



SENATE
S. No. 1495

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Introduced by Senator Grace Poe

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**AN ACT
TO REGULATE THE RATIONAL EXPLORATION, DEVELOPMENT AND
UTILIZATION OF MINERAL RESOURCES, AND TO ENSURE THE EQUITABLE
SHARING OF BENEFITS FOR THE STATE, INDIGENOUS PEOPLES AND
LOCAL COMMUNITIES, AND FOR OTHER PURPOSES**

Explanatory Note

It is our vision to make economic growth not only inclusive but also sustainable for all Filipinos through the judicious disposition, utilization, management, conservation, and rehabilitation of the country's natural resources. Through rational and respectful development practices, we can ensure that the country's precious resources will not only contribute to poverty alleviation but will remain to be equitably accessible to the present and future generations.

The Philippines is a highly mineralized country, with approximately 14 million hectares of land known to be potential sites for metallic and non-metallic mineral reserves. As promising a venture as it may seem to be, the country's mining industry remains beset with challenges.

The Philippine mining industry remains underutilized. In the first quarter of 2019, mining and quarrying grew only by 5.3%, slower as compared with 7.4 % in the same period of the previous year.¹ The flawed provisions of Republic Act No. 7492, otherwise known as "the Philippine Mining Act of 1995," are said to be the culprit behind these limited investments and flawed mining policies, thus further stunting the local economy.

There are also other issues that have historically plagued the country's mining industry. Among these are the reported cases of militarization and human rights

¹ Philippine Statistics Authority. *Gross Value Added in Mining and Quarrying*. Retrieved from <https://psa.gov.ph/nap-press-release/sector/Mining%20and%20Quarrying>

violations as well as nature-induced disasters in large-scale mining operations. Today's mining issues are intricately connected to the issue of development aggression, where businesses and their operations are being guaranteed protection by State actors, with mining companies forming no exception. On this matter, the prior administration directed the creation of special Civilian Armed Forces Geographical Units (CAFGUs) specifically to protect mining concerns in the name of anti-insurgency. This has affected even surrounding Lumad communities in utter disregard of their fundamental rights to autonomy and utilization of their ancestral domains, at times resulting in violence and killings. Indigenous communities and villages are caught in the crossfire.

If properly regulated and managed, the Philippine mining industry can be a promising sector for inclusive growth and true human development, particularly if our laws will breathe life and meaning to the right of communities and indigenous peoples to development and to participate in the development process. The bill thus seeks to provide the framework for the utilization and management of the country's mineral resources, which will address the needs of the domestic economy and uphold the rights of various stakeholders – from industry workers to indigenous peoples and local communities. It also seeks to increase the government share to ten percent (10%) from the gross revenues it earns from the development and utilization of mineral resources, which shall be set aside for the general fund of the government.

It is high time to reorient Philippine mining policy towards national interest, environmental protection, and social justice. Fair, just, and sustainable management of our national resources can be achieved through the establishment of a rational minerals management regime.

In view of the foregoing, speedy approval of this bill is eagerly sought.



GRACE POE

- 1 h. Protect and promote the right to health of the people and instill health
2 consciousness among them;
- 3 i. Pursue an independent foreign policy. In its relations with other states, the
4 paramount consideration shall be national sovereignty, territorial integrity,
5 national interest, and the right to self-determination;
- 6 j. Develop a self-reliant and independent national economy effectively controlled
7 by Filipinos;
- 8 k. Ensure the autonomy of local governments;
- 9 l. Give highest priority to the enactment of measures that protect and enhance
10 the right of all the people to human dignity, reduce social, economic, and
11 political inequalities, and remove cultural inequities by equitably diffusing
12 wealth and political power for the common good;
- 13 m. Encourage non-governmental, community-based, or sectoral organizations
14 that promote the welfare of the nation; and
- 15 n. Adopt and accept the generally accepted principles as embodied in the
16 International Covenant on Civil and Political Rights, International
17 Covenant on Economic, Social, Cultural Rights, UN Declaration on the Rights
18 of Indigenous Peoples, UN Convention on Biodiversity and other
19 international accords on human rights, labor rights, the rights of women and
20 children, and the protection and preservation of the environment, of
21 which the State is a party.

22 *Sec. 3. National Industrialization Program.* - Mining is vital to nation building
23 and the economic advancement of our people. The mineral industry plays an
24 essential role in establishing a progressive, independent, and self-reliant economy.

25 The State shall formulate a National Industrialization Program pursuant to the
26 principles of agricultural modernization, development of industrial and manufacturing
27 industries, and rational, sustainable, and equitable development of the national
28 economy. Pursuant to the foregoing, the State shall implement a Mineral
29 Management Plan that provides the framework for the utilization and management
30 of the country's mineral resources, which will address the needs of the domestic
31 economy and upholds the rights of industry workers, indigenous peoples and local
32 communities.

1 Sec. 4. *Exploration, Development and Utilization of Philippine Mineral*
2 *Resources.* - The judicious stewardship of our mineral resources, as well as its
3 exploration, development and utilization shall comply with the following principles:

- 4 a. The current export-orientation of mining is hereby reversed and a domestic
5 needs-based development of the industry shall be pursued by the State as a
6 step towards achieving genuine economic development;
- 7 b. The mining industry shall be geared towards national industrialization and
8 shall be built for the production of raw materials such as base metals, basic
9 chemicals and petrochemicals needed by the basic, medium and heavy
10 industries to produce as much consumer, intermediate, and capital goods
11 with the country's stock of finite mineral and non-mineral industrial raw
12 materials and in the process provide jobs to the country's vast human
13 resources;
- 14 c. The community shall actively participate in the stewardship of mineral
15 resources. Community-based initiatives shall be encouraged and supported;
- 16 d. The State and its members shall develop its human resources and encourage
17 the evolution of its own appropriate technologies. The State shall provide the
18 appropriate support and protection to Filipino corporations to further develop
19 and increase their participation in the industry. All mining industry
20 investments shall be mutually-beneficial and help achieve the specific target
21 and goals of the National Industrialization Program. To come up with the
22 large capital requirement for mining, the State must use local sources such as
23 but not limited to the granting of incentives and financial aid to local private
24 sector investors, re-channelling of government budget allocations for foreign
25 debt payments and military expenditures, and the proceeds from the
26 government shares of the Malampaya Natural Gas Project;
- 27 e. The State shall allow, in exceptional cases, foreign corporations to invest in
28 the mineral industry. Based on the National Industrialization Program and the
29 country's capability and capacity, the government must identify the mineral
30 areas where foreigners can help and invest subject to rigorous screening and
31 strict regulations as provided in this Act and related laws. The participation of
32 foreign companies in the critical stages of minerals extraction and processing

1 shall be in accordance with a mandatory program or agreement for
2 technology transfer and equity shares that do not exceed 40 percent of the
3 full capital requirements; Provided, that capital accumulation and
4 reinvestment within the country shall be primarily encouraged over profit
5 repatriation by the foreign companies and that foreign mining corporations,
6 their principals, local firms and conduits that have a bad track record in the
7 Philippines are banned from investing in the country;

8 f. In land and water use, the production of sufficient food free from pollution
9 towards food security shall always be the priority;

10 g. Long-term mining development shall be programmed by the State in
11 accordance with the country's availability of resources, capability and well-
12 being of the people, technological capacity and people's acceptability. The
13 right of Muslim Filipinos and indigenous peoples to self-determination and
14 ancestral domain shall be recognized and their collective property rights are
15 guaranteed by this Act;

16 h. Job security, adequate wages, benefits, and safe working conditions for mine
17 workers shall be ensured in state and privately owned mining corporations.
18 Their right to organize and form their own associations, to collective
19 bargaining and to strike shall be upheld. The state will strictly prohibit forced
20 and child labor in the industry;

21 i. Small-scale mining operations shall be supported and regulated by the State.
22 The State will encourage the formation of cooperatives among small-scale
23 miners and provide financial and technical support to develop the labor-
24 intensive and upgrade the backward technologies into a more efficient and
25 less environmentally destructive mining process. Whenever small-scale mining
26 are stopped, alternative and sustainable livelihood shall be provided to the
27 small-scale miners;

28 j. Mining operations shall not in any way create or exacerbate conflicts. In no
29 instance shall the Armed Forces of the Philippines (AFP), the Philippine
30 National Police (PNP) and private security and paramilitary groups be used to
31 coerce or force the entry and protection of mining operations;

- 1 k. Mining industry research and development shall focus on harnessing more
2 economically-efficient and less environmentally-destructive methods. The
3 advanced technologies from other countries that are proven to be appropriate
4 locally shall be adopted in the industry;
- 5 l. All mining operations shall be strictly regulated to ensure the domestic
6 processing of mineral ores up to the secondary and tertiary stages of
7 industrial production to develop our own basic and medium industries.
8 Recycling programs and substitution in the use of minerals shall be
9 incorporated in the overall plan of mining development to reduce mine waste
10 and pollution, and mining rehabilitation techniques. Indigenous technologies
11 that are relevant and appropriate, particularly with respect to the domestic
12 processing of minerals shall be promoted, harnessed, expanded and
13 upgraded;
- 14 m. The State and its members shall share in the burden of satisfying the need for
15 mineral resources primarily through reusing and recycling existing mineral
16 products. Ecologically-sound practices at all stages of mining shall be
17 promoted. Mining technologies such as open-pit mining and submarine mine
18 tailing disposal methods that are banned abroad or proven inappropriate in
19 countries like the Philippines must all be banned. Environmental standards
20 shall be set to ensure the protection and efficient utilization of the country's
21 mineral resource base. Ecological considerations in mining development shall
22 be given due emphasis and attention to substantially eliminate destructive
23 effects that certain mining industrial processes might have on the people's
24 health and the environment. Monitoring mechanisms with strong participation
25 from the local communities will be instituted;
- 26 n. Mining in environmentally-critical areas such as small island ecosystems,
27 primary forests and watersheds shall be banned. Dumping of mine wastes
28 and tailings to rivers, lakes and seas are prohibited. The integrity of the
29 environment shall not be compromised; and
- 30 o. Areas affected by mining shall be rehabilitated, including abandoned mines.
31 Violators shall be strictly punished and made to pay heavy compensation to
32 the State and the affected communities.

1 Sec. 5. *Intergenerational Responsibility.* - The exploration, development and
2 utilization of natural resources must comply with the principles of intergenerational
3 responsibility.

4 CHAPTER II. SCOPE AND GENERAL PRINCIPLES

5 Sec. 6. *Scope.* - This Act shall govern the ownership, management and
6 governance of both metallic and non-metallic ore minerals onshore and offshore, as
7 well as quarry resources, sand and gravel, guano, and gemstones and the
8 conservation, exploration, development, utilization, processing and transportation
9 thereof. The ownership, management and governance of petroleum, natural gas and
10 coal shall be governed by special laws. Offshore mining shall also be governed by
11 special laws.

12 This Act shall cover onshore and offshore, large-scale and small-scale mining
13 operations in the country, including mining projects in ancestral domains in
14 accordance to the existing national and international policies on our indigenous
15 peoples.

16 Sec. 7. Ore minerals form part of the country's irreplaceable and non-
17 renewable natural wealth and capital. The conservation of our mineral wealth is a
18 paramount public interest and mineral resources shall be utilized only in a rational
19 manner for national and local development as specified by law and the National
20 Industrialization Program and the Mineral Management Plan. The economic benefits
21 derived from mining shall be equitably distributed by, among others, prioritizing
22 development for local communities and all other stakeholders directly affected by
23 mining operations.

24 Sec. 8. The State shall have primary role, responsibility, and concern in the
25 management, conservation, utilization, and development of the mining industry and
26 shall ensure the peoples participation in policy making and implementation of the
27 same at all levels of government. The management of mineral resources shall be a
28 shared concern and responsibility among the national government, corporations, all
29 levels of local government, and the communities affected by the exploration,
30 development, and utilization of mineral resources.

31 Sec. 9. The State shall accord support to communities dependent on small-
32 scale mining whose operations shall strictly adhere to the provisions of this law.

1 Sec. 10. Subject to their right to self-determination, Indigenous Cultural
2 Communities/Indigenous Peoples (ICCs/IPs) own and have the responsibility to
3 manage the mineral resources in their respective ancestral domains, free from
4 external manipulation, interference, force threat, intimidation, coercion and other
5 analogous acts. The State shall support indigenous cultural communities in
6 developing capacities to effectively exercise their right and responsibility.

7 Sec. 11. Mining shall be limited in scale in accordance with this Act.

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

11 Sec. 13. Remining and recycling of mineral resources shall be prioritized over
12 the opening of new mines to maximize and recover the remaining minerals
13 resources from the rejects or wastes of previous mines and mining operations.

14 Sec. 14. The State shall prioritize the rehabilitation of the abandoned mines in
15 the country. The State shall ensure the fullest compliance of all government and
16 corporate entities in and on the closure of mines, the rehabilitation/restoration of the
17 immediate environs or each mining project/activity in the country as provided by
18 law.

19 Sec. 15. The State shall encourage and support Filipino private corporations
20 and mining cooperatives to participate and invest in the mining industry on mutually-
21 beneficial grounds that will push forward the National Industrialization Program in
22 both small-scale and large-scale projects.

23 Sec. 16. Mineral resource extraction shall be allowed based on the Philippine
24 Government's National Industrial Plan. The sharing of profits from mining activities,
25 including the anticipated environmental and social costs on the affected local
26 communities of each mining project, should far outweigh ecological and social
27 benefits and costs from other land uses. The anticipated cost of environmental and
28 social impacts on the affected local communities, which shall at all times be
29 prevented and/or mitigated through the allocation of sufficient funds for this
30 purpose. In mining projects with foreign participation, a just return of investment
31 scheme for the foreign entrants into the industry shall be prescribed by law.

1 Sec. 17. The State shall prioritize the development of mineral resources
 2 needed for national development and the creation of domestic processing capacity
 3 for industrial metals, the integration of agricultural modernization and other labor-
 4 intensive downstream industries. Mine planning shall be conducted to meet this
 5 principle. The National Industrial Plan shall support national development based on
 6 the principles of sustainable development and modernization of its economic base.
 7 This framework will define minerals to be extracted, volume to be extracted, and
 8 when to be extracted. This shall be matched with the approved mining areas as
 9 identified by the Councils. These matched areas are eligible for mining operations.

10 CHAPTER III. DEFINITION OF TERMS

11 Sec. 18. *Definition of terms.* - As used in and for the purposes of this Act, the
 12 following terms, whether used in singular or in plural form, shall mean:

- 13 a. *Abandonment* - the act of the contractor leaving a mine without rehabilitating
 14 the affected areas or completing such rehabilitation despite the legal
 15 obligation to do the same;
- 16 b. *Acid mine drainage* - the dissolution, mobilization, and transportation of toxic
 17 metals from rocks resulting from the chemical reaction of the acid-generating
 18 minerals in rock and waste materials having high permeability to both air and
 19 rainfall and other water inflows when land is opened up for mining and
 20 initiates the chemical reaction, resulting to a perpetual machine of acid
 21 generation;
- 22 c. *Ancestral domains* - all areas generally belonging to Indigenous Cultural
 23 Communities/Indigenous Peoples (ICCs/IPs) comprising lands, inland waters,
 24 coastal areas, and natural resources therein, held under a claim of ownership,
 25 occupied or possessed by ICCs/IPs, by themselves or through their ancestors,
 26 communally or individually since time immemorial, continuously to the present
 27 except when interrupted by war, force majeure or displacement by force,
 28 deceit, stealth or as a consequence of government projects or any other
 29 voluntary dealings entered into by government and private
 30 individuals/corporations, and which are necessary to ensure their economic,
 31 social and cultural welfare. It shall include ancestral lands, forests, pasture,
 32 residential, agricultural, and other lands individually owned whether alienable

1 and disposable or otherwise, hunting grounds, burial grounds, areas of
2 worship, bodies of water, mineral and other natural resources, and lands
3 which may no longer be exclusively occupied by ICCs/IPs but from which they
4 traditionally and historically had access to for their subsistence and traditional
5 activities, particularly the home ranges of ICCs/IPs who are still nomadic
6 and/or shifting cultivators;

7 d. *Ancestral lands* - lands occupied, possessed and utilized by individuals,
8 families and clans who are members of the ICCs/IPs by themselves or
9 through their predecessors-in-interest, under claims of individual or traditional
10 group ownership, continuously, to the present except when interrupted by
11 war, force majeure or displacement by force, deceit, stealth, or as a
12 consequence of government development aggression projects and other
13 voluntary dealings entered into by government and private
14 individuals/corporations including, but not limited to, residential lots, rice
15 terraces or paddies, private forests, swidden farms and tree lots;

16 e. *Beneficiation* - a process wherein a large fraction of the waste material is
17 removed from the mineral ore;

18 f. *Buffer Zones* - identified areas outside the boundaries of and immediately
19 adjacent to designated protected areas designated by law that need special
20 development control in order to avoid or minimize harm to the protected
21 area;

22 g. *Bureau* - the Mines and Geosciences Bureau under the Department of
23 Environment and Natural Resources;

24 h. *Carrying capacity* – the capacity of natural and human environments to
25 accommodate and absorb change without experiencing conditions of
26 ecological instability and attendant degradation;

27 i. *Certificate of Ancestral Domains Title (CADT)* – title formally recognizing the
28 rights of possession and ownership of ICCs/IPs over their ancestral domains
29 identified and delineated in accordance with law;

30 j. *Certificate of Ancestral Lands Title (CALT)* – a title formally recognizing the
31 rights of ICCs/IPs over their ancestral lands;

32

- 1 k. *Closure of mines* – permanent cessation of operations at a mine or mine
2 processing site after completion of the decommissioning process;
- 3 l. *Consensus* – the decision communally reached after appropriate participatory
4 consultation and discussion, free from any external manipulation, interference
5 and coercion, and other analogous cases and obtained after fully disclosing
6 the intent and scope, including the positive and negative impacts of the
7 activity, in a language and process understandable to the community or
8 group;
- 9 m. *Consent* – the voluntary assent of the landowner or those who have been in
10 open, continuous, exclusive and notorious possession of the land for more
11 than ten (10) years in good faith, or thirty (30) years in bad faith, free from
12 any external manipulation, interference and coercion, and obtained after fully
13 disclosing the intent and scope, including the positive and negative impacts of
14 the activity, in a language and process understandable to the said landowner
15 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
18 therein;
- 19 o. *Critical watershed* – a drainage area of a river system, lake or water reservoir
20 supporting existing and proposed hydroelectric power, domestic water supply,
21 geothermal power and irrigation-works, which needs immediate rehabilitation
22 and protection to minimize soil erosion, improve water yield and prevent
23 possible flooding. The term shall also include areas which are traditional
24 human settlements, land-uses or sea-uses which are representative of a
25 culture/cultures, or human interaction with the environment especially when it
26 has become vulnerable under the impact of irreversible change;
- 27 p. *Critical habitats* - place or environment where species or subspecies naturally
28 occur or has naturally established its population that are crucial to the survival
29 of a species and essential for its conservation;
- 30 q. *Cultural sites* - those that bear a unique or at least exceptional testimony to a
31 cultural tradition or to a civilization which is living or which has disappeared
32 or, directly or tangibly associated with events or living traditions, with ideas,

1 or with beliefs, with artistic and literary works of outstanding universal
2 significance;

3 r. *Customary laws* - body of written and/or unwritten rules, usages, customs
4 and practices traditionally recognized, accepted and observed by respective
5 ICCs/IPs and local communities;

6 s. *Decommissioning* - the activity or process that begins after cessation of
7 prospecting activities or mineral production (including metallurgical plant
8 production). It involves, among others, the removal of unwanted
9 infrastructure, making excavations and waste repositories safe and stable and
10 surface rehabilitation with a view to negate or minimize any adverse
11 environmental impacts remaining after cessation of mineral production. It
12 includes the after-care or maintenance that may be needed;

13 t. *Downstream industries* - are mining activities that cover minerals processing,
14 refining, manufacturing of intermediate and capital goods and marketing of
15 such;

16 u. *Ecological profile or eco-profile* - geographic-based instruments for planners
17 and decision-makers which present an evaluation of the environmental quality
18 and carrying capacity of an area and measures the specific interactions that
19 will be affected by any and all mining operations;

20 v. *Exploration* - covers the methods of searching or prospecting for mineral
21 resources by non-invasive means for the purpose of determining the
22 existence, extent, quantity and quality thereof, which may include but not
23 limited to seismic, gravity, magnetic, electromagnetic, radar, induced
24 polarization, radio-wave and electro geochemical;

25 w. *Extraction* - ore-removal activities that take place at the mine site itself;

26 x. *Free, prior and informed consent (FPIC)* - the consensus of all members of
27 the ICCs/IPs to be determined in accordance with their respective customary
28 laws and practices, free from any external manipulation, interference,
29 coercion, and other analogous acts and obtained after fully disclosing the
30 intent and scope, including the positive and negative impacts, of all the
31 activities, in a language and process understandable and acceptable to the
32 community;

- 1 y. *Indigenous Peoples/indigenous Cultural Communities (IP/ICC)* – a group of
2 people or homogenous societies identified by self-ascription and ascription by
3 others, who have continuously lived as organized community on communally
4 bounded and defined territory, and who have, under claims of ownership
5 since time immemorial, occupied, possessed and utilized such territories,
6 sharing common bonds of language, customs, traditions and other distinctive
7 cultural traits, or who have, through resistance to political, social and cultural
8 inroads of colonization, non-indigenous religions and cultures, became
9 historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise
10 include peoples who are regarded as indigenous on account of their descent
11 from the populations which inhabited the country, at the time of conquest or
12 colonization, or at the time of inroads of non-indigenous religions and
13 cultures, or the establishment of present state boundaries, who retain some
14 or all of their own social, economic, cultural and political institutions, but who
15 may have been displaced from their traditional domains or who may have
16 resettled outside their ancestral domains. They are people who have a
17 spiritual relationship with the land;
- 18 z. *Indigenous political structure* - organizational and cultural leadership systems,
19 institutions, relationships, patterns and processes for decision-making and
20 participation, identified by ICCs/IPs such as, but not limited to, Council of
21 Elders, Council of Timuays, Bodong Holders, and any other tribunal or body of
22 similar nature;
- 23 aa. *Joint venture agreement* - an agreement wherein the government and a
24 qualified person organize a joint-venture company, with both parties having
25 equity shares, to develop and manage mineral resources. Aside from earnings
26 on the equity, the Government shall be entitled to a share in the output
27 computed at a certain percentage mutually agreed upon by and beneficial to
28 both parties;
- 29 bb. *Key biodiversity areas* - are sites of global biodiversity conservation
30 significance. They are defined by standardized criteria and thresholds to guide
31 conservation interventions such as the establishment of protected areas;
- 32

- 1 cc. *Large-scale mining* - mining in areas with more than twenty (20) hectares,
2 using mechanized tools and equipment, requiring considerable capital and
3 having large-scale environmental, social, cultural and economic impacts with
4 regard to resource use and/or consumption;
- 5 dd. *Mineral agreement* - a contract entered into by the government, on behalf of
6 the State, and a private Filipino person, granting such person/s the privilege
7 to mine a specific contract area;
- 8 ee. *Mineral resource* - any concentration of minerals/rocks with potential
9 economic value;
- 10 ff. *Mineral processing* - the milling, beneficiation or upgrading of ores or minerals
11 and rocks or by similar means to convert the same into marketable
12 products;
- 13 gg. *Minerals* - all naturally occurring inorganic substance In solid, gas, liquid, or
14 any intermediate state excluding energy materials such as coal, petroleum,
15 natural gas, radioactive materials, and geothermal energy;
- 16 hh. *Mine development* - preparing the mine site for production by shaft sinking or
17 pit excavation building of access roads, and construction of surface facilities;
- 18 ii. *Mine wastes and tailings* - rock materials from surface or underground mining
19 and milling operations with little or no economic value to the generator
20 of the same;
- 21 jj. *Mining activity* - any or all of the following activities' exploration,
22 extraction, utilization, processing, transportation and other activities
23 conducted for the same;
- 24 kk. *Mining area* - a portion of the contract area which has been identified by the
25 contractor wherein actual mining operations are conducted;
- 26 ll. *Mining operations* - either all or any of the mining activities involving
27 exploration, feasibility, development, utilization, and processing;
- 28 mm. *National industrialization* - in the mining industry, this shall denote the
29 primacy of mineral production, processing, and distribution for the primary
30 benefit of the domestic economy. This includes creating favorable conditions
31 for Filipino entrepreneurs to engage in mining through various state-private
32 agreements that shall ensure that mining shall help spur more domestic

1 investments, increase agricultural production and produce both consumer
2 and producer goods and manufactures;

3 nn. *National park* - an area of the public domain essentially natural
4 wilderness, scenic, or historic in character which has been withdrawn from
5 settlement, occupancy, or any form of exploitation except in conformity with
6 an approved management plan and set aside exclusively to conserve the area
7 or preserve the scenery, the natural and historic objects, wild animals, and
8 plants therein mainly for the purpose of biodiversity conservation or
9 human enjoyment;

10 oo. *Native title* - pre-conquest rights to lands and domains which, as far back as
11 memory reaches, have been held under a claim of private ownership by
12 ICCs/IPs, have never been public lands and are thus indisputably presumed
13 to have been held that way since before the Spanish Conquest;

14 pp. *Natural forest* - forests composed of indigenous trees, not planted by man,
15 whose structure, functions, and dynamics have been largely the result of
16 natural succession processes;

17 qq. *Natural parks* - is a relatively large area not materially altered by human
18 activity where extractive resource uses are not allowed. These parks are
19 maintained to protect outstanding natural and scenic areas of national or
20 international significance for scientific, educational and recreational use;

21 rr. *Open-pit mining* - extracting metal ores and minerals that lie near the surface
22 by removing the overlying material and breaking and loading the ore. Also
23 known as open-cast mining and open-cut mining;

24 ss. *Ore* - a material that contains minerals in such quantities that it can be mined
25 and worked commercially to extract that mineral. The mineral is usually
26 contained in chemical combination with some other element in addition to
27 various impurities;

28 tt. *Pollution control and infrastructure devices* - infrastructure, machinery,
29 equipment or improvements used for impounding, treating, or neutralizing,
30 precipitating, filtering, conveying and cleansing mine industrial waste and
31 tailings as well as eliminating or reducing hazardous effects of solid particles,
32 chemicals, liquids or other harmful by-products and gases emitted from any

- 1 facility utilized in mining operations for their disposal;
- 2 uu. *Private land* - any land belonging to any private person which includes
3 alienable and disposable land being claimed by a holder, claimant, or
4 occupant who has already acquired a vested right thereto under the law,
5 although the corresponding certificate or evidence of title or patent has not
6 been actually issued;
- 7 vv. *Processing* - includes all treatment an ore receives after its extraction and
8 beneficiation, which involves changes in the chemical nature of the mined
9 minerals;
- 10 ww. *Progressive rehabilitation* - rehabilitation which involves the staged treatment
11 of disturbed areas during exploration, construction/development and mining
12 operations;
- 13 xx. *Protected areas* - identified portions of land and water set aside by reason of
14 their unique physical and biological significance, managed to enhance
15 biological diversity and protected against destructive human exploitation;
- 16 yy. *Protected landscapes, seascapes, marine sanctuaries* - areas of national
17 significance which are characterized by the harmonious interaction of
18 people and the environs while providing opportunities for public enjoyment
19 through recreation and tourism within the bounds of the normal lifestyle and
20 economic activity of these areas;
- 21 zz. *Quarry resources* - any common rock or other mineral substances as the
22 Director of the Mines and Geosciences may declare to be quarry resources
23 such as, but not limited to, andesite, basalt, conglomerate, coral sand,
24 diatomaceous earth, diorite, decorative stones, gabbro, granite,
25 limestone, marble, marl, red burning clay for potteries and bricks, rhyolite,
26 rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, and
27 volcanic glass; Provided, That such quarry resources do not contain metals or
28 metallic constituents and/or other valuable minerals in economically workable
29 quantities; Provided further, That non-metallic minerals such as kaolin,
30 feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc,
31 asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious
32 and semi-precious stones, and other non-metallic minerals that may later be

1 discovered and which the Director declares the same to be of economically
2 workable quantities, shall not be classified under the category of quarry
3 resources;

4 aaa. *Quarrying* - process of extracting, removing and disposing quarry resources
5 found on or underneath the surface of private or public land;

6 bbb. *Regional Director* - the regional director of any mines regional office;

7 ccc. *Regional Office* - any of the mines regional offices;

8 ddd. *Recycling* - the treating of used or waste materials through a process of
9 making them suitable for beneficial use and for other purposes, and includes
10 any process by which solid waste materials are transformed into new
11 products in such a manner that the original products may lose their identity,
12 and which may be used as raw materials for the production of other goods
13 or services; Provided, That the collection, segregation and re-use of
14 previously used packaging material shall be deemed recycling under the Act;

15 eee. *Rehabilitation* - the process by which the land will be returned to a form and
16 productivity in conformity with a prior land use plan including a stable
17 ecological state that does not contribute substantially to
18 environmental deterioration and is consistent with surrounding aesthetic
19 values;

20 fff. *Remediation* - removal of pollution or contaminants from environmental
21 media for the general protection of the area and the people;

22 ggg. *Remining* - maximizing and recovering the remaining minerals from the
23 rejects or wastes of previous mines and mining operations;

24 hhh. *Restoration* - where the intent is to recreate an ecosystem as close as
25 possible to the original which existed at the site, with most of the
26 structure and productivity matching that of the original ecosystem, and most
27 of the original biodiversity: in time ecological processes and functions will
28 match those of the original forest;

29 iii. *Self-determination* - the right of a people to determine its own political
30 destiny as defined by existing Philippine laws. The right to self- determination
31 includes the right of ICCs/IPs to choose their form of government within
32 existing national borders to achieve a greater degree of autonomy to help

1 preserve their culture, ancestral domain, and way of life;

2 jjj. *Small-scale mining* - mining activities which rely heavily on manual labor using
3 simple implements and methods and do not use explosives or any heavy
4 mining equipment, primarily engaged in for sustainable living. Impacts from
5 small-scale mining shall not be large-scale, otherwise, the mining activity shall
6 be defined as large-scale mining;

7 kkk. *Small-scale mining permit* - permit issued for small-scale mining;

8 lll. *Strategic minerals* - minerals needed for national industrialization,
9 including rural development;

10 mmm. *Tailings Disposal System or Tailings Placement* - the method wherein the
11 waste from mining operations are dumped, placed, or disposed;

12 nnn. *Traditional small-scale mining* - small-scale mining using traditional means
13 and without the use of chemical or mechanized extraction and separation
14 means, methods, implements, or equipment;

15 ooo. *Watershed continuum* - an area consisting of the watershed and its divide
16 including its connection from the headwaters to the reef or a land area
17 drained by a stream or a fixed body of water and with tributaries having a
18 common outlet for surface runoff. It is the system by which the mining-
19 affected communities shall be determined following the drainage of a
20 stream or fixed body of water with tributaries having a common outlet
21 for surface runoff;

22 ppp. *Wildlife* - undomesticated forms and varieties of flora and fauna.

23 CHAPTER IV. OWNERSHIP AND GOVERNANCE

24 Sec. 19. *Authority of the Bureau.* - The Mines and Geosciences Bureau shall
25 be a scientific research institution under the Department of Environment and
26 Natural Resources (DENR) primarily conducting and developing research of
27 mineral resources and mining technologies and training of local communities,
28 local government units and indigenous peoples. It shall also regulate the
29 operations of persons involved in mining activities. It shall also work with the Multi-
30 Sectoral Mineral Council in the monitoring of mining activities.

31 Sec. 20. *Regional offices.* - The Bureau shall have as many regional offices in
32 the country as may be established by the Secretary, upon the recommendation of

1 the Director.

2 Sec. 21. *Bureau as repository of information.* - The Bureau shall be the central
3 repository of information regarding mineral lands, resources, permits, studies and
4 other information relevant to the operation of a mine, including the necessary
5 requirements which a contractor is obliged to submit. All other governmental offices
6 and other bodies created under this Act shall copy furnish the Bureau of all other
7 information related to mining.

8 Sec. 22. *Recording system.* - There shall be established a national and
9 regional filing and recording system. A mineral resource database system shall be
10 set up in the Bureau which shall include, among others, a mineral rights
11 management system.

12 Sec. 23. *Publication.* - The Bureau shall publish at least annually a mineral
13 gazette of nationwide circulation containing among others, a current list of mineral
14 rights, their locations specified in the appropriate map, mining rules and regulations,
15 other official acts affecting mining, and other information relevant to mineral
16 resources development. A system of publication fund shall be included in the regular
17 budget of the Bureau.

18 Sec. 24. *Bureau to conduct exploration activities.* - Exploration of mineral
19 resources shall be exclusively and directly undertaken by the State through the
20 Bureau. In no case shall this function be delegated or contracted out to private
21 corporations or persons.

22 Sec. 25. *Non-invasive exploration.* - Exploration activities shall only be non-
23 invasive such as seismic, gravity, magnetic, electromagnetic, radar, induced
24 polarization, radio-wave and electro-geochemical.

25 Sec. 26. *Consent.* - The Bureau shall not enter into any private lands for the
26 purposes of exploration activities without the written consent of the land owner,
27 possessor or occupant; or the FPIC of the ICC/IP and payment of just
28 compensation for the use of property. Neither shall the Bureau enter into any part of
29 the ancestral domains/lands of ICCs/IPs without their free and prior informed
30 consent. Further, the Bureau shall not enter into any distributed land under the
31 Comprehensive Agrarian Reform Program within the ten (10) years prohibited period
32 of the said program.

1 Sec. 27. *Ownership of ICCs/IPs.* - The mineral resources within ancestral
2 domains/ancestral lands are the collective private property of the ICCs/IPs as
3 provided by law. The management of such mineral resources shall build on the
4 indigenous knowledge, systems and practices of the ICCs/IPs.

5 Sec. 28. *Free, prior and informed consent.* - No mining activity shall be
6 conducted within the ancestral domains/lands of ICCs/IPs without their free, prior
7 and informed consent (FPIC), in addition to the conditions set for under the
8 succeeding sections of this Act.

9 Sec. 29. *When ancestral domain is not formally recognized.* - When ancestral
10 domain is not covered by a Certificate of Ancestral Domain Title/Certificate of
11 Ancestral Land Title (CADT/CALT), or is covered by a different title issued in favor
12 of members of the ICCs/IPs, mineral resources shall nevertheless be managed
13 by the ICCs/IPs concerned when it can be presumed that the area is part of
14 ancestral domain. An area is presumed to be part of ancestral domain by virtue of
15 historic rights and self- delineation by the ICCs/IPs.

16 Sec. 30. *When ICCs/IPs displaced from ancestral domain, and when ancestral*
17 *domain is already covered by other titles emanating from the state other than*
18 *CADT/CALT.* - Native title over ancestral domain subsists notwithstanding the
19 fact that the ICCs/IPs who hold such native title have been displaced therefrom or
20 that such ancestral domains have been occupied by other persons or corporations
21 under another claim of title emanating from the State. In such cases, ICCs/IPs shall
22 continue to own such mineral resources.

23 Sec. 31. *Questions on the validity of FPIC.* - In instances that there are
24 questions on the legality or validity of the issued free prior and informed consent,
25 mining operations shall not be allowed to be conducted in the ancestral domains or
26 lands of the ICCs/IPs without the final resolution of such question on the legality or
27 validity of the FPIC.

28 Sec. 32. *Ownership of the State.* - The mineral resources found outside
29 ancestral domains/lands shall be owned by the State. The State shall ensure that the
30 management of mineral resources shall be primarily for the benefit of the local
31 communities in whose territory the same shall be found. Any minerals extracted
32 shall be solely used for local industries consistent with the Minerals Management

1 Plan. The State may directly undertake development, utilization, and processing of
2 mineral resources or it may enter into mineral agreements with eligible parties
3 pursuant to the provisions of this Act.

4 Sec. 33. *Inventory of mineral resources.* - The Bureau shall identify and
5 provide an inventory of the available mineral resources, including the mine tailings
6 and wastes within the country. It shall submit to the DENR a report which shall
7 contain the following information:

- 8 a) the classification of minerals;
- 9 b) the quality and grade of the ore;
- 10 c) the potential mine life;
- 11 d) the geological description of the area;
- 12 e) the economic viability of mine tailings;
- 13 f) whether the area is a key biodiversity area or if it is a critical habitat;
- 14 g) and all other relevant information necessary for potential mineral
15 investments.

16 The process for mineral exploration or approval for a mining permit shall not
17 commence without the said inventory.

18 Sec. 34. *Identification of strategic minerals.* - The Bureau shall conduct
19 researches and studies prior to any mining operations to identify strategic mineral
20 resources. Only mineral resources that shall be needed for local industries,
21 agricultural modernization, and rural development shall be opened to mining
22 subject to the implementing rules and regulations of this Act.

23 Sec. 35. *Demarcation of mineral areas.* - The Bureau shall demarcate the
24 boundaries of all areas identified as containing commercial quantities of mineral
25 resources on the ground.

26 Sec. 36. *Baseline information on watershed continuums.* - The baseline
27 information on all watersheds in the country shall be required and made available to
28 the public, online as much as possible. No mining permit shall be issued without this
29 baseline information.

30 Sec. 37. *Affected local community and local government unit.* - For the
31 purposes of this Act, the affected local community and the affected local
32 government unit are defined in relation to the watershed continuum which is

1 potentially negatively impacted by mining operation in the demarcated area. The
2 local communities and the local government units therefore are those who are
3 dependent on the watershed eco-system and its resources.

4 Sec. 38. *Establishment of Multi-Sectoral Mineral Council.* - A Multi-Sectoral
5 Mineral Council shall be established for the purposes of this Act. There shall be as
6 many Multi-Sectoral Mineral Councils as there are watershed continuums with
7 demarcated mineral areas.

8 Sec. 39. *Powers of the Council.* - The Council shall have the following powers,
9 among others:

- 10 a) To determine whether or not mining operations shall be allowed;
- 11 b) To deliberate on proposals for mineral agreements;
- 12 c) To approve the proposal for mineral agreements;
- 13 d) To monitor the conduct of mining operations; and
- 14 e) To establish its internal rules of procedure which are not contradictory to
15 this Act.

16 Sec. 40. *Composition of the Multi-Sectoral Mineral Council.* - The Multi
17 Sectoral Mineral Council shall be composed of representatives from the Bureau, one
18 representative from each of the affected provincial governments/independent
19 component cities/highly urbanized cities, representatives from
20 peoples/community/sectoral/non-governmental organizations representatives of local
21 government units, and the affected as many as the ICCs/IPs within the watershed
22 continuum. The Bureau shall be the convenor of the Council.

23 No mining operations shall be allowed without the Council having been
24 properly convened.

25 Sec. 41. *Areas open to mining.* - The Council shall have the power to
26 determine whether or not the land where mineral resources are found shall be
27 opened to mining. Areas may only be opened to mining upon the unanimous vote
28 of all the members of the Council pursuant to the guidelines provided by this Act. In
29 determining whether or not such area shall be opened, the following shall be
30 required:

- 31 a) Report of the Bureau on the conducted exploration;
- 32 b) Existence of downstream industries for the mineral resources;

- 1 c) Potential environmental impacts;
- 2 d) Potential cultural impacts;
- 3 e) Conflict and risk assessment;
- 4 f) Potential health impacts;
- 5 g) Potential economic benefits of the development and utilization of the
- 6 minerals;
- 7 h) Carrying capacity and the ecological profile of the area;
- 8 i) Existing and alternative land uses of the area; and
- 9 j) Local government land use plan.

10 No mining application shall be allowed unless an environmental economic
11 audit or resource valuation of the proposed mining area has been conducted
12 or prepared applying acceptable valuation standards. This audit or resource
13 valuation shall be conducted in coordination with multi-sectoral group of experts
14 and community stakeholders. It shall include determination of the expected
15 economic returns and the potential negative impacts from mining on the
16 enjoyment and exercise of human rights, cultural rights, and on peace and
17 security. A detailed study must mention the flora, fauna and environment present in
18 the mining claim and the impact of mining operations on the environment, the
19 possible environmental degradation and the attendant loss of subsistence
20 resources cause. There must be mention of existence of sacred areas or areas
21 otherwise of cultural significance and address the impacts of resource
22 exploitation on indigenous peoples and local communities.

23 This information shall be accessible to the public at all times; Provided, that in
24 no case shall the Council open the following areas to mining:

- 25 a) Areas declared by Local Government Units as No-Mining Zones as
- 26 specified by local ordinances, and other issuances;
- 27 b) Densely populated areas, especially residential areas;
- 28 c) Head waters of watershed areas;
- 29 d) Areas with potential for acid mine drainage;
- 30 e) Critical watersheds;
- 31 f) Critical habitats;
- 32 g) Climate disaster-prone areas;

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

1 refuge and bird sanctuaries and their respective buffer zones prohibited
2 under the National Integrated Protected Area System (NIPAS) under
3 Republic Act No. 7586, Department Administrative Order No. 25, series of
4 1992 and other laws and ordinances and those expressly prohibited by
5 other laws.

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

9 *Sec. 42. Manner of voting by the Council for opening an area to mining. -*
10 Sections 26 and 27 of the Local Government Code on consultation and consent shall
11 be strictly adhered to. Local government units at all levels shall conduct mandatory
12 public hearings with the affected local communities, to be carried out within their
13 respective territories and presenting those enumerated under Section 41.

14 After the inventory of the existing minerals, the formulation of a mine plan,
15 and the existence of the baseline information of the particular watershed area, the
16 Bureau shall convene the Council.

17 The Council shall thereafter convene their respective constituents to
18 determine whether or not their respective territories shall be opened for mining.

19 Local government units, ICCs/IPs, NGOs and peoples organizations, shall
20 ensure that the Bureau shall comprehensively explain the goals and objectives of
21 the project or program, its negative and positive impact upon the people and the
22 community in terms of environmental or ecological balance, and the
23 measures that will be undertaken to prevent or minimize the adverse effects
24 thereof. Thereafter, the approval of the respective Sanggunians of the affected local
25 government units shall be required in accordance to the sentiment of the peoples of
26 the local government unit as a result of the consultations conducted; Provided, That
27 the affected local government unit representatives shall meet and shall relay the
28 decision of their respective constituents to the provincial
29 government/independent component cities/highly urbanized cities. The
30 provincial/component city/highly urbanized city government representative shall sit
31 in the Council and shall carry the result of the vote of all the affected local
32 government units within the province resulting from the process provided in the

1 preceding paragraph of this Section. There must be a unanimous vote among the
2 local government units for the purpose of opening a particular area for mining.
3 Failure to reach a unanimous vote for opening shall mean that the area is closed to
4 mining. All the proceedings shall at all times be recorded; Provided, moreover, That
5 in case there are affected ICCs/IPs within the watershed continuum, they shall
6 also bring the community's vote to the Council after undergoing their own processes
7 in accordance with their respective indigenous political structure, free from any
8 external manipulation, interference, coercion and other analogous acts, and
9 obtained after fully disclosing the intent and scope, including the positive and
10 negative impacts of the activity, in a language and process understandable and
11 acceptable to them; Provided, finally, That any member of the community may file a
12 protest with the Council during this period of consultations and deliberations for the
13 Council's consideration.

14 Sec. 43. *Violation of Section 52.* - Local government officials who are
15 administratively found to violate the preceding section and Section 52 of this Act
16 *vis-a-vis* the pertinent sections of the Local Government Code shall be removed from
17 office and perpetually disqualified from holding any elective or appointive position in
18 government, its divisions, subsidiaries and any government owned and controlled
19 corporations.

20 Sec. 44. *Pool of consultants.* - There shall be a pool of independent
21 consultants that may assist the local government units, local communities or
22 ICCs/IPs with regard to the technical aspects of mining.

23 Sec. 45. *Publication, posting and radio announcement requirements.* - The
24 decision of the Council shall be published by the Bureau in the local newspaper in
25 the local language, shall be announced on the local radio programs for not less than
26 six (6) weeks and notices shall be distributed widely in communities. The notice
27 containing relevant information shall likewise be posted in conspicuous places for the
28 information of the general public and shall be announced during the local market
29 day.

30 CHAPTER V. MINERAL AGREEMENTS

31 Sec. 46. *Modes of mineral agreement.* - A mineral agreement may only take
32 the following forms as herein defined:

- 1 a) Mineral production sharing agreement - is an agreement where the
2 Government grants to the contractor the exclusive right to conduct mining
3 operations within a contract area and shares in the gross output. The
4 contractor shall provide the financing, technology, management and
5 personnel necessary for the implementation of this agreement;
- 6 b) Co-production agreement - is an agreement between the Government and
7 the contractor wherein the Government shall provide inputs to the
8 mining operations other than the mineral resource; and
- 9 c) Joint venture agreement - is an agreement where a joint-venture
10 company is organized by the Government and the contractor with both
11 parties having equity shares. Aside from earnings in equity, the
12 Government shall be entitled to a share in the gross output.

13 In no case shall Financial or Technical Assistance Agreements, or any other
14 similar agreements, contracts, or executive issuances granting license permission to
15 explore, develop or utilize mineral resources be awarded to foreign entities or
16 persons.

17 *Sec. 47. Eligibility.* - Only Filipino citizens or corporations sixty percent (60%)
18 of whose equity is owned or controlled by such citizens shall be allowed to conduct
19 development, utilization and processing of mineral resources within the country.

20 *Sec. 48. Identification of mining projects.* - With the unanimous vote of the
21 Council to open areas for mining operations, the Bureau shall prepare the
22 necessary information sheets on the said area for potential investments. The
23 Bureau shall call for proposals to develop the mining area based on the Mineral
24 Management Plan.

25 *Sec. 49. Pre-screening of mining proposals.* - Mining proposals shall be pre-
26 screened by the Bureau according to the National Industrialization and Mineral
27 Management Plan upon the submission of interested parties of the following:

- 28 a) demonstration of financial capability;
29 b) proven social and environmental track record, including those of its
30 officers and directors;
31 c) clear corporate structure and ownership;
32 d) proof of physical office and operations of the proponent within the

- 1 Philippines;
- 2 e) identification of potential investors;
- 3 f) mining project feasibility;
- 4 g) mining operation work plan;
- 5 h) proposed operation, mitigation and prevention methods and/or
- 6 equipment;
- 7 i) capacity to process minerals;
- 8 j) intent to develop downstream industries;
- 9 k) intent to contribute to local community development; and
- 10 l) submission of the Environmental and Social Impact Assessment and
- 11 Mitigation Plan.

12 The Council shall fix the minimum capitalization that any bidder must satisfy

13 based on its determination of the expected economic returns and the potential

14 negative impacts from mining, upon reference to an independent study proposing

15 such minimum capitalization.

16 Sec. 50. *Environmental and Social Impact Assessment and Mitigation Plan.* -

17 The contractor shall submit an Environmental and Social Impact Assessment and

18 Mitigation Plan (ESIAMP) containing the means, methods, processes and schedule by

19 which the contractor shall conduct its operations and mitigate negative

20 environmental and social impacts. Social impact shall include possible impacts on the

21 enjoyment and exercise of human rights, cultural rights.

22 The ESIAMP shall include plans relative to mining operations; the

23 rehabilitation, regeneration and restoration of mineral areas; slope stabilization of

24 mined out and tailings covered areas; aquaculture, watershed development and

25 water conservation; the relocation and return of displaced population; and provisions

26 for alternative livelihood and socioeconomic development.

27 The ESIAMP shall also contain a Social Development Plan which shall likewise

28 contain the plans of the proponent for the development of the community through

29 the establishment of infrastructures and programs that shall be sustainable even

30 after the closure of the mine.

31 Sec. 51. *Pre-qualification.* - The Bureau shall thereafter identify the top three

32 (3) proposals and shall recommend the same to the Council for deliberation.

1 Sec. 52. *Deliberation of the proposals.* - After the Bureau's transmittal of its
2 recommendations to the Council together with all the submitted documents for the
3 pre- qualification, the Council shall initiate the deliberation process of the pre-
4 qualified proposals.

5 Immediately thereafter, Sections 26 and 27 of the Local Government Code on
6 consultation and consent shall be strictly adhered to. Local government units at all
7 levels shall conduct mandatory public hearings with the affected local communities,
8 to be carried out within their respective territories and presenting those enumerated
9 under Section 43. Local government units, ICCs/IPs, NGOs and peoples
10 organizations, shall ensure that the mining applicant shall comprehensively explain
11 the goals and objectives of the project or program, its negative and positive impact
12 upon the people and the community in terms of social, cultural and environmental or
13 ecological balance, and the measures that will be undertaken to prevent or minimize
14 the adverse effects thereof. Thereafter, the approval of the respective Sanggunians
15 of the affected local government units shall be required in accordance to the
16 sentiment of the peoples of the local government unit as a result of the
17 consultations conducted; *Provided,* That the affected local government unit
18 representatives shall meet and shall relay the decision of their respective
19 constituents to the provincial government/ independent component cities/highly
20 urbanized cities through the submission of the minutes of meeting declaring their
21 decision with signatures from the constituent. The provincial/component city/highly
22 urbanized city government representative shall sit in the Council and shall carry the
23 result of the vote of all the affected local government units within the
24 province/independent component city/highly urbanized city resulting from the
25 process provided in the preceding paragraph of this Section.

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

29 The affected ICCs/IPs shall also deliberate on the proposals in accordance
30 with their own systems and processes free from any external manipulation,
31 interference, coercion and other analogous acts, and obtained after fully disclosing
32 the intent and scope, including the positive and negative impacts of the activity, in a

1 language and process understandable and acceptable to them.

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

6 *Sec. 53. Posting and publication requirement.* - After notice, the Bureau shall
7 notify the proponent of the accepted proposal and cause the publication and posting
8 of the accepted proposal; Provided, That any member of the community may
9 contest the decision of the Council within six (6) weeks upon the posting and
10 publication of notice of the acceptance of the proposal in the manner provided in
11 Section 42. No mining operations shall be allowed to be conducted pending any
12 action questioning the legality or validity of the proposal.

13 *Sec. 54. Issuance of the permit.* - After the six (6) weeks from the date of the
14 posting and publication, if no contest is filed, the Bureau shall issue a permit in
15 accordance with the decision of the Council on the winning proposal.

16 *Sec. 55. Environmental and Social Impact Compliance Certificate (ESICC).* -
17 The mining proponent shall be issued an Environmental and Social Impact
18 Compliance Certificate (ESICC) by the Bureau with the approval of the Council;
19 Provided, no amendments and to the conditions of the Certificate shall be allowed,
20 unless such proposed amendment shall work for the benefit of the communities, and
21 in which case, the Council and the Bureau shall be notified of any amendments to
22 the ESIAMP and that the former should give their consent to the same, after the
23 proponent explaining in detail the reason for such amendment and the possible
24 impacts and consequences of these amendments; Provided further, That any
25 violation of the ESIAMP shall cause the cancellation of the Certificate.

26 *Sec. 56. Maximum areas for mineral agreements.* - The maximum area under
27 mineral agreements that a person can hold at anyone time shall be determined by
28 the Council; Provided, That the contract area per agreement shall not exceed five
29 hundred (500) hectares; Provided further, That no person shall be awarded in
30 excess of the total contract area of seven hundred-fifty (750) hectares in any given
31 watershed area. For the purposes of this Act, the prohibition on the maximum area
32 shall also include corporations that shall have common directors or significant

1 shareholders.

2 Sec. 57. *Term of mineral agreement.* - The term of the mineral agreement
3 shall be equivalent to the mine life plus an additional five (5) years for the
4 rehabilitation of the mining area; Provided, That in no case shall a Mineral
5 Agreement have a term beyond fifteen (15) years; Provided further, That the
6 contractor shall already include rehabilitation/remediation of the mining area within
7 the ten-year term.

8 In no case shall a Mineral Agreement be extended without just cause to be
9 determined by the Council; Provided, That the extension shall not cause the term of
10 the agreement to exceed the fifteen (15) year term mentioned in the preceding
11 section; Provided further, That for the purposes of this Act, just cause shall mean
12 acts or events resulting from war, force majeure or those beyond the control of the
13 mining proponent not attributable to the same; Provided finally, That in no case shall
14 mineral agreements be renewed after the expiration of the fifteen-year period.

15 Sec. 58. *Prohibition on open-pit mining method and submarine tailings*
16 *disposal.* - Open-pit mining method for the extraction of mineral ores and the
17 submarine tailings disposal method shall be prohibited.

18 Sec. 59. *Failure to initiate mining operations.* - Failure to commence the
19 development stage of the mining operations in accordance with the work program
20 within two (2) years from the award of the mineral agreement shall cause the
21 cancellation of the mineral agreement. The contractor thereafter forfeits the value of
22 the improvements Made upon the land. The contractor and other corporations who
23 are also run by the same directors and officers are thereafter banned from bidding
24 to conduct mining operations for ten (10) years after failure to commence the
25 development stage of the mining operations in accordance with the work program.

26 Sec. 60. *Mandatory consultations in each mining phase.* - Mandatory
27 consultations with affected communities shall be undertaken in each phase of mining
28 operation: exploration, extraction, processing, and mine closure to ensure that the
29 peoples shall be informed of the proposed plans and methods that are proposed to
30 be conducted.

31 Sec. 61. *FPIC of ICCs/IPs on each stage of mining operation.* - The free and
32 prior informed consent of the ICCs/IPs shall be required at each and every stage of

1 the mining operations. FPIC shall be secured in accordance with the laws, practices
2 and processes of the concerned ICCs/IPs.

3 The violation of any of the conditions imposed by the ICCs/IPs on the
4 contractor shall cause the cancellation of the mineral agreement. Included in this
5 process is the explanation of the rights of ICCs/IPs of ownership and self-
6 determination.

7 Sec. 62. *Consent of private landowners.* - No person shall be allowed entry
8 into private lands without the written consent of the landowners, possessors or
9 lawful occupants of the land and/or the FPIC of the ICCIIP.

10 Sec. 63. *Expropriation.* - Expropriation proceedings shall be filed with the
11 regular courts to determine whether the taking of private property for mining
12 purposes shall meet a public purpose and to determine just compensation.

13 Sec. 64. *Multi-partite monitoring.* - The Council shall form a multi-partite
14 monitoring team to monitor compliance by the contractor of the terms and
15 conditions of the mineral agreement. It may conduct ocular inspections of the
16 contract area at any time of the day and night. It shall also inspect all the books of
17 contractors and refer the same to independent auditors. The Multi-partite monitoring
18 team and/or the Bureau may confiscate surety, performance and guaranty bonds
19 posted through an order to be promulgated by the Director.

20 The Council, the Director or the local government authorities may deputize,
21 when necessary, any member or unit of the Philippine National Police, barangay,
22 duly registered NGO or any qualified person to police any and all mining activities.

23 Sec. 65. *Withdrawal from the mineral agreement.* - The contractor may
24 withdraw from the mineral agreement at any time for justifiable cause with one (1)
25 month's notice to the Bureau, the Council and/or the ICCs/IPs, and other
26 government agencies as may be provided by law. The Council, in cooperation with
27 other concerned government agencies, shall issue a clearance for withdrawal upon
28 certifying that the contractor has complied with all its legal obligations, including the
29 appropriate measures for mine closure and rehabilitation. Funds and bonds which
30 have been put up by the contractor in accordance with this Act shall be forfeited.

31 Sec. 66. *Non-transferability of mineral agreements.* - In no case shall mining
32 rights under this Act be transferrable. The contractor shall also immediately notify

1 the Council and the Bureau of any substantial change in the ownership and/or
2 control of the corporation. Violation of this provision shall cause the cancellation of
3 the agreement and forfeiture of assets and equipment of the contractor in favor of
4 the State.

5 Sec. 67. *Access to information.* - All contractors for mineral permits and
6 agreements shall provide information to affected indigenous peoples, local
7 communities, and local governments. The following information, among others, shall
8 be required:

- 9 a) full disclosure of methods and processes of mining;
- 10 b) full disclosure of environmental and social risks;
- 11 c) full disclosure of ownership structure; and
- 12 d) full disclosure of financial sources.

13 All information and documents related to proposals, mineral agreements,
14 permits and mining operations shall not be considered confidential. Refusal to grant
15 access to this information shall be cause for the disqualification of prospective
16 proponents or cancellation of mineral agreements and permits.

17 The Bureau, being the repository of all relevant information under this Act is
18 mandated to grant access to the public of any information in its custody. Refusal or
19 unnecessary delay by the officers of the Bureau to give information shall be
20 punishable by a fine of fifty thousand pesos (Php 50,000.00) for every instance of
21 refusal or unnecessary delay. Information requested by indigents or marginalized
22 sectors shall be given to them for free.

23 CHAPTER VI. SMALL-SCALE MINING

24 Sec. 68. *Applicability of RA 7076.* - Small-scale mining shall continue to be
25 governed by the provisions of Republic Act No. 7076 or the People's Small-Scale
26 Mining Act of 1991; Provided, That the Provincial/City Mining Regulatory Board shall
27 be composed of the Governor or City Mayor, as chairperson, as the case may be, a
28 representative from the DENR as co-chairperson, one (1) small scale mining
29 representative, one (1) big-scale mining representative, one representative from a
30 nongovernment organization who shall come from an environmental group, one
31 representative from a people's organization (PO) coming from the marginalized
32 sector, and at least one (1) representative from the indigenous communities,

1 whenever applicable, as members. The representatives from the private sector,
2 nongovernment organization and indigenous communities shall be selected by their
3 respective organizations and/or communities, and appointed by the PMRB or CMRB;
4 Provided further, That the conduct of small-scale mining shall also comply with the
5 prohibitions and regulations established herein for large-scale mining. Only qualified
6 individuals and cooperatives may apply for a small-scale mining permit.

7 *Sec. 69. Maximum term of small-scale mining permits.* - The term for small-
8 scale mining permits shall be three (3) years, extendable to a maximum of fifteen
9 (15) years.

10 *Sec. 70. Traditional small-scale mining within ancestral domains.* - The
11 Council shall conduct regular monitoring activities within its jurisdiction to determine
12 if the provisions of relevant laws are complied with in traditional small-scale mining
13 by ICCs/IPs within their respective ancestral domains.

14 *Sec. 71. FPIC in small-scale mining.* - Small-scale mining activities within any
15 ancestral domain by any person shall also require the free, prior informed consent of
16 ICCs/IPs.

17 *Sec. 72. Requirement for an Environmental and Social Impact Compliance*
18 *Certificate (ESICC).* - Small-scale mining shall likewise require an ESICC. All small
19 scale mining applicants or proponents must show proof of compliance with the terms
20 and conditions of its ESICC prior to the issuance of a small scale mining permit.
21 Failure to submit this requirement will result in the non-issuance of the SSMP.

22 *Sec. 73. Environmental measures in small-scale mining.* - The State shall
23 immediately address the environmental and health hazards and problems in small-
24 scale mining, including the use of hazardous chemicals, such as mercury, cyanide
25 and other chemicals, in the amalgamation of gold by small-scale miners.

26 *Sec. 74. Prohibition on the use of mercury.* - Mercury use in small-scale
27 mining shall be prohibited. The Bureau shall research, develop and actively promote
28 appropriate technologies in small-scale mining including labor-intensive methods,
29 environmental protection and physical techniques or gold extraction among small-
30 scale miners.

31 *Sec. 75. Multi-sectoral monitoring team.* - A multi-sectoral monitoring team
32 shall be organized to monitor the SSMP permittee's compliance with the terms and

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

3 *Sec. 76. Alternative livelihood support.* - The state shall support the
4 improvement of the livelihood of small-scale-miners by extending the services for
5 access to other more viable and sustainable forms of livelihood, and, if the same is
6 not possible, the following support services:

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

14 *Sec. 77. Buying stations.* - The Bangko Sentral ng Pilipinas (BSP) shall ensure
15 that buying stations acquire gold from small-scale traders at prevailing international
16 gold market prices and the prevailing exchange rate set by the BSP Treasury
17 Department on a daily basis.

18 CHAPTER VII. QUARRY RESOURCES

19 *Sec. 78. Quarry resources within ancestral domains.* - Gathering of quarry
20 resources, sand and gravel, guano and other organic fertilizer materials, and
21 gemstones within ancestral domains shall likewise be subject to the FPIC of
22 ICCs/IPs. ICCs/IPs and the government shall be entitled to at least ten per cent
23 (10%) of royalties depending on whether the resources are found inside or outside
24 ancestral domains. Permits shall be limited to a maximum term of five (5) years,
25 renewable for like periods but not exceeding a total term of twenty five (25) years,
26 and a maximum area of five (5) hectares.

27 *Sec. 79. Quarry Permit.* - Any qualified Filipino may apply for a quarry permit
28 on privately- owned lands except ancestral domains and/or public lands for building
29 and construction materials such as marble, basalt, andesite, conglomerate, tuff,
30 adobe, granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles and
31 building bricks, pumice, perlite and other similar materials that are extracted by
32 quarrying from the ground at the provincial/city mining regulatory board. The

1 provincial governor shall grant the permit after the applicant has complied with all
2 the requirements as prescribed by the rules and regulations set forth by this Act;
3 Provided that gathering/extraction of sand for its metallic contents such as
4 magnetite from the country's rivers and shorelines shall be require a mineral
5 agreement in lieu of a quarry permit.

6 The maximum area which a qualified person may hold at any one time shall
7 be limited to a surface area of five hectares (5 has.); Provided, That in large-scale
8 quarry operations involving cement raw materials, marble, granite, sand and gravel
9 and construction aggregates, a qualified person and the government may enter into
10 a mineral agreement as defined herein.

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

14 *Sec. 80. Quarry Fee and Taxes.* - A permittee shall pay a quarry fee as
15 provided for under the implementing rules and regulations. The permittee shall also
16 pay the excise tax as provided by pertinent laws.

17 *Sec. 81. Cancellation of Quarry Permit.* - A quarry permit may be cancelled by
18 the provincial governor for violations of the provisions of this Act or its implementing
19 rules and regulations or the terms and conditions of said permit; Provided, That
20 before the cancellation of such permit, the holder thereof shall be given the
21 opportunity to be heard in an investigation conducted for the purpose.

22 *Sec. 82. Commercial Sand and Gravel Permit.* - Any qualified person may be
23 granted a permit by the provincial governor to extract and remove sand and gravel
24 or other loose or unconsolidated materials outside ancestral domains which are used
25 in their natural state, without undergoing processing from an area of not more than
26 five hectares (5 has.) and in such quantities as may be specified in the permit.

27 *Sec. 83. Industrial Sand and Gravel Permit.* - Any qualified person may be
28 granted an industrial sand and gravel permit by the Bureau for the extraction of
29 sand and gravel and other loose or unconsolidated materials outside ancestral
30 domains that necessitate the use of mechanical processing covering an area of not
31 more than five hectares (5 has.) at any one time. The permit shall have a term of

1 five (5) years, renewable for a like period but not to exceed a total term of twenty-
2 five (25) years.

3 *Sec. 84. Exclusive Sand and Gravel Permit.* - Any qualified person may be
4 granted an exclusive sand and gravel permit by the provincial governor to quarry
5 and utilize sand and gravel or other loose or unconsolidated materials from public
6 lands for his own use; Provided, That there will be no commercial disposition
7 thereof.

8 *Sec. 85. Government Gratuitous Permit.* - Any government entity or
9 instrumentality may be granted a gratuitous permit by the provincial governor to
10 extract sand and gravel, quarry or loose unconsolidated materials outside ancestral
11 domains needed in the construction of building and/or infrastructure for public use
12 or other purposes over an area of not more than two hectares (2 has.) for a period
13 coterminous with said construction.

14 *Sec. 86. Private Gratuitous Permit.* - Any owner of land may be granted a
15 private gratuitous permit by the provincial governor to extract sand and gravel,
16 quarry or loose unconsolidated materials within his property.

17 *Sec. 87. Guano Permit.* - Any qualified person may be granted a guano permit
18 by the provincial governor to extract and utilize loose unconsolidated guano and
19 other organic fertilizer materials in any portion of a municipality where he/she has
20 an established domicile outside ancestral domains. The permit shall be for specific
21 caves and/or for confined sites with locations verified by the Department's field
22 officer in accordance with existing rules and regulations; Provided, That extraction
23 does not violate and is consistent with the provisions in the Cave Conservation Act
24 and the Wildlife Act.

25 *Sec. 88. Gemstone Gathering Permit.* - Any qualified Filipino may be granted a
26 non-exclusive gemstone gathering permit by the provincial governor to gather loose
27 stones useful as gemstones in rivers and other locations outside ancestral domains.

28 *Sec. 89. Council recommendation for approval.* - All permits under Chapter
29 VII of this Act shall require the recommendation of the Multi-Sectoral Mineral Council
30 prior to approval by the provincial government unit. The absence of a
31 recommendation from the Council prohibits the approval of any permit in this
32 Chapter.

1 CHAPTER VII. TRANSPORT, SALE AND PROCESSING OF MINERALS

2 *Sec. 90. Ore transport permit.* - A permit specifying the origin and quantity of
3 non-processed mineral ores or minerals shall be required for their transport.
4 Transport permits shall be issued by the Bureau. The absence of permit shall be
5 considered as prima facie evidence of illegal mining and shall be sufficient cause for
6 the confiscation of the ores or minerals being transported, the tools and equipment
7 utilized, and the vehicle containing the same.

8 *Sec. 91. Track record.* - Only mining companies with demonstrated capacity
9 and good environmental track record in mineral processing shall be allowed to
10 extract minerals. The Council shall encourage contractors to put up processing plants
11 within the community with the end in view of generating employment and
12 developing other downstream industries.

13 *Sec. 92. Mineral trading registration.* - No person shall engage in the trading
14 of mineral products, either locally or internationally, unless registered with the
15 Department of Trade and Industry and accredited by the Department, with a copy of
16 said registration submitted to the Bureau.

17 *Sec. 93. Mineral processing permit.* - No person shall engage in the
18 processing of minerals without first securing a minerals processing permit from the
19 Council. Minerals processing permits shall be for a period of five (5) years,
20 renewable for like periods but not to exceed a total term of twenty-five (25) years.

21 CHAPTER IX. DEVELOPMENT OF COMMUNITIES, SCIENCE AND
22 TECHNOLOGY

23 *Sec. 94. Expenditure for community development.* - A contractor shall assist
24 in the development of the community, and the promotion of the general welfare of
25 its inhabitants towards sustainable development. Community development projects
26 shall in no way decrease the obligation of the corporation with regard to royalties
27 and fees due to communities or local government units. Community development
28 projects should be consistent with the Comprehensive Land Use Plans (CLUP),
29 Ancestral Domains Sustainable Development and Protection Plan (ADSDPP) and
30 annual investment plans of the local governments, CADT/CALT holders and the like.

31 *Sec. 95. Employment of Filipinos and training or members of the local*
32 *community.* - A contractor and/or permittee shall give preference to Filipino citizens

1 in all types of mining employment within the country. Members of the local
2 community shall be trained in all aspects of the mining operations, including
3 remining, recycling, rehabilitation, and the management thereof.

4 Sec. 96. *Use of indigenous goods, services and technologies.* - A contractor
5 shall give preference to the use of local goods, services, and the scientific and
6 technical resources in all stages of mining operations, where the same are of
7 equivalent quality and are available on equivalent terms as their imported
8 counterparts.

9 Sec. 97. *Donation/turn-over of facilities.* - Prior to the cessation of mining
10 operations occasioned by abandonment or withdrawal of operations, on public lands
11 by the contractor, the latter shall have a period of one (1) year there from within
12 which to remove improvements; otherwise all the infrastructure, facilities and
13 equipment shall be turned over or donated tax-free to the proper government
14 authorities, national or local, to ensure that said infrastructure facilities and
15 equipment are continuously maintained and utilized by the host and neighboring
16 communities. A fine of one hundred thousand pesos (P100,000.00) shall be
17 imposed for every day of delay.

18 CHAPTER X. BENEFIT SHARING, TAXES AND FEES

19 Sec. 98. *Taxes and fees.* - The contractor shall pay all taxes and fees as
20 required by law, including, but not limited to:

- 21 a) contractor's income tax;
- 22 b) customs, duties and fees on imported capital equipment;
- 23 c) value-added tax on imported goods and services;
- 24 d) withholding tax on interest payments on foreign loans;
- 25 e) withholding tax on dividends to foreign stockholders;
- 26 f) documentary stamps taxes;
- 27 g) capital gains tax;
- 28 h) excise tax on minerals;
- 29 i) local business tax;
- 30 j) real property tax;
- 31 k) community tax;
- 32 l) occupation fees;

- 1 m) registration, accreditation, and permit fees;
- 2 n) water usage fees.

3 Sec. 99. *Government share.* - Aside from the taxes and fees referred to in the
4 preceding section, Government shall have at least a share equivalent to ten percent
5 (10%) of the gross revenues from the development and utilization of mineral
6 resources that are owned by it to be set aside for the general fund of the
7 government.

8 Sec. 100. *Indigenous cultural communities' royalty.* - In case of mineral
9 operations within ancestral domains, the contractor shall pay at least ten per cent
10 (10%) of the gross revenues as royalty to the ICCs/IPs. Community development
11 programs shall not be considered as royalty payment. The payment of the royalties
12 shall directly be given to the communities in a process that build on the ICCs/IPs'
13 traditional and customary laws; Provided, That the royalty established in this Act
14 shall be a minimum royalty payment and may still be subject to other conditions to
15 be agreed by the parties, free from any external manipulation, interference,
16 coercion, and other analogous acts, and obtained after fully disclosing the intent and
17 scope, including the positive and negative impacts of the activity, in a language and
18 process understandable and acceptable to them.

19 Sec. 101. *Scientific research and development fund.* - A Scientific Research
20 and Development Fund shall be set aside to be devoted to research and
21 development of clean mining technologies, improvement of mining processes, mine
22 rehabilitation, mitigating technologies, setting up and maintenance of an
23 independent pool of experts and operational expenses of the Bureau.

24 Sec. 102. *Legal support services fund.* - A legal support fund shall be set
25 aside for the use of the communities and local government units for cases that they
26 may file against mining permittees or cases that may be filed against them by
27 mining companies in trying to do their responsibility of protecting the rights of the
28 marginalized groups, the environment and sustainable development in general.

29 Sec. 103. *Local Government Unit share.* - Local Government Units shall be
30 entitled to a share of the net revenues from mining operations which shall be paid
31 directly to the provincial/independent component city/highly urbanized city

1 treasurer/s for distribution to other local government units. To determine the
2 government share, the following variables shall be considered:

- 3 a) Classification of local government;
- 4 b) Vulnerability;
- 5 c) Human development index.

6 A percentage of this amount shall be set aside by the respective local
7 government units for Disaster Risk Management. This fund shall likewise benefit
8 ICCs/IPs within the territory of the local government unit; Provided, That the
9 administrative and operational expenses of the Council shall also be taken from this
10 share.

11 *Sec. 104. Mine wastes and tailings fees.* - A semi-annual fee to be known as
12 mine wastes and tailings fee is hereby imposed on all operating mining companies in
13 accordance with the implementing rules and regulations. The mine wastes and
14 tailings fee shall accrue to a fund to be used as support funds for monitoring
15 activities of the Council. The Secretary is authorized to increase mine wastes and
16 tailings fees, when public interest so requires.

17 *Sec. 105. Incentives.* - Incentives that shall be given to the contractors shall
18 only be limited to pollution control or mitigation devices.

19 *Sec. 106. Deposit of capital and profits requirement.* - As part of their
20 demonstrated financial capacity, all large-scale mining companies/contractors are
21 required to deposit their capital investment and profits in banks or financial
22 institutions that are owned, managed and operated by the Philippine government.

23 *Sec. 107. General rule on profit repatriation.* - Contractors with foreign
24 financial assistance shall be allowed to repatriate their profits from mining projects
25 that should not exceed fifty percent (50%) of the total posted at the end at every
26 fiscal year. Full disclosure of profits is required. The full repatriation of profits shall
27 be allowed one year after the cessation of mining activities and the progressive
28 rehabilitation of a mining area as specified in the mineral agreement of each
29 contractor.

30 The guidelines for Sections 106 and 107 shall be issued by BSP and shall be
31 furnished to the Department, Bureau, Council and all respective contractors in the
32 industry.

1 CHAPTER XI. SAFETY AND ENVIRONMENTAL PROTECTION

2 A. Safety

3 Sec. 108. *Mines safety.* - All contractors and permittees shall strictly comply
4 with all the mines and safety rules and regulations concerning the safe and sanitary
5 upkeep of the mines and mining development Government personnel involved in the
6 implementation of mines safety, occupational health and environmental rules and
7 regulations shall be covered under Republic Act No. 7305 or the Magna Carta of
8 Public Health Workers.

9 Sec. 109. *Mine labor.* - No person under sixteen (16) years of age shall be
10 employed in any place of mining operations and no person under eighteen (18)
11 years of age shall be employed in a mine.

12 Sec. 110. *Mine supervision.* - All mining and quarrying operations shall have
13 at least one (1) licensed mining engineer for every fifty (50) employees. Such
14 engineer/s shall have at least five (5) years of experience in mining operations, and
15 one (1) registered foreman.

16 Sec. 111. *Safety of workers.* - All mining companies shall provide safeguards
17 to the health and well-being of workers. The Regional Office of the Department of
18 Labor and Employment shall inspect all mining sites within their areas of jurisdiction
19 to determine the conditions of workers. Denial of entry shall be punishable under
20 this Act. Representatives of labor unions shall also have visitorial rights.

21 Sec. 112. *Mine inspection.* - The mines regional directors and the Council shall
22 have jurisdiction over the safety inspection of all installations, surface or
23 underground, in mining operations at reasonable hours of day or night and as much
24 as possible in a manner that will not impede or obstruct work in progress of a
25 contractor or permittee. Monitoring reports and recommendations of the Bureau
26 shall be submitted to the Council.

27 Sec. 113. *Power to issue orders.* - The mines regional director, in consultation
28 with the Environmental Management Bureau, forthwith or within such time as
29 specified in the order, require the contractor to remedy any practice connected with
30 mining, which is not in accordance with safety and anti-pollution laws and
31 regulations. In case of imminent danger to life or property, the Director may
32 summarily suspend the mining operation until the danger is removed, or appropriate

1 bearing account. The bond shall be forfeited in the event that the contractor shall
2 fail or default in the rehabilitation or remediation of the mining area as included in
3 the work plan of the contractor or abandons the mine at any time of its operations.

4 Sec. 118. *Rehabilitation.* - Contractors and permittees shall technically and
5 biologically rehabilitate the excavated, mined-out, tailings covered and disturbed
6 areas to the condition of environmental safety, as may be provided in the
7 implementing rules and regulations of this Act. A mine rehabilitation fund shall be
8 created, based on the contractor's approved work program, and shall be deposited
9 as a trust fund in a government depository bank and used for physical and social
10 rehabilitation of areas and communities affected by mining activities and for
11 research on the social, technical and preventive aspects of rehabilitation. Failure to
12 fulfill the above obligation shall mean immediate suspension or closure of the mining
13 activities of the contractor/permittee concerned.

14 Mining firms are hereby mandated to reforest 100 hectares of land for
15 every one hectare of land they utilize in the course of their mining operations. Mining
16 firms are also mandated to immediately restore and replant areas that they have
17 already finished excavating as they move on to other development sites; Provided,
18 however, that if mining firms cannot do the reforestation in their immediate area
19 they could do the reforestation in other areas provided they comply with 100: 1
20 hectare ratio. Any mining firm found to have violated or have not complied with the
21 foregoing mandatory provisions shall be held liable with the penalty of revocation of
22 their mining permits and payment of a fine of not less than One Million Pesos (P1
23 ,000,000.00).

24 The owners, officers and management employee of said mining firms shall
25 also be held liable and be subject to imprisonment of not less than one (1) year nor
26 more than three (3) years.

27 Sec. 119. *Progressive rehabilitation.* - Contractors shall also conduct
28 progressive rehabilitation activities.

29 Sec. 120. *Adoption of Precautionary Principle.* - When an activity related to
30 mining raises threats of harm to human health or the environment, precautionary
31 measures shall be taken proactively even if some cause and effect relationship are
32 not fully established scientifically. The mining proponent and the Bureau shall also

1 be obliged to disclose whether or not the cause and effect have not yet been
2 scientifically established.

3 Sec. 121. *Adoption of Polluter Pays Principle.* - Polluters shall pay for the
4 damage they cause to the environment. The amount of damages shall be
5 determined by accredited Independent consultants, to be chosen from a list and
6 agreed upon by both the mining proponent and by the Council

7 Sec. 122. *Tailings impoundment.* - Tailings impoundments shall be built away
8 from critical watershed drainage areas. Furthermore, it shall be ensured that
9 impoundments will not endanger critical watershed areas or low lying valleys in the
10 event of accidents under abnormal conditions. Tailing impoundments and dams shall
11 meet the international standards for large dams.

12 Sec. 123. *Dumping of waste.* - Dumping of waste or tailings in any body of
13 water shall be prohibited. Provisions on the Clean Water Act and Clean Air Act shall
14 be strictly implemented.

15 Sec. 124. *Use of toxic chemicals and methods.* - At all times, mining
16 contractors shall use chemicals or reagents which would result to the least
17 environmental and social destruction. The use of mercury and cyanide for the
18 extraction of gold, silver and other minerals shall be prohibited. The use of blow
19 torching to separate gold from amalgam shall likewise be prohibited.

20 Sec. 125. *Preservation of topsoil.* - The removed topsoil or the more
21 productive horizons of the soil shall be preserved for other uses.

22 Sec. 126. *Priority use for water.* - The National Water Resources Board shall
23 investigate any existing use of water resources in the area whether or not covered
24 by any existing water permit or registration. Upon determination of any existing use,
25 the applicant shall procure the consent of all water users and/or the free prior and
26 informed consent of ICCs/IPs with or without water permits within the same
27 groundwater network or any downstream users of water resources. In all instances,
28 priority shall be given to use of water for domestic, municipal, and agricultural
29 purposes. If potential negative impact on other water users is identified, the water
30 permit shall not be granted. For water resources within the ancestral domain of
31 indigenous peoples, no water permit shall be granted by the National Water
32 Resources Board without the free and prior informed consent of indigenous peoples.

1 effects may be maintained against the project proponent or persons even after the
2 mineral agreement or mining project has terminated.

3 CHAPTER XII. RESOLUTION OF CONFLICTS

4 Sec. 134. *Panel of arbitrators.* - There shall be a panel of arbitrators in the
5 regional office of the Department composed of three (3) members, two (2) of whom
6 must be members of the Philippine Bar in good standing and one a licensed mining
7 engineer or a professional in a related field, and duly designated by the Secretary as
8 recommended by the Mines and Geosciences Bureau Director. Those designated as
9 members of the panel shall serve as such in addition to their work in the Department
10 without receiving any additional compensation. As much as practicable, said
11 members shall come from the different bureaus of the Department in the region.
12 The presiding officer thereof shall be selected by the drawing of lots. His tenure as
13 presiding officer shall be on a yearly basis. The members of the panel shall perform
14 their duties and obligations in hearing and deciding cases until their designation is
15 withdrawn or revoked by the Secretary. Within thirty (30) working days, after the
16 submission of the case by the parties for decision, the panel shall have exclusive and
17 original jurisdiction to hear and decide on the following:

- 18 a) Questions involving compliance with the established technical guidelines
19 and standards herein established, or those to be established by the
20 implementing rules and regulations of this Act;
21 b) Questions involving the compliance with technical procedures herein
22 established, or those to be established by the implementing rules and
23 regulations; and
24 c) Other similar instances wherein the technological and technical expertise
25 of the Department shall be needed.

26 Disputes involving real rights, contractual obligations and the other causes of
27 action that are outside the technological and technical expertise of the Panel of
28 Arbitrators shall be under the jurisdiction or the regular courts or as otherwise
29 provided by other special laws; Provided, That disputes pending before the Bureau
30 and the Department at the date of the effectivity of this Act shall undergo an
31 immediate review within sixty (60) working days upon the passage of this Act to
32 determine the cause of action. Those which are outside the technical expertise of

1 the Department or Bureau shall be refiled with the appropriate court, without costs
2 to the complainant or petitioner.

3 Sec. 135. *Appeal.* - The decision or order of the panel of arbitrators may be
4 appealed by the party not satisfied thereto to the Mines Adjudication Board within
5 fifteen (15) days from receipt thereof which must decide the case within thirty (30)
6 days from submission thereof for decision.

7 Sec. 136. *Mines Adjudication Board (MAB)* - The Mines Adjudication Board
8 shall be composed of three (3) members. The Secretary of the DENR shall be the
9 Chairperson with the Director of the Mines and Geosciences Bureau and the
10 Undersecretary for Operations of the Department as members thereof. The Board
11 shall have the following powers and functions:

- 12 a) To promulgate rules and regulations governing the hearing and
13 disposition of cases before it, as well as those pertaining to its internal
14 functions, and such rules and regulations as may be necessary to carry
15 out its functions;
- 16 b) To administer oaths, summon the parties to a controversy, Issue
17 subpoenas requiring the attendance and testimony of witnesses or the
18 production of such books, papers, contracts, records, statement of
19 accounts, agreements, and other documents as may be material to a just
20 determination of the matter under investigation, and to testify in any
21 investigation or hearing conducted in pursuance of this Act;
- 22 c) To conduct hearings on all matters within its jurisdiction, proceed to hear
23 and determine the disputes in the absence of any party thereto who has
24 been summoned or served with notice to appear, conduct its proceedings
25 or any part thereof in public or in private, adjourn its hearings at any time
26 and place, refer technical matters or accounts to an expert and to accept
27 his report as evidence after hearing of the parties upon due notice, direct
28 parties to be joined in or excluded from the proceedings, correct, amend,
29 or waive any error, defect or irregularity, whether in substance or in
30 form, give all such directions as it may deem necessary or expedient in
31 the determination of the dispute before it, and dismiss the mining dispute

1 as part thereof, where it is trivial or where further proceedings by the
2 Board are not necessary or desirable:

3 d) To hold any person in contempt, directly or indirectly, and impose
4 appropriate penalties therefor; and

5 e) To enjoin any or all acts involving or arising from any case pending
6 before it which, if not restrained forthwith, may cause grave or
7 irreparable damage to any of the parties to the case or seriously affect
8 social and economic stability.

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

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

20 CHAPTER XIII. ACCESS TO JUSTICE

21 *Sec. 137. Obligation to respect human rights.* - Corporations shall respect,
22 protect and promote the human rights of communities affected by mining, including
23 the right to life, liberty and property, freedom of movement, right of public
24 participation and the right to self-determination of indigenous cultural communities.

25 *Sec. 138. Violations of human rights.* - Extrajudicial killing, torture, involuntary
26 disappearance, forcible displacement of populations, setting up of checkpoints, and
27 imposition of toll fees which impede the freedom of movement within mineral areas,
28 deprivation of food and water sources, vote-buying and bribery for the purpose of
29 securing consent or endorsement for the mining project, and other analogous acts
30 are violations of human rights. Violations of human rights by contractors shall cause
31 the immediate cancellation of mineral agreements. The offending contractor, as well
32 as corporations having the same directors or officers as of the offending contractor

1 shall be perpetually disqualified from being granted a mineral agreement. All
2 equipment and assets of the corporation or person shall be confiscated in favor of
3 the government.

4 Sec. 139. *Use of paramilitary and military forces.* - All mining companies are
5 strictly prohibited from employing paramilitary groups. Use of private and military
6 forces shall result in the automatic cancellation of the mineral agreement and the
7 filing of appropriate civil, criminal and/or administrative charges.

8 Sec. 140. *Strategic Legal Action Against Public Participation (SLAPP).* - SLAPPs
9 shall be strictly prohibited. SLAPP is any legal action, whether civil, criminal or
10 administrative, filed to harass, vex, exert legal action or stifle legal recourses of
11 community members complaining against violations of this Act or enforcing the
12 provisions of the Act, or exercising their freedom of assembly or right of public
13 participation. The investigating prosecutor or court shall immediately determine
14 within a period of thirty (30) days from filing thereof whether a legal action is a
15 SLAPP and accordingly dismiss the same.

16 Sec. 141. *Indigents' suit.* - Indigents shall be exempt from payment of any
17 administrative or court fees, including docket fees for the filing of a case. Lawyers
18 shall be provided by the Public Attorney's Office to pauper litigants in case they
19 could not afford legal services.

20 Sec. 142. *Application of the customary laws of ICCs/IPs.* - The contractor shall
21 respect the customary laws of the ICCs/IPs and shall submit to the processes of
22 their customary laws; Provided, That these laws are not contrary to the provisions of
23 the Constitution.

24 Sec. 143. *Strict liability.* - Mining corporations are strictly liable for all
25 damages that the mining operations might cause. In case of any actual damage, the
26 burden of proof shall lie with the corporations.

27 Sec. 144. *Piercing the corporate veil.* - When the separate personality of the
28 corporation from its shareholders is being invoked as defense in order to perpetuate
29 a crime, fraud or other machinations, or evade liability, the separate personality of
30 the corporation shall be set aside. Civil, criminal and administrative actions may thus
31 be filed directly against the members of the Board of Directors, officers and/or
32 individual stockholders.

1 Corporations, corporate directors/officers found guilty of the above
2 enumeration may be subjected to a perpetual ban in the mining operations in the
3 Philippines.

4 Sec. 147. *False statements.* - Any person who knowingly presents any false
5 application, declaration, or evidence to the Government or publishes or causes to be
6 published any prospectus or other information containing any false statement
7 relating to mines, mining operations or mineral agreements and permits shall, upon
8 conviction, be penalized by a fine of not exceeding One Hundred Thousand pesos
9 (P1 00,000.00).

10 Sec. 148. *Illegal exploration.* - Any person undertaking exploration work
11 without the necessary exploration permit shall, upon conviction, be penalized by a
12 fine of not exceeding Five Million Pesos (P5,000,000.00).

13 Sec. 149. *Panning.* - Panning shall be considered an act of mining. Any person
14 undertaking panning without the necessary mining permit shall upon conviction, be
15 convicted of illegal panning penalized under Section 27 (RA 7076). In addition, such
16 person shall be liable to pay damages made to the environment by reason of such
17 panning. In the case of associations, partnerships, or corporations, the president and
18 each of the directors thereof shall be responsible for the acts committed by such
19 association, corporation, or partnership.

20 Sec. 150. *Theft of minerals.* - Any person extracting minerals and disposing
21 the same without a mining agreement, lease, permit, license, or steals minerals or
22 ores or the products thereof from mines or mills or processing plants shall, upon
23 conviction, be imprisoned from six (6) months to six (6) years or pay a fine from
24 One Hundred thousand pesos (P100,000.00) to One Million Pesos (P1 ,000,000.00)
25 or both, at the discretion of the appropriate court. In addition, he shall be liable to
26 pay damages and compensation for the minerals removed, extracted, and disposed
27 of. In the case of associations, partnerships, or corporations, the president and each
28 of the directors thereof shall be responsible for the acts committed by such
29 association, corporation, or partnership.

30 Sec. 151. *Unauthorized dealing, selling, or buying of gold.* - Any person,
31 partnership or corporation who shall sell, buy or in any manner deal gold from any
32 miner or person without being duly authorized by BSP shall be punished as

1 unauthorized dealing and shall be penalized in accordance with the provisions in this
2 Act.

3 Sec. 152. *Destruction of mining structures.* - Any person who wilfully destroys
4 or damages structures in or on the mining area or on the mill sites shall, upon
5 conviction, be imprisoned for a period not to exceed five (5) years and shall, in
6 addition, pay compensation for the damages which may have been caused thereby.

7 Sec. 153. *Mines arson.* - Any person who wilfully sets fire to any mineral
8 stockpile, mine or workings, fittings or a mine, shall be guilty of arson and shall be
9 punished, upon conviction, by the appropriate court in accordance with the
10 provisions of the Revised Penal Code and shall, in addition, pay compensation for
11 the damages caused hereby.

12 Sec. 154. *Willful damage to a mine.* - Any person who wilfully damages a
13 mine, unlawfully causes water to run into a mine, obstructs any shaft or passage to
14 a mine, renders useless, damages or destroys any machine, appliance, apparatus,
15 rope, chain, tackle, or any other things used in a mine, shall be punished, upon
16 conviction, by the appropriate court, by imprisonment not exceeding a period of five
17 (5) years and shall, in addition, pay compensation for the damages caused thereby.

18 Sec. 155. *Illegal obstruction to permittees or contractors.* - Any person who,
19 without justifiable cause, prevents or obstructs the holder of any permit, agreement
20 or lease from undertaking his mining operations shall be punished, upon conviction
21 by the appropriate court, by a fine not exceeding Five Thousand Pesos (P5,000.00).

22 Sec. 156. *Vitiating of FPIC.* - Any person found to have vitiated the consent of
23 the ICCs/IPs through bribery, threat, force, and/or intimidation, or any other similar
24 means, shall suffer the penalty of six (6) years and one (1) day to ten (10) years in
25 prison, and a fine of at least Two Million Pesos (Php 2,000,000.00). If the
26 perpetrator is a government official, the penalty shall be eight (8) years and one (1)
27 day to twelve (12) years imprisonment, and a fine of at least Four Million Pesos (Php
28 4,000,000.00). The person shall be perpetually prohibited from assuming public
29 office, and shall be disqualified from receiving other benefits by virtue of his/her
30 position in government.

31 Sec. 157. *Penalty for human rights violations.* - Contractors or other persons
32 who have violated the human rights of communities in connection with the mining

1 operations shall be penalized with ten (10) years to fourteen (14) years
2 imprisonment and a fine of at least Five Million Pesos (Php 5,000.000,00) and shall
3 indemnify the victims.

4 *Sec. 158. Amendment to Section 27 of Republic Act No. 7076 or the Small-*
5 *scale Mining Act.* - Violations of the provisions of RA 7076 or of the rules and
6 regulations issued pursuant hereto shall be penalized with imprisonment of six (6)
7 years and one (1) day to twelve (12) years. The State shall confiscate and seize
8 equipment, tools and instruments; effect immediate suspension or closure of the
9 mining activities of the permittee concerned, and revoke the permit.

10 *Sec. 159. Abandonment.* - Contractors or permittees who shall abandon mines
11 shall be perpetually banned or disqualified from conducting mining operations,
12 directly or indirectly. The ban and/or disqualification shall include the officers and
13 directors of corporations that have abandoned mines.

14 *Sec. 160. Confiscation of equipment and property.* - The equipment and
15 property of contractors and permit holders violating this Act shall be forfeited in
16 favor of the government.

17 *Sec. 161. Non-application of the corporate veil.* - Any person violating the
18 provisions of Commonwealth Act No. 108, or the Anti-Dummy Law of the Philippines
19 as amended, or is found to have used the corporate structure to defeat the
20 provisions of this Act shall suffer the penalty of Five Million Pesos (P5,000,000.00)
21 and perpetual ban in the mining industry.

22 *Sec. 162. Reinstatement of revoked permits.* - After notice and hearing,
23 revoked permits that have undergone due process may be reinstated; Provided, That
24 it may only be reinstated once.

25 CHAPTER XV. TRANSITORY PROVISIONS

26 *Sec. 163.* There shall be a moratorium on all mining activities until all the
27 systems are in place for the proper implementation of the law.

28 *Sec. 164.* All existing mining permits, licenses and agreements are hereby
29 deemed cancelled. Those mine workers and their families that may be displaced
30 during the transition period shall receive livelihood support and job placements to be
31 facilitated by the appropriate agencies of the State.

1 Sec. 165. The classification of public lands as mineral reservations pursuant to
2 pre-existing laws shall hereby cease. All such lands shall be closed to mining unless
3 opened thereto in accordance with the provisions of this Act. The President's power
4 to declare mineral reservations shall henceforth cease to exist. A review of the
5 current mineral land classification shall be conducted to determine the best
6 livelihood and economic option for the said area.

7 Sec. 166. The members of the panels of arbitrators and the provincial or city
8 mining regulatory boards established under Republic Act No. 7942 shall hold-over
9 their positions until replaced in accordance with provisions of this Act.

10 Sec. 167. *Funds.* - The amount of One Hundred Billion Pesos (PhP
11 100,000,000,000.00) is hereby appropriated for the proper functioning of the
12 Bureau, the Council, and other bodies established under this Act of which half of the
13 said amount shall be allotted for the baseline mineral exploration activities of the
14 Bureau.

15 Sec. 168. *Implementing rules and regulations.* - The implementing rules and
16 regulations of this Act shall be the product of joint collaboration by the Department,
17 and representatives from the local government units, peoples' organizations, sectoral
18 organizations and non-governmental organizations, and shall be drawn up after
19 appropriate and exhaustive public consultations at all levels nationwide.

20 Sec. 169. *Separability clause.* - The provisions of this Act are hereby declared
21 to be separable and, in the event of any such provisions are declared
22 unconstitutional, the other provisions which are not affected thereby shall remain in
23 force and effect.

24 Sec. 170. *Repealing clause.* - Republic Act 7942, Presidential Decree 463,
25 Presidential Decree 512, and other related mining laws are hereby repealed. All
26 provisions in laws, decrees, issuances and other regulations inconsistent with this
27 present law shall be deemed amended or repealed if the inconsistency is
28 irreconcilable.

29 Sec. 171. *Effectivity clause.* - This Act shall take effect within fifteen (15) days
30 following its publication in two national newspapers of general circulation in the
31 Philippines.

Approved,