means a contract between the Government and a Contractor, involving Mineral Production-Sharing Agreement, Co-Production Agreement, or Joint-Venture Agreement.
- m. “Mineral Processing” means the milling, beneficiation, leaching, smelting, cyanidation, calcination or upgrading of ores, minerals, rocks, mill tailings, mine waste and/or other metallurgical by-products or by similar means to convert the same into marketable product.
- n. “Mineral Processing Permit” refers to the permit granted to a Qualified Person for mineral processing.
- o. “Mineral Products” mean materials derived from ores, minerals and/or rocks and prepared into a marketable state by mineral processing.
- p. “Mining Operations” mean mining activities involving exploration, feasibility, development, utilization, and processing.
- q. “Ore” means naturally occurring substance or material from which a mineral or element can be mined and/or processed for profit.
- r. “State” means the Republic of the Philippines.
- s. “Value-adding” refers to any economic, environmental, or social benefit that results from further processing and manufacturing of minerals and metals.³

CHAPTER II

SCOPE AND APPLICATION

SECTION 4. Coverage. – This Act shall apply to the following:

- a. New Mineral Agreements and Financial or Technical Assistance Agreements (FTAAs) covering large-scale mineral mining operations that shall be entered into after the effectivity of this Act; and
- b. Existing Mineral Agreements and FTAAs where such agreements provide that any terms and conditions resulting from repeal or amendment of any existing laws or regulation or from the enactment of a law, regulation or administrative order shall be considered as part of said agreements.

³ From Mineral Resources to Manufactured Products: Towards a Value-Added Mineral and Metal Strategy for Canada. Minister of Public Works and Government Services Canada – 1998. Retrieved from <https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/mineralsmetals/pdf/mms-smm/poli-poli/pdf/val-eng.pdf>

SECTION 5. Mineral Processing – Mineral processing shall be governed by pertinent provisions of Republic Act (RA) No. 7942, otherwise known as the “*Philippine Mining Act of 1995*”, and its Implementing Rules and Regulations, as amended.

Contractors that do not intend to put up processing plants shall, at all times during the existence of their mineral agreement, have an existing and valid contract with a legitimate mineral processing plant for the processing of mineral ores mined under the mineral agreement, or they may form consortiums to set-up common mineral processing facilities to process their minerals: Provided, That they shall secure a Mineral Processing Permit (MPP) within six (6) months from the effectivity of this Act. Otherwise, such contractors shall eventually be banned to export their raw ores in accordance with Section 8.a of this Act.

SECTION 6. Applicable Minerals. – For purposes of this Act, raw nickel laterite ores, magnetite sands/iron concentrates, and other raw metallic ores shall be gradually/partially restricted for export and shall undergo domestic mineral processing and value-adding for the production of mineral products such as refined nickel/cobalt metals, ferroalloys, pig iron or steel ingots for export and domestic consumption.

Mineral processing and value-adding shall also be required for these minerals before the entity can avail of the incentives under Chapter 3 of this Act.

CHAPTER III INCENTIVES

SECTION 7. Incentives. – Individuals, partnerships, cooperatives, corporations, or other entities engaged in mineral processing shall be entitled to the incentives provided for under Chapter XVI of RA No. 7942, including those incentives under Executive Order No. 226, for pollution control devices, income tax-carry forward of losses, income tax-accelerated depreciation, and investment guarantees.

Individuals, partnerships, cooperatives, corporations, or other entities engaged in mineral processing shall be entitled to additional incentives if they can generate their own electricity through renewable energy: Provided, That it shall comply with the provisions of RA No. 9513, otherwise known as the “*Renewable Energy Act of 2008*”, and its Implementing Rules and Regulations.

CHAPTER IV GRADUAL/PARTIAL RESTRICTION OF ORE EXPORT

SECTION 8. Gradual/Partial Restriction of Ore Export. – Mineral processing for raw nickel laterite ores, magnetite sands/iron concentrates, and other raw metallic ores shall be prioritized. For this purpose, all entities engaged in direct shipping of nickel laterite ores, magnetite sands/iron concentrates, and other raw metallic ores shall gradually reduce their export of the said mineral products on either of the schemes listed below after the transition period provided under Section 9 of this Act.

- a. Diminishing Export – In the case where a contractor’s output is solely for export, gradual/partial restriction of exported ore shall be imposed and shall be computed based on 50% of the gross output from the previous year until zero export.

- b. 50:50 Scheme – In the case where a contractor's output is for both export and local processing, the maximum allowable limit for export shall be 50% of the gross output of the previous year: Provided, That, the remaining 50% of the gross output shall be allotted for domestic processing.

It shall be unlawful for any individual, partnership, cooperative, corporation, or other entity, to export or directly ship to any foreign country raw nickel laterite ores, magnetic sands/iron concentrates, and other raw metallic ores extracted from any mining site in the Philippines unless 50% of its gross output is processed locally.

SECTION 9. Transition Period. – To prepare the mining industry for the gradual/partial restriction of direct shipping of raw nickel laterite ores, magnetite sands/iron concentrates, and other raw metallic ores, a period of five (5) years shall be provided as transition phase after the approval of this Act.

CHAPTER VI MISCELLANEOUS PROVISIONS

SECTION 10. Community Development, and Safety and Environmental Protection. – Individuals, partnerships, cooperatives, corporations, or other entities engaged in mineral processing shall strictly comply with the pertinent provisions under Chapter X and XI of RA No. 7942 and its Implementing Rules and Regulations, as amended, regarding community development, and safety and environmental protection.

SECTION 11. Transitory Provision – During the transition period, contractors under Section 4.a. of this Act shall either put up their own processing plants, form consortiums with other contractors to establish common processing plants or forge supply contract agreement with Mineral Processing Permit holders to process their ores. Otherwise, they will not be permitted to export their unprocessed nickel ores or magnetite sand/concentrates in accordance with Section 8.a of this Act.

SECTION 12. Penalty Provision. – Any person who violates any provision of this Act shall, upon conviction, be imprisoned from six (6) years to one (1) day to twelve (12) years and fined an amount equivalent to twice the value of the seized mineral ores. In addition, the cargo containing the mineral ores shall be confiscated in favor of the State. If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in the commission of the offense. If the offender is an alien, he shall, in addition to the penalty herein prescribed, be deported without further proceedings after serving the prescribed penalties.

SECTION 13. Implementing Rules and Regulations. – Within three (3) months from the effectivity of this Act, the Department of Environment and Natural Resources and the Department of Trade and Industry shall promulgate the necessary rules and regulations for the effective implementation of this Act. Such rules and regulations shall take effect upon its publication in two (2) newspapers of general circulation.

SECTION 14. Separability Clause. – If, for any reason, any provisions of this Act is declared to be unconstitutional or invalid, the other sections or provisions thereof which are not affected thereby shall continue to be in full force and effect.

SECTION 15. Repealing Clause. – All laws, decrees, executive orders, rules and regulations, and other issuances or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 16. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,